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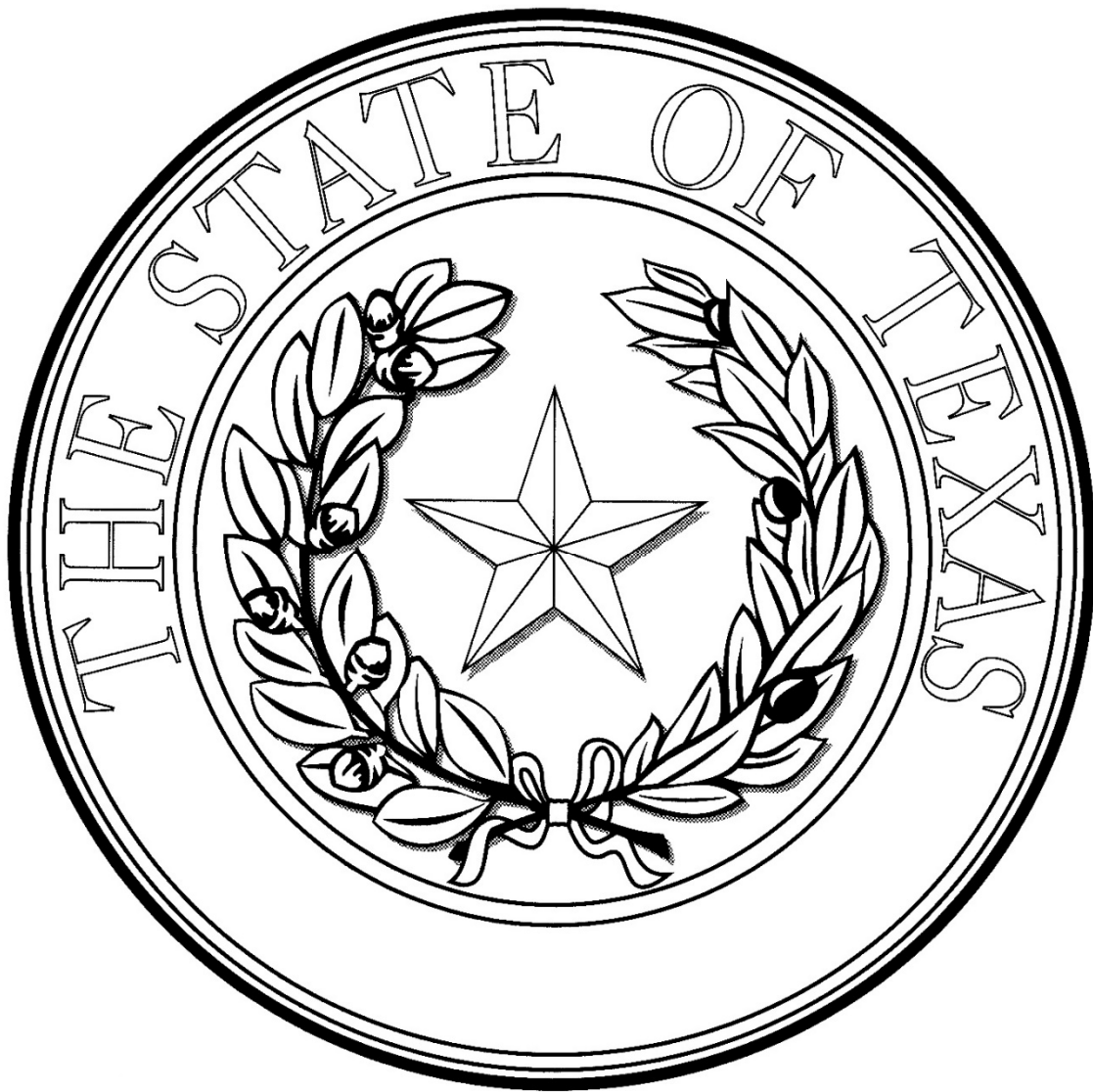
# TEXAS REGISTER

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# TEXAS REGISTER

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# THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

## Appointments

### Appointments for September 22, 2023

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2024, Alfonso A. "Alex" Morales of Houston, Texas (replacing Carroll L. Pruitt of Azle, who resigned).

### Appointments for September 25, 2023

Appointed to the North Texas Tollway Authority Board of Directors for a term to expire August 31, 2025, Frankie "Lynn" Gravley of Gunter, Texas (Mr. Gravley is being reappointed).

Appointed to the Council on Cardiovascular Disease and Stroke for a term to expire February 1, 2025, Remedios "Remmy" Perez Morris of Round Rock, Texas (replacing Samantha Kersey of Dickinson, who resigned).

Appointed to the Council on Cardiovascular Disease and Stroke for a term to expire February 1, 2029, Oscar M. Aguilar, Jr., M.D. of El Paso, Texas (replacing Harry K. "Kyle" Sheets, M.D. of Ovalo, whose term expired).

Appointed to the Council on Cardiovascular Disease and Stroke for a term to expire February 1, 2029, Janet Hall Hewlett of Florence, Texas (Ms. Hewlett is being reappointed).

Appointed to the Council on Cardiovascular Disease and Stroke for a term to expire February 1, 2029, Alberto Maud, M.D. of El Paso, Texas (replacing John N. "Neal" Rutledge, M.D. of Austin, whose term expired).

### Appointments for September 26, 2023

Appointed as Inspector General for Health and Human Service, effective October 2, 2023, for a term to expire February 1, 2024, Raymond C. "Ray" Winter of Austin, Texas (replacing Sylvia Hernandez Kaufmann of Austin, whose term expired).

Greg Abbott, Governor

TRD-202303551



## Proclamation 41-4074

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

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

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a

disaster in Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Brazoria, Brazos, Brewster, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Chambers, Clay, Coke, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Culberson, Dallas, Denton, DeWitt, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fort Bend, Freestone, Frio, Gaines, Galveston, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Grimes, Guadalupe, Hamilton, Hardeman, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Houston, Howard, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Karnes, Kaufman, Kendall, Kerr, Kimble, Kinney, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Loving, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Montague, Montgomery, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Presidio, Reagan, Real, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Shelby, Smith, Somervell, Starr, Sutton, Tarrant, Taylor, Tom Green, Travis, Trinity, Tyler, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, and Zapata Counties.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 21st day of September, 2023.

Greg Abbott, Governor

TRD-202303520



## Proclamation 41-4075

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

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully

crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 21st day of September, 2023.

Greg Abbott, Governor  
TRD-202303521



Proclamation 41-4076

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

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on August 11, 2023, certifying that wildfires that began on July 24, 2023, posed an imminent threat of widespread or severe damage, injury, or loss of life or property in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same wildfire conditions continue to exist in these and other counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar,

Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallas, Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, El Paso, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 26th day of September, 2023.

Greg Abbott, Governor  
TRD-202303550



# THE ATTORNEY GENERAL

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

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

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

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## Requests for Opinions

### **RQ-0512-KP**

#### **Requestor:**

The Honorable Matthew Minick  
Hardin County Attorney  
Post Office Box 516  
Kountze, Texas 77625

Re: Whether an elected county commissioner may use county equipment and labor to maintain an outfall ditch that lies solely on private property (RQ-0512-KP)

### **Briefs requested by October 20, 2023**

### **RQ-0513-KP**

#### **Requestor:**

The Honorable Bill Moore  
Johnson County Attorney  
204 South Buffalo Avenue, Suite 410  
Cleburne, Texas 76033

Re: Whether Johnson County Emergency Services District No. 1 may operate a county-wide ambulance service (RQ-0513-KP)

## **Briefs requested by October 23, 2023**

### **RQ-0514-KP**

#### **Requestor:**

The Honorable Edmund J. Zielinski  
Cooke County Attorney  
101 South Dixon Street  
Gainesville, Texas 76240

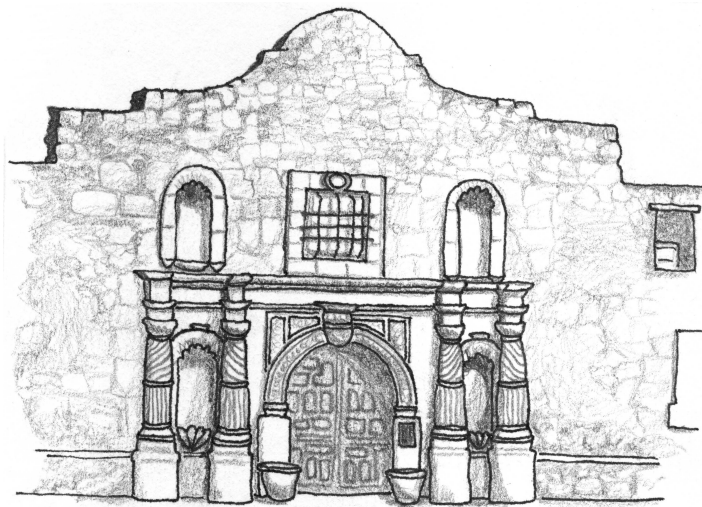
Re: Whether equipment is a gambling device under section 47.01 of the Penal Code where its play involves a fixed or finite sweepstakes system (RQ-0514-KP)

### **Briefs requested by October 25, 2023**

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202303542  
Austin Kinghorn  
General Counsel  
Office of the Attorney General  
Filed: September 26, 2023





# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 80. MANUFACTURED HOUSING

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 Texas Administrative Code, Chapter 80, §80.41 and to repeal §80.92 relating to the regulation of the manufactured housing program. The rules are revised to comply with House Bill 2706 (88th Legislature, 2023 regular session) that amends the Manufactured Housing Standards Act and for clarification purposes.

10 Texas Administrative Code §80.41(c)(2)(A) - (C) is added to assist in enforcement of §1201.551(a)(7) when an individual attempts to cheat or assist an individual with cheating on any of the Manufactured Housing Division Licensing exams.

10 Texas Administrative Code §80.41 (g)(1) and (2) is amended to update the requirements for an exemption for a retailer's license and the circumstances under which an exemption is granted.

10 Texas Administrative Code §80.92 is repealed because the inventory finance liens are no longer required to be submitted to the Department.

Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections. There will be no effect on small or micro-businesses because of the proposed amendments. The amendments will not cause the loss of any business opportunities or have an adverse effect on the businesses. There are no additional anticipated economic costs to persons who are required to comply with the proposed rules.

Mr. Hicks also has determined that for each year of the first five years that the proposed rules are in effect the public benefit for enforcing the amendments will be to maintain the necessary resources required to improve the general welfare and safety of purchasers of manufactured housing in this state as per §1201.002 of the Manufactured Housing Standards Act.

Mr. Hicks has also determined that for each year of the first five years the proposed rules are in effect there should be no adverse effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

Mr. Hicks has also determined that for each of the first five years the proposed rules are in effect they would not have a large government growth impact. The proposed rules do not create or eliminate a government program. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed rules do not require the increase or decrease in future legislative appropriations to the agency. The proposed rules eliminates a fee paid to the agency. The proposed rules do not create a new regulation. The proposed rules do not expand, limit, or repeal an existing regulation. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability. The proposed rules do not positively or adversely affect this state's economy. This statement is made pursuant to the Administrative Procedures Act, Texas Government Code, §2001.0221.

If requested, the Department will conduct a public hearing on this rulemaking, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received by the Department within 15 days after publication.

Comments may be submitted to Mr. Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, P.O. Box 12489, Austin, Texas 78711-2489 or by e-mail at [mhproposedrulecomments@tdhca.state.tx.us](mailto:mhproposedrulecomments@tdhca.state.tx.us). The deadline for comments is no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

#### SUBCHAPTER D. LICENSING

##### 10 TAC §80.41

The amendment is proposed under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by the proposed rule.

§80.41. *License Requirements.*

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

(c) Education.

(1) (No change.)

(2) Each test to be administered in connection with the course(s) will consist of a representative selection of questions from

an approved set of questions approved by the Director. The test(s) will be open-book. A score of 70% correct is required to pass each test.

(A) Cheating on the Manufactured Housing Division licensure examinations will not be tolerated. Evidence of cheating on an examination shall be a cause for disciplinary action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.

(B) If the executive director determines that an examinee cheated on the Manufactured Housing Division exam, an examinee may have exam results invalidated and may be barred from taking the Manufactured Housing Division examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.

(C) A licensee or applicant suspected of cheating, or a licensee assisting others with cheating may be charged with violating §1201.551 of the Act and applicable Manufactured Housing Division rules, which may result in the denial, suspension, or revocation of their license.

(3) - (8) (No change.)

(d) - (f) (No change.)

(g) Exemption for Retailer's License Requirement.

(1) Application for Exemption of Retailer's License Requirement.

(A) A person requesting exemption from the Retailer's licensing requirement of §1201.101(b) of the Tex. Occ. Code, shall submit the required application outlining the circumstances under which they are requesting exemption from licensure.

(B) Applications should identify the HUD label or serial number(s); ~~[of up to three (3) homes being sold under the exemption;]~~

(i) of up to 3 homes being sold under the exemption found in Tex. Occ. Code §1201.1025(a); or

(ii) of all homes sold under the exemption Tex. Occ. Code §1201.1025(a-1).

(C) Applications will be processed within seven (7) business days after receipt of all required information.

(2) The circumstances under which this exemption is granted are:

(A) One-time sale of up to three (3) manufactured homes in a 12-month period as personal property;

(B) Non-profit entity transferring ownership of up to three (3) manufactured homes in a 12-month period; ~~[and/or]~~

(C) No other manufactured homes have been purchased and resold in the previous twelve (12) months, even with a previous exemption; ~~or [-]~~

(D) All manufactured homes for sale or offered to be sold by the person are located in a manufactured home community, and for sale or offered for sale to the same purchaser in connection with a sale of the real property of the community.

(3) (No change.)

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

Filed with the Office of the Secretary of State on September 22, 2023.

TRD-202303518

Jim R. Hicks

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 475-2206



## SUBCHAPTER G. STATEMENTS OF OWNERSHIP

### 10 TAC §80.92

The repeal is proposed under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by the proposed repeal.

*§80.92. Inventory Finance Liens.*

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

Filed with the Office of the Secretary of State on September 22, 2023.

TRD-202303519

Jim R. Hicks

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 475-2206



## TITLE 16. ECONOMIC REGULATION

### PART 1. RAILROAD COMMISSION OF TEXAS

#### CHAPTER 7. GAS SERVICES

#### SUBCHAPTER D. CUSTOMER SERVICE AND PROTECTION

### 16 TAC §7.460, §7.480

The Railroad Commission of Texas (Commission) proposes new §7.480 relating to Energy Conservation Programs. The Commission proposes the new rule pursuant to House Bill 2263, 88th Legislative Session (2023) which added new Subchapter J, Natural Gas Energy Conservation Programs, in Chapter 104, Texas

Utilities Code. The Commission also proposes amendments to §7.460 relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency, pursuant to Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide courts in issuing civil penalties against gas utilities who disconnect service to residential customers during an extreme weather emergency.

House Bill 2263 relates to energy conservation programs that may be offered by a local distribution company (LDC) to its residential and commercial customers. Proposed new subsection (a) explains the energy conservation program authority given to an LDC to offer such programs to current and prospective residential and commercial customers. Subsection (a) also states that the Commission has exclusive original jurisdiction over energy conservation programs implemented by LDCs. Further, proposed subsection (a) states that a political subdivision shall not limit, restrict, or otherwise prevent an eligible customer from participating in an LDC's programs based on the type or source of energy delivered to the LDC's customers.

Proposed new subsection (b) defines administrative costs, Director, energy conservation program (ECP), energy conservation program rate, Gas Services, local distribution company (LDC), ECP portfolio, portfolio costs, and program year.

Proposed new subsection (c) lists the general requirements for an LDC to recover its costs of an ECP if approved by the Commission. An LDC must apply for each service area in which it seeks to implement an ECP. If the Commission approves the original application or approves an application with modifications, the LDC may begin to recover costs prudently incurred to implement the portfolio. Costs are subject to review by the Commission and may be refunded if imprudent or recovered from customers without Commission approval.

Proposed new subsection (d) lists the contents of the application based on whether the application is the LDC's initial or subsequent application for an ECP portfolio. Section 104.403 of the Texas Utilities Code requires an LDC to apply to the Commission (1) before the LDC begins to recover ECP portfolio costs; and (2) at least once every three years after the date the LDC first applies for cost recovery. Proposed subsection (d)(1) lists the items to be included in the initial application and proposed subsection (d)(2) lists the items to be included in the subsequent application. For its subsequent ECP portfolio approvals, an LDC must file its application at least 90 days prior to the third anniversary of the LDC's program year. Proposed subsection (d)(3) explains the process for an LDC to add new programs to its existing ECP portfolio.

Proposed new subsection (e) requires an LDC to print the notice of its application for an ECP portfolio in type large enough for easy reading and for that notice to be the only information contained on the piece of paper, or in the emailed notice if applicable. The proposed new subsection requires the notice to be provided in English and in Spanish, and the subsection lists the information that must be included in the notice. The proposed new subsection further requires any promotional materials to be provided in English and in Spanish.

Proposed new subsection (f) describes what the ECP portfolio must accomplish, including that it be designed to overcome barriers to the adoption of energy-efficient equipment, technologies, and processes, and to change customer behavior as necessary. The ECP portfolio may also include measures such as direct fi-

ancial incentives, technical assistance, discounts or rebates, and weatherization for low-income customers.

Proposed new subsection (g) outlines the cost recovery mechanism. An LDC's application must include the proposed ECP rate. The proposed new subsection specifies the limits of the cost recovery rate and the administrative costs. Proposed subsection (g)(1) includes the formula LDCs must use to calculate a separate ECP rate for each customer class. Upon Commission approval of an ECP rate, the LDC shall update its residential and commercial tariffs to reflect the approved ECP rate.

Proposed new subsection (h) specifies the procedure for review by the Director of Gas Services to ensure that ECP applications are reviewed for compliance with the rule and with Texas Utilities Code, §§104.401-104.403. The Director shall prepare a written recommendation and provide it to the LDC; the recommendation may include approval of the ECP application as filed, approval of the ECP application with modifications, or rejection of the ECP application. The recommendation shall be submitted to the Commission for decision at a scheduled open meeting. If the Commission approves an ECP portfolio at an open meeting, the LDC shall file the applicable rate schedules in accordance with proposed new subsection (i).

Proposed new subsection (i) requires an LDC to include proposed rate schedules with its application for an ECP portfolio. If an LDC's proposed ECP portfolio is approved by the Commission, the approved ECP rate schedule shall be electronically filed by the LDC in accordance with §7.315 of this title (relating to Filing of Tariffs). An ECP rate approved by the Commission at an open meeting and implemented by the LDC shall be subject to refund unless and until the rate schedule is electronically filed and accepted by Gas Services.

Proposed new subsection (j) requires an LDC to file an annual ECP report each year an approved ECP portfolio is implemented. The report shall be filed no later than 45 days following the end of the LDC's program year. The proposed new subsection outlines the items to be included in the annual report and prohibits the LDC from implementing any adjusted ECP rates until 30 days after submitting the annual report.

Proposed new subsection (k) states the procedure for an LDC implementing an approved ECP portfolio to reimburse the Commission for the LDC's share of the Commission's estimated costs related to administration of reviewing and approving or denying cost recovery applications under this section. The Director shall estimate the LDC's share of the Commission's annual costs related to the processing of such applications. The LDC shall reimburse the Commission for the amount so determined within 30 days after receipt of notice of the reimbursement amount.

In conjunction with the proposed new rule, the Commission proposes amendments to §7.460(b). Proposed amendments in subsection (b)(1) add a reference to Texas Utilities Code §105.023, which provides that the Office of the Attorney General of Texas on its own initiative or at the request of the Commission may file suit to recover a civil penalty for violation of Texas Utilities Code §104.258(c). Section 105.023 requires that the Commission establish a classification system to be used by a court for violations of §104.258(c) that includes a range of penalties that may be recovered for each class of violations. Subsection (b)(1) includes the required classification table, outlining certain violation factors and values for each factor to determine the dollar amount of penalties to be sought.

Mark Evarts, Director, Gas Services Section of the Oversight and Safety Division, has determined that for each year of the first five years that the new rule and amendments will be in effect, there will be no additional economic costs for persons required to comply with the proposed new §7.480 because energy conservation programs are optional. Further, the classification system proposed in amendments to §7.460 does not create new requirements for persons required to comply, but instead creates a range of penalties for rule violators. The Commission notes that although the persons required to comply with new §7.480 (i.e., LDCs) will not incur economic costs due to the rule, residential and commercial customers of an LDC that implements an approved ECP will be required to pay a monthly charge associated with the ECP. House Bill 2263 allows LDCs to implement that monthly charge.

Mr. Evarts has determined that for each year of the first five years that the new rule and amendments will be in effect, there will be an estimated additional cost to state government as a result of enforcing and administering new §7.480. However, proposed subsection (k) requires LDCs to reimburse the Commission for costs incurred in reviewing ECP portfolio applications. There is no additional cost estimated as a result of enforcing and administering §7.460. There will be no fiscal effect on local government.

Mr. Evarts has determined that for each year of the first five years that the new rule and amendments will be in effect, the public benefit will be implementation of required legislation.

In accordance with Texas Government Code, §2006.002, the Commission has determined there will be no adverse economic effect on rural communities, small businesses or micro-businesses resulting from the proposed new rule and amendments. As discussed above, there will be no additional economic costs for persons required to comply as a result of adoption of the proposed new rule and amendments; therefore, the Commission has not prepared the economic impact statement or the regulatory flexibility analysis required under §2006.002.

The Commission has determined that the proposed rulemaking will not affect a local economy; therefore, pursuant to Texas Government Code, §2001.022, the Commission is not required to prepare a local employment impact statement for the proposed rules.

The Commission has determined that the proposed new rule and amendments do not meet the statutory definition of a major environmental rule as set forth in Texas Government Code, §2001.0225; therefore, a regulatory analysis conducted pursuant to that section is not required.

During the first five years that the rule and amendments would be in effect, the proposed new rule and amendments would not: create or eliminate any employee positions; require an increase or decrease in future legislative appropriations; increase fees paid to the agency; create a new regulation; increase or decrease the number of individuals subject to the rule's applicability; expand, limit, or repeal an existing regulation; or affect the state's economy. As discussed above, the proposed new rule creates a program pursuant to HB 2263 to allow LDCs to apply for Commission approval of energy conservation programs, and the proposed amendments clarify potential penalties for rule violators.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at <https://rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings/>; or by electronic mail to

[rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov). The Commission will accept comments until 5:00 p.m. on Wednesday, October 25, 2023. The Commission finds that this comment period is reasonable because the proposal and an online comment form will be available on the Commission's web site more than two weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to review, analyze, draft, and submit comments. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call the Gas Services Section at (512) 463- 7167. The status of Commission rulemakings in progress is available at [www.rrc.texas.gov/general-counsel/rules/proposed-rules](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules).

The Commission proposes the amendment and new rule pursuant to Texas Utilities Code, §§104.401-104.403 and §105.023.

Statutory authority: Texas Utilities Code, §§104.401-104.403 and §105.023.

Cross-reference to statute: Texas Utilities Code, Chapters 104 and 105.

*§7.460. Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency.*

(a) Applicability and scope. This rule applies to gas utilities, as defined in Texas Utilities Code, §101.003(7) and §121.001, and to owners, operators, and managers of mobile home parks or apartment houses who purchase natural gas through a master meter for delivery to a dwelling unit in a mobile home park or apartment house, pursuant to Texas Utilities Code, §§124.001-124.002, within the jurisdiction of the Railroad Commission pursuant to Texas Utilities Code, §102.001. For purposes of this section, all such gas utilities and owners, operators and managers of master meter systems shall be referred to as "providers." Providers shall comply with the following service standards. A gas distribution utility shall file amended service rules incorporating these standards with the Railroad Commission in the manner prescribed by law.

(b) Disconnection prohibited. Except where there is a known dangerous condition or a use of natural gas service in a manner that is dangerous or unreasonably interferes with service to others, a provider shall not disconnect natural gas service in the following circumstances. [tø:]

(1) A provider shall not disconnect a delinquent residential customer during an extreme weather emergency. An extreme weather emergency means a day when the previous day's highest temperature did not exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Station for the county where the customer takes service. In accordance with Texas Utilities Code §105.023, the Office of the Attorney General of Texas on its own initiative or at the request of the Commission may file suit to recover a civil penalty for a violation of this paragraph. The table in this paragraph contains a classification system to be used by a court when such a suit is filed. Figure: 16 TAC §7.460(b)(1)

(2) A provider shall not disconnect a delinquent residential customer for a billing period in which the provider receives a written pledge, letter of intent, purchase order, or other written notification from an energy assistance provider that it is forwarding sufficient payment to continue service.[; øf]

(3) A provider shall not disconnect a delinquent residential customer on a weekend day, unless personnel or agents of the provider



are available for the purpose of receiving payment or making collections and reconnecting service.

(c) Payment plans. Providers shall defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over, and shall work with customers to establish a payment schedule for deferred bills as set forth in §7.45 of this title (relating to Quality of Service).

(d) Notice. Beginning in the September or October billing periods utilities and owners, operators, or managers of master metered systems shall give notice as follows:

(1) Each utility shall provide a copy of this rule to the social services agencies that distribute funds from the Low Income Home Energy Assistance Program within the utility's service area.

(2) Each utility shall provide a copy of this rule to any other social service agency of which the provider is aware that provides financial assistance to low income customers in the utility's service area.

(3) Each utility shall provide a copy of this rule to all residential customers of the utility and customers who are owners, operators, or managers of master metered systems.

(4) Owners, operators, or managers of master metered systems shall provide a copy of this rule to all of their customers.

(e) In addition to the minimum standards specified in this section, providers may adopt additional or alternative requirements if the provider files a tariff with the Commission pursuant to §7.315 of this title (relating to Filing of Tariffs). The Commission shall review the tariff to ensure that at least the minimum standards of this section are met.

#### §7.480. Energy Conservation Programs.

(a) Energy conservation program authority. A local distribution company may offer to residential and commercial customers and prospective residential and commercial customers and provide to those customers an energy conservation program pursuant to this section and Texas Utilities Code, §§104.401-104.403. The Commission has exclusive original jurisdiction over energy conservation programs implemented by local distribution companies. A political subdivision served by a local distribution company that implements an energy conservation program approved by the Commission pursuant to this section shall not limit, restrict, or otherwise prevent an eligible customer from participating in the energy conservation program based on the type or source of energy delivered to its customers.

#### (b) Definitions.

(1) Administrative costs--The costs of creating, managing, and administering an ECP portfolio.

(2) Director--The Director of the Gas Services Department of the Oversight and Safety Division or the Director's delegate.

(3) Energy conservation program (ECP)--A particular program that promotes energy conservation or energy efficiency.

(4) Energy conservation program rate--The energy conservation program rate approved by the Commission in the form of a monthly customer charge.

(5) Gas Services--The Gas Services Department of the Oversight and Safety Division of the Commission.

(6) Local distribution company (LDC)--An investor-owned gas utility that operates a retail gas distribution system.

(7) ECP portfolio--The entire group of energy conservation programs offered by a local distribution company as described in sub-

section (f) of this section. The portfolio may consist of one or more programs.

(8) Portfolio costs--Costs prudently incurred by an LDC to design, market, implement, administer, and deliver an ECP portfolio that has been approved by the Commission, including but not limited to payment of rebates, material costs, the costs associated with installation and removal of replaced materials and/or equipment, and the cost of education and customer awareness materials related to conservation or efficiency.

(9) Program year--The 12-month period beginning the first day of the month following the Commission's approval of the program.

#### (c) General requirements.

(1) An LDC may recover costs of an ECP portfolio if it is approved by the Commission pursuant to this section and the LDC complies with the approved ECP portfolio. An LDC seeking to implement an ECP portfolio in one or more of its service areas shall apply with Gas Services and receive a final order from the Commission before beginning to recover the costs.

(2) An LDC applying for an ECP portfolio shall submit an application for each service area in which it seeks to implement an ECP.

(3) If the Commission approves the LDC's application or approves the application with modifications, the LDC may recover costs prudently incurred to implement the ECP portfolio, including costs incurred to design, market, implement, administer, and deliver the ECP portfolio. Any costs included in an ECP portfolio approved by the Commission shall be fully subject to review by the Commission for reasonableness and prudence. ECP portfolio costs that are imprudent or recovered from customers without approval of the Commission are subject to refund as determined by the Commission.

(d) Contents of application. An LDC may apply for approval of an ECP portfolio by submitting an application to Gas Services.

(1) Initial ECP portfolio application. An initial application for approval of an ECP portfolio shall include:

(A) a list and detailed description of each proposed ECP;

(B) the objectives for each proposed ECP;

(C) the proposed annual budget for each ECP and the ECP portfolio;

(D) the proposed administrative costs for each ECP and the ECP portfolio;

(E) the proposed proportion of ECP portfolio costs to be funded by customers;

(F) the proposed proportion of ECP portfolio costs to be funded by shareholders;

(G) the projected annual consumption reduction per customer class for each ECP and the ECP portfolio;

(H) the projected annual cost savings per customer class for each ECP and the ECP portfolio;

(I) a copy of the notice to customers and an affidavit stating the method of notice and the date or dates on which the notice was given;

(J) copies of written correspondence received by the LDC in response to the notice;

(K) copies of any proposed advertisements or promotional materials that the LDC intends to distribute to customers if an ECP portfolio is approved;

(L) copies of the proposed ECP rate schedule or schedules; and

(M) the name of the LDC's representative, business address, telephone number, and email address.

(2) Subsequent ECP portfolio application. An LDC shall re-apply for approval of its ECP portfolio every three years. The subsequent application shall be filed 90 days prior to the third anniversary of the LDC's program year. A subsequent application for approval of an ECP portfolio shall include:

(A) a list and detailed description of each proposed ECP;

(B) the objectives for each ECP;

(C) the proposed annual budget for each ECP and ECP portfolio;

(D) the proposed administrative costs for each ECP and the ECP portfolio;

(E) the actual historical annual budget for each ECP and the ECP portfolio;

(F) the actual historical administrative costs for each ECP and the ECP portfolio;

(G) the proposed proportion of ECP portfolio costs to be funded by customers;

(H) the proposed proportion of ECP portfolio costs to be funded by shareholders;

(I) the projected and actual historical annual consumption reduction per customer class for each ECP and the ECP portfolio;

(J) the projected and actual historical annual cost savings per customer class for each ECP and the ECP portfolio;

(K) copies of any proposed advertisements or promotional materials that the LDC intends to distribute to customers if the ECP portfolio is approved;

(L) copies of the proposed rate schedule or schedules;

(M) the name of the LDC's representative, business address, telephone number, and email address; and

(N) if the LDC proposes a new ECP, or proposes changes to an existing ECP such that costs to customers increase, the LDC shall provide notice in accordance with subsection (e) of this section and include in its subsequent application the documents required by paragraph (1)(I) and (J) of this subsection.

(3) Addition of new programs to existing ECP portfolio. An initial or subsequent application may contain information on one or more ECPs. If an LDC proposes to add a new ECP to its portfolio after approval of its initial application, the LDC shall propose the new ECP in its subsequent application and include the information required by paragraph (1) of this subsection for the proposed new ECP.

(e) Notice and promotional materials.

(1) Notice. An LDC shall print the notice of its application for an ECP portfolio in type large enough for easy reading. The notice shall be the only information contained on the piece of paper on which it is written or in the emailed notice if applicable. An LDC may give the notice required by this section either by separate mailing or by oth-

erwise delivering the notice with its billing statements. Notice may be provided by email if the customer to receive the notice has consented to receive notices by email. Notice by mail shall be presumed to be complete three days after the date of deposit of the paper upon which it is written, enclosed in a postage-paid, properly addressed wrapper, in a post office or official depository under the care of the United States Postal Service. The notice shall be provided in English and Spanish. The notice to customers shall include the following information:

(A) a description of each ECP in its proposed portfolio;

(B) the effect the proposed ECP portfolio is expected to have on the rates applicable to each affected customer class and on an average bill with and without gas cost for each affected customer class;

(C) the service area or areas in which the proposed ECP portfolio would apply;

(D) the date the proposed ECP portfolio application was or will be filed with the Commission;

(E) the LDC's address, telephone number, and web site where the application for approval of an ECP portfolio may be obtained; and

(F) a statement that any affected person may file written comments or a protest concerning a proposed ECP portfolio with Gas Services by email to MOS@rrc.texas.gov and to an email address for the LDC company included in its notice.

(2) Promotional materials. Any promotional materials shall be provided to customers in English and Spanish.

(f) Portfolio. An ECP portfolio:

(1) shall be designed to overcome barriers to the adoption of energy-efficient equipment, technologies, and processes, and be designed to change customer behavior as necessary; and

(2) may include measures such as:

(A) direct financial incentives;

(B) technical assistance and information, including building energy performance analyses performed by the LDC or a third party approved by the LDC;

(C) discounts or rebates for products; and

(D) weatherization for low-income customers.

(g) Cost recovery mechanism. The application for approval of an ECP portfolio shall include a proposed ECP rate. Cost recovery shall be limited to the incremental costs of providing an ECP portfolio that are not already included in the then-current cost of service rates of the LDC. Administrative costs in excess of 15% of the total costs of the portfolio shall not be included in the ECP rate or recovered from customers in any way.

(1) A separate ECP rate shall be calculated for each customer class in accordance with the following formula: ECP rate = (CCR per Class + BA per Class)/Number of Annual Bills per Class, where:

(A) CCR, Current Cost Recovery, is all projected costs attributable to the local distribution company's energy conservation portfolio for the program year;

(B) BA, Balance Adjustment, is the computed difference between CCR collections by class and expenditures by class, including the pro-rata share of common administrative costs for each class for the program year and collection of the over/under recovery during the prior program year; and

(C) Class is the customer class to which the ECP rate will apply.

(2) Upon the Commission's approval of the ECP rate, the LDC shall update its residential and commercial tariffs to reflect the approved ECP rate.

(h) Procedure for review. The Director of Gas Services shall ensure that applications for ECP portfolios are reviewed for compliance with the requirements of Texas Utilities Code, §§104.401-104.403 and this section. Upon completion of the review, Gas Services will prepare a written recommendation, which shall be provided to the applicant LDC.

(1) The recommendation may include:

(A) approval of the application for an ECP portfolio as filed;

(B) approval of the application for an ECP portfolio with modifications; or

(C) rejection of the application for an ECP portfolio.

(2) The recommendation shall be submitted to the Commission for decision at a scheduled open meeting.

(3) If the Commission approves an ECP portfolio at an open meeting, the LDC shall file the applicable rate schedules implementing the ECP portfolio in accordance with subsection (i) of this section.

(i) Rate schedules. The LDC shall include proposed rate schedules with its application for an ECP portfolio. Each ECP rate schedule shall be made on a form approved by the Commission and made available on the Commission's website. If the LDC's proposed ECP portfolio is approved by the Commission, the approved rate schedules shall be electronically filed by the LDC in accordance with §7.315 of this title (relating to Filing of Tariffs). An ECP rate approved by the Commission at an open meeting and implemented by the LDC shall be subject to refund unless and until the rate schedules are electronically filed and accepted by Gas Services in accordance with §7.315 of this title.

(j) ECP annual report.

(1) An LDC implementing an approved ECP portfolio pursuant to this section shall file an ECP annual report with the Commission. The report shall be filed each year of an approved ECP portfolio is implemented and shall be filed no later than 45 days following the end of the LDC's program year. The ECP annual report shall be in the format prescribed by the Commission and shall include the following:

(A) an overview of the LDC's ECP portfolio;

(B) a description of each ECP offered under the portfolio that includes the program's performance for the preceding year, actual program expenditures, and program results;

(C) the LDC's planned ECPs for the upcoming year;  
and

(D) schedules detailing program expenditures for the program year, actual amounts collected for the program year, and the calculation of the adjusted ECP rate for each applicable customer class.

(2) The LDC shall not implement any adjusted ECP rates until 30 days after submitting the annual report.

(k) Reimbursement. An LDC implementing an approved ECP portfolio pursuant to this section shall reimburse the Commission for the LDC's share of the Commission's estimated costs related to administration of reviewing and approving or denying cost recovery applica-

tions under this section. The Director shall estimate the LDC's share of the Commission's annual costs related to the processing of such applications. The LDC shall reimburse the Commission for the amount so determined within 30 days after receipt of notice of the amount of the reimbursement.

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

Filed with the Office of the Secretary of State on September 19, 2023.

TRD-202303488

Haley Cochran

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Railroad Commission of Texas

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 475-1295



## PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

### CHAPTER 76. WATER WELL DRILLERS AND WATER WELL PUMP INSTALLERS

#### 16 TAC §§76.22, 76.24, 76.25, 76.27, 76.70, 76.80

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 76, §§76.22, 76.24, 76.25, 76.27, 76.70, and 76.80, regarding the Water Well Drillers and Pump Installers program. These proposed changes are referred to as "proposed rules."

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 76, implement Texas Occupations Code, Chapter 1901, Water Well Drillers, and Chapter 1902, Water Well Pump Installers.

#### Implementation of HB 3744

The proposed rules implement HB 3744, 88th Legislature, Regular Session (2023). This legislation establishes that a license issued under Sections 1901.155 and 1902.155 of the Texas Occupations Code, relating to water well drillers and water well pump installers, is valid for one or two years, as determined by commission rule.

The proposed rules are necessary to establish a change in the length of the license terms for certain license holders. Beginning on January 1, 2024, the license terms for initial licenses for the driller, pump installer, and combination driller and pump installer license types change from one to two years.

Additionally, the proposed rules are necessary to establish that existing licenses renewed by the Department are valid for one year if renewed before March 1, 2024, or for two years if renewed on or after March 1, 2024. The proposed rules will allow for the change in the license terms to be phased in as the license holders renew their licenses. The continuing education requirements and the fees are also adjusted accordingly for holders of those licenses.

#### Changes to State Well Reports

Lastly, the proposed rules implement staff changes. The proposed establish that well drillers shall now deliver a copy of their well log to the Department electronically through the Texas Well Report Submission and Retrieval System (TWRSSRS). The proposed rules are necessary to streamline the state well report process, which will save well drillers and the state resources.

#### *Advisory Council Recommendations*

The proposed rules were presented to and discussed by the Water Well Drillers and Pump Installers Advisory Council at its meeting on September 21, 2023. The Advisory Council voted and recommended that the proposed rules be published in the *Texas Register* for public comment with additional recommended changes to §76.25(c). The Advisory Council recommended to increase the number of continuing education hours for an apprentice registrant from one hour to four hours, with one hour dedicated to statutes and rules and three hours dedicated to topics directly related to the water well industry. The Department did not include the Advisory Council's recommendation regarding §76.25(c) in this proposal, but will take it into consideration for a future rulemaking.

#### SECTION-BY-SECTION SUMMARY

The proposed rules amend §76.22. Applications for Licenses and Renewals. The proposed rules establish that, beginning on January 1, 2024, a license issued by the Department will no longer expire annually from the date issued. Instead, licenses issued by the Department are valid for two years from the date issued. Any license issued before January 1, 2024, will continue to be valid for one year.

The proposed rules amend §76.24. License Renewal. The proposed rules remove the requirement of paying an annual fee to the Department for license renewal and establishes that it must instead be paid on or before the expiration date of the license. Licensees must show proof of continuing education to renew. Licenses that are renewed before March 1, 2024, are valid for one year while those renewed on or after March 1, 2024, are valid for two years. This change ensures revenue from licensees are received in odd-numbered and even-numbered years.

The proposed rules amend §76.25. Continuing Education. The proposed rules update the continuing education hour requirements for licensees to correspond with the changes in the license terms. For licensees who renew before March 1, 2024, four (4) hours of continuing education are required to renew a license: one (1) hour of instruction dedicated to Water Well Driller/Pump Installer statutes and rules and three (3) hours of topics directly related to the water well industry. For licensees who renew on or after March 1, 2024, eight (8) hours of continuing education are required to renew a license: one (1) hour of instruction dedicated to Water Well Driller/Pump Installer statutes and rules and seven (7) hours of topics directly related to the water well industry.

The proposed rules amend §76.27. Registration for Driller and/or Pump Installer Apprenticeship. The proposed rules rename the section "Registration for Driller and/or Pump Installer Apprenticeship; Renewal." The proposed rules establish that an apprentice registration issued by the Department is valid for one year and establish the renewal requirements for apprentices.

The proposed rules amend §76.70. Responsibilities of the Licensee—State Well Reports. The existing rules establish that every driller who drills, deepens, or alters a well shall maintain a State of Texas Well Report and provide a copy of the well log to: the Department; the Texas Commission on Environmental

Quality; the owner of the well or the person for whom the well was drilled; and the groundwater conservation district in which the well is located, if any. The proposed rules establish that the driller shall deliver a copy of the well log to: the Department, electronically, through the Texas Well Report Submission and Retrieval System; the owner of the well or the person for whom the well was drilled; and the groundwater conservation district in which the well is located, if any. The proposed rules remove the requirement of delivering a copy of the well log to the Texas Commission on Environmental Quality.

The proposed rules amend §76.80. Fees. The proposed rules update the application and renewal fees for licensees. Beginning January 1, 2024, application fees are doubled to reflect the change from a one-year to two-year license. Licenses that are renewed before March 1, 2024, will not see an increase in renewal fees, but for licenses that are renewed on or after March 1, 2024, the renewal fees are doubled to reflect the change from a one-year to two-year license. This change ensures revenue from licensees are received in odd-numbered and even-numbered years.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules. Any activities required to implement the change in license term from one year to two years are one-time program administration tasks that are routine in nature, such as modifying or revising the licensing system, amending applications, publications and/or website information, which will also not result in an increase or decrease in program costs since they will not necessitate an increase or decrease in personnel or resources.

Tony Couvillon, Policy Research and Budget Analyst, has determined that for the second half of the first fiscal year, there is an estimated increase in revenue to the state government as a result of enforcing or administering the proposed rules. The proposed rules will double the length of the license term for driller, pump installer, and combination driller and pump installer license holders. The applications fees for these licenses will need to double as well, to keep the amount of revenue for the administration of the program consistent.

Applicants who apply for or renew a license in the first half of the first fiscal year, or prior to March 1, 2024, will pay the current application fee amount and the licenses issued during that period will have a one-year term. Applicants who apply or renew in the second half of the first fiscal year, on or after March 1, 2024, will pay the new application fee amount and the licenses issued during that period will have a two-year term. Because the half the population that has a one-year license term will need to renew in the second fiscal year and will pay the increased fees and receive licenses with two-year terms, the revenue for the program will stay consistent over the years, with half the license population applying or renewing in alternate years.

The only increase in revenue will be in occur in the second half of the first fiscal year, when half of the population will pay application fees that are doubled, when, prior to the adoption of the proposed rules, these applicants would not have paid doubled fees. Based on an average of license applications submitted over the past five years, approximately 412 driller license applicants and holders and pump installer license applicants and

license holders will apply or renew in the second half of the first fiscal year. The previous fees paid during this period would have totaled \$88,580. However, with the new fee amounts, the total fees paid during this period will be \$177,160. Based on an average of license applications submitted over the past five years, approximately 296 combination driller license and pump installer license applicants and license holders will apply or renew in the second half of the first fiscal year. The previous fees paid during this period would have totaled \$96,200. However, with the new fee amounts, the total fees paid during this period will be \$192,400.

The increase in revenue during this six-month period will be \$184,780. The revenue in all subsequent fiscal years will be approximately the same and current revenue amounts.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated loss in revenue to the state government as a result of enforcing or administering the proposed rules. The proposed rules do not create a revenue loss, as they do not eliminate or decrease any fees assessed by the licensing program.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of local governments. There is no impact to local government costs because the proposed rules do not affect any regulation of water well drilling and pump installing by local governments.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

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

The proposed rules have no anticipated impact on the local economy because they are not anticipated to increase or decrease employment opportunities for professionals licensed water well drillers or pump installers in any area of the state or increase or decrease the number of individuals who may choose to become licensed water well drillers or pump installers.

#### PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be that the proposed rules change the license terms for the driller, pump installer, and combination driller and pump installer license holders, thereby allowing them to renew their licenses every other year instead of renewing every year. This also would free up some agency resources from licensing tasks, since only half of license holders would renew in any year and allow those resources to be redirected to area such as water well quality assurance and abandoned and deteriorated wells mitigation to better protect the public's groundwater resources.

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

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

The current application fee and the renewal fee for a driller license or pump installer license is \$215 for a one-year license. Following the adoption of the proposed rules, the fee for a two-

year driller license or pump installer license will be \$430. The current application fee and the renewal fee for a combination driller and pump installer license is \$325 for a one-year license. Following the adoption of the proposed rules, the fee for a two-year combination driller and pump installer license will be \$650. However, the proposed rules have no economic costs to persons that are licensees, businesses, or the general public in Texas. The rules do not impose additional fees upon licensees, nor do they create requirements that could cause licensees to expend funds for equipment, technology, staff, supplies or infrastructure.

The proposed rules modify the continuing education hour requirements for the driller, pump installer, and combination driller and pump installer license holders, changing the number of required hours from four hours every year to eight hours every two years. Some continuing education providers might adjust the content and length of their courses to better fit the needs of the license holders, however, these adjustments are purely voluntary and a business decision. Any cost associated with the adjustments are expected to be minimal, if any, and will be offset by the resulting fees paid by attending students.

The proposed rules state that the required submission of a copy of the well log to TDLR must be transmitted electronically through the Texas Well Report Submission and Retrieval System. There will be no cost to any license holders who are not currently submitting well logs through the system since there is no cost to submit well logs through the system.

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

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

The Water Well Driller and Pump Installer Program regulates individuals who perform drilling and pump installing services, some of whom could be set up as small or micro-businesses. The proposed rules have no anticipated adverse economic effect on those small businesses or micro-businesses. The rules do not impose additional fees upon licensees or small or micro-businesses, nor do they create requirements that would cause licensees or those businesses to expend funds for equipment, staff, supplies, or infrastructure.

The proposed rules modify the continuing education hour requirements for the driller, pump installer, and combination driller and pump installer license holders, changing the number of required hours from four hours every year to eight hours every two years. Some continuing education providers, some of which could be small or micro-business, might adjust the content and length of their courses as a result of the continuing education requirement adjustment. Any cost associated with these adjustments are voluntary and expected to be minimal, and any cost will not have an adverse economic effect on those businesses.

The proposed rules have no anticipated adverse economic effect on rural communities because the rule will not decrease the availability of water well drilling or pump installing services in rural communities, nor will the rules increase the cost of those services in rural communities. Additionally, the proposed rules do

not impose additional requirements of licensees located in rural communities.

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

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

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not expand, limit, or repeal an existing regulation.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENTS

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

#### STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51, 1901, and 1902 which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 1901, and 1902. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is House Bill 3744, 88th Legislature, Regular Session (2023).

#### §76.22. *Applications for Licenses and Renewals.*

(a) Application must be made on forms approved by the department.

(b) The application must include the applicant's statement that he has drilled or installed pumps under supervision of a driller or pump installer licensed under the Code and this chapter.

(c) The applicant is eligible to take the examination when the department determines the application and qualifications submitted meet requirements.

(d) A license issued by the department is valid for: ~~[will expire annually from the date issued (as provided in §76.24).]~~

(1) one year, if the license was issued before January 1, 2024; or

(2) two years, if the license was issued on or after January 1, 2024.

#### §76.24. *License Renewal.*

(a) On or before the expiration date of the license, the licensee must pay a ~~[an annual]~~ renewal fee to the department and submit an application for renewal.

(b) To renew a license, the licensee must show proof of ~~[four (4) hours of]~~ continuing education in compliance with §76.25(b).

(c) A license renewed by the department is valid for:

(1) one (1) year, if the license was renewed before March 1, 2024; or

(2) two (2) years, if the license was renewed on or after March 1, 2024.

#### §76.25. *Continuing Education.*

(a) Terms used in this section have the meanings assigned by Chapter 59 of this title, unless the context indicates otherwise.

(b) To renew a license as a driller or pump installer, a licensee must complete ~~[four (4) hours of]~~ continuing education ~~[in]~~ courses approved by the department, ~~which [The continuing education hours]~~ must include the following:

(1) one (1) hour of instruction dedicated to the Water Well Driller/Pump Installer statutes and rules; and

(2) the following number of hours of instruction dedicated to ~~[three (3) hours of instruction in]~~ topics directly related to the water well industry, including but not limited to well and water well pump standards, geologic characteristics of the state, state groundwater laws and related regulations, well construction and pump installation practices and techniques, health and safety, environmental protection, technological advances, or business management; [-]

(A) three (3) hours for renewal before March 1, 2024;  
or

(B) seven (7) hours for renewal on or after March 1, 2024.

(c) To renew a registration as an apprentice, a registrant must complete a one (1) hour department-approved continuing education

course dedicated to the Water Well Driller and Pump Installer statutes and rules.

(d) The continuing education hours must have been completed within the term of the current license or registration, in the case of a timely renewal. For a late renewal, the continuing education hours must have been completed within the one (1) year period immediately prior to the date of the late renewal.

(e) A licensee or registrant may not receive continuing education credit for attending the same course more than once during their license term.

(f) Licensees and registrants must retain a copy of the certificate of course completion for one year after the date of completion. In conducting any inspection or investigation of the licensee or registrant, the department may examine the licensee's or registrant's records to determine compliance with this subsection.

(g) To be approved under Chapter 59 of this title, a provider's course must be dedicated to instruction in one or more of the topics listed in subsection (b), and the provider must be registered under Chapter 59 of this title.

(h) A licensee whose license has been placed on "inactive" status pursuant to Texas Occupations Code, §51.4011 is not required to complete continuing education as required by this section until the licensee seeks to change to "active" status.

§76.27. Registration for Driller and/or Pump Installer Apprenticeship; Renewal.

(a) A person who wishes to participate in a driller or installer apprentice program under the supervision of a licensed well driller and/or a licensed pump installer who has been licensed for a minimum of two (2) years, must submit a registration form to the department, provide a detailed copy of the training program, including the effective commencement and termination date, and provide proof that the licensed well driller and/or pump installer has agreed to accept the responsibility of supervising the training.

(b) To qualify for an apprentice registration the person must:

(1) Be at least eighteen (18) years old;

(2) Participate in an apprentice program developed by a licensed driller or installer who has been licensed as a driller or installer for at least two years;

(3) Submit an application on a department-approved form, and

(4) Pay the registration fee.

(c) The application form for an apprentice shall include:

(1) the name, business address, and permanent mailing address of the apprentice;

(2) the name and license number of the licensed driller and/or pump installer who will supervise the training;

(3) a detailed description of the training program, including the types of wells to be drilled and/or the classifications of pumps to be installed, the effective commencement and termination dates of the program, equipment used, safety training and procedures, and experience, knowledge, and qualification benchmarks while under the apprenticeship;

(4) a statement by the licensed driller and/or pump installer that the licensed driller or installer takes responsibility for the apprentice's acts under the Code and this Chapter for the activities of the apprentice associated with the training program; and

(5) the signatures of the apprentice and the licensed driller and/or pump installer and the certification of the licensee and apprentice that the information provided is true and correct.

(d) An apprentice registration issued by the department is valid for one year.

(e) To renew an apprentice registration, an apprentice must:

(1) submit an application on a department approved form;

(2) show proof of continuing education in compliance with §76.25(c); and

(3) pay the renewal fee.

§76.70. Responsibilities of the Licensee--State Well Reports.

Every well driller who drills, deepens, or alters a well, within this state shall record and maintain a legible and accurate State of Texas Well Report on a department-approved form. Each copy of a State of Texas Well Report, other than a department copy, shall include the name, mailing address, web address and telephone number of the department.

(1) Not later than the 60th day after the date of the completion or cessation of drilling, deepening, or otherwise altering the well, the driller shall deliver [~~send by first class mail, or provide electronically;~~] a copy of the well log to:

(A) The department, by transmitting electronically through the Texas Well Report Submission and Retrieval System;

~~[(B) The Texas Commission on Environmental Quality (if the log was not submitted to the department electronically);]~~

~~(B) [(C)]~~ The owner of the well or the person for whom the well was drilled; and

~~(C) [(D)]~~ The groundwater conservation district in which the well is located, if any.

(2) Each State of Texas Well Report and Plugging Report shall include the specific geographic coordinates with the longitude and latitude of the subject well.

(3) The person that plugs a well shall, within thirty (30) days after plugging is complete, transmit electronically through the Texas Well Report Submission and Retrieval System or deliver or send by first-class mail, a copy of the State of Texas Plugging Report to the department. The person that plugs the well shall deliver, transmit electronically, or send by first-class mail a copy of the State of Texas Plugging Report to the groundwater conservation district in which the well is located, if any. The person that plugs the well shall deliver, transmit electronically, or send by first-class mail a copy of the State of Texas Plugging Report to the owner or person for whom the well was plugged.

(4) The department shall furnish State of Texas Plugging Reports on request.

(5) The executive director shall prescribe the contents of the State of Texas Plugging Reports.

§76.80. Fees.

(a) Application Fees

(1) Driller license--\$430 [245]

(2) Installer license--\$430 [245]

(3) Combination Driller and Installer license--\$650 [325]

(4) Apprentice registration--\$65

(5) Combination Apprentice registration--\$115

(b) Renewal Fees

(1) Driller license--\$215 for renewal before March 1, 2024; \$430 for renewal on or after March 1, 2024

(2) Installer license--\$215 for renewal before March 1, 2024; \$430 for renewal on or after March 1, 2024

(3) Combination Driller and Installer license--\$325 for renewal before March 1, 2024; \$650 for renewal on or after March 1, 2024

(4) Apprentice registration--\$65

(5) Combination Apprentice registration--\$115

(6) Late renewal fees for licenses issued under this Chapter are provided in §60.83 of this title.

(c) Lost, revised, or duplicate license--\$25

(d) Adding an endorsement to a current license--\$25

(e) Variance request fee--\$100

(f) Inactive License Status

(1) The fee for an inactive license--No charge.

(2) The fee to renew a license marked "inactive" is the renewal fee as stated in subsection (b).

(3) The fee to change from an inactive license to an active license is \$25.

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

Filed with the Office of the Secretary of State on September 25, 2023.

TRD-202303533

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 475-4879



## CHAPTER 85. VEHICLE STORAGE FACILITIES

### 16 TAC §85.722

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 85, §85.722, regarding the Vehicle Storage Facilities Program. These proposed changes are referred to as "proposed rule."

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC Chapter 85, implement Texas Occupations Code, Chapter 2303, Vehicle Storage Facilities.

The proposed rule amendments address the maximum amounts for vehicle storage and impoundment fees that may be charged by a vehicle storage facility company. The proposed rule increases the allowable vehicle storage facility impoundment fee and daily storage fees in accordance with changes in the Consumer Price Index for all Urban Consumers (CPI-U)

during the preceding state fiscal biennium, as authorized by statute. Pursuant to Texas Occupations Code §2303.1552, the Texas Commission of Licensing and Regulation (Commission) is authorized to adjust the vehicle impound and storage fees based upon changes in the CPI not later than November 1 on every odd-numbered year. The Commission is then authorized by that statute to adjust the impoundment fee described under §2303.155(b)(2) and the storage fees described under §2303.155(b)(3) by an amount equal to the amount of the applicable fee in effect on December 31 of the preceding year multiplied by the percentage increase or decrease in the consumer price index during the preceding state fiscal biennium. The proposed rule, based upon analysis of the CPI during the preceding state fiscal biennium by Department staff, is necessary to comply with the statutory requirements to implement changes in the vehicle impound and storage fees for 2023.

#### 2023 Rate Adjustment Pursuant to Stakeholder Comment

On or about August 3, 2023, the Department received a stakeholder comment regarding a concern about the calculations used for the 2023 Rate Adjustment pursuant to §2303.1552. The comment noted a difference in the calculations used between the 2019 and 2021 Rate Adjustments which resulted in reduced fees that VSF operators were authorized to charge under the 2021 maximum VSF Storage and Impoundment fee rates following that 2021 adjustment. Upon review of the two rate adjustments, the Department amended the 2023 Rate Adjustment, consistent with existing state law, which includes a "catch-up adjustment," using initial base fees that reflect what the maximum authorized fees would currently be if the same 2019 and 2021 rate adjustment calculations had been employed. The result will be higher allowed maximum fees to be charged by VSF operators under the proposed rules.

#### Advisory Board Recommendations

The proposed rule was presented to the Towing and Storage Advisory Board (Advisory Board) at its meeting on September 13, 2023. The Advisory Board did not make any changes to the proposed rule. The Advisory Board voted and recommended that the proposed rule be published in the *Texas Register* for public comment.

#### SECTION-BY-SECTION SUMMARY

The proposed rule amends §85.722(d) by reflecting the new maximum amounts for daily storage fees that may be charged by a vehicle storage facility in connection with receipt and storage of a vehicle, as authorized by statute.

The proposed rule amends §85.722(e) by reflecting the new maximum amount for the vehicle impoundment fee that may be charged by a vehicle storage facility in connection with impoundment and custody of a vehicle, as authorized by statute.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

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

#### LOCAL EMPLOYMENT IMPACT STATEMENT



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

#### PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit from the mandated update in the allowable fees for storage and impoundment of vehicles based on the percentage increase in the Consumer Price Index during the previous state fiscal biennium will be to allow vehicle storage facilities to keep pace with inflation and current costs for operating a facility, and therefore be more financially secure in their operations and able to provide their services to the public. The proposed rule also puts the public on notice of the fees that could be incurred if a towed vehicle is stored at vehicle storage facility.

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

Mr. Couvillon has determined that for each year of the first five-year period the proposed rule is in effect, there will be additional costs to persons who are required to comply with the proposed rules. The statutorily authorized increase in the amount of fees allowed to be charged for vehicle storage and impoundment would have an increased economic cost on those who pay to have a stored vehicle released from a vehicle storage facility. However, the maximum additional amount a person would be required to pay is \$3.65 or \$5.01 on the first day in combined increases in the daily storage fee plus the impoundment fee, depending on the size of the vehicle, and \$1.82 or \$3.19 each day afterward in storage fees. This small increase would have a minimal effect on any vehicle owner or other person paying for the release of a vehicle.

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

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

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

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

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rule does not create or eliminate a government program.

2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rule does not require an increase or decrease in fees paid to the agency.

5. The proposed rule does not create a new regulation.

6. The proposed rule does not expand, limit, or repeal an existing regulation.

7. The proposed rule does not increase or decrease the number of individuals subject to the rules' applicability.

8. The proposed rule does not positively or adversely affect this state's economy.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENTS

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

#### STATUTORY AUTHORITY

The proposed rule is proposed under Texas Occupations Code, Chapters 51 and 2303, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rule are those set forth in Texas Occupations Code, Chapters 51 and 2303. No other statutes, articles, or codes are affected by the proposed rule.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is House Bill 1140, 86th Legislature, Regular Session (2019).

§85.722. *Responsibilities of Licensee--Storage Fees and Other Charges.*

(a) For the purposes of this section, "VSF" includes a garage, parking lot, or other facility that is:

- (1) owned by a governmental entity; and
- (2) used to store or park at least 10 vehicles each year.

(b) The fees outlined in this section have precedence over any conflicting municipal ordinance or charter provision.

(c) Notification fee.

(1) A VSF may not charge a vehicle owner or authorized representative more than \$50 for notification under these rules. If a notification must be published, and the actual cost of publication exceeds 50% of the notification fee, the VSF may recover the additional amount of the cost of publication. The publication fee is in addition to the notification fee.

(2) If a vehicle is removed by the vehicle owner or authorized representative within 24 hours after the date the VSF receives the vehicle, notification is not required by these rules.

(3) If a vehicle is removed by the vehicle owner or authorized representative before notification is sent or within 24 hours from the time VSF receives the vehicle, the VSF may not charge a notification fee to the vehicle owner.

(d) Daily storage fee. A VSF may charge \$20 for each day or part of a day for storage of a vehicle that is 25 feet or less in length and may charge \$35 for each day or part of a day for storage of a vehicle that exceeds 25 feet in length, subject to a biennial adjustment as set forth in Texas Occupations Code §2303.1552(b)(1).

(1) Per the 2023 [2024] biennial adjustment, the maximum amount that a VSF may charge for a daily storage fee is as follows:

(A) Vehicle that is 25 feet or less in length: \$22.85 [\$21.03].

(B) Vehicle that exceeds 25 feet in length: \$39.99 [\$36.80].

(2) A daily storage fee may be charged for any part of the day, except that a daily storage fee may not be charged for more than one day if the vehicle remains at the VSF less than 12 hours. In this paragraph a day is considered to begin and end at midnight.

(3) A VSF that has accepted into storage a vehicle registered in this state shall not charge for more than five days of storage fees until a notice, as prescribed in §85.703 of these rules, is mailed or published.

(4) A VSF that has accepted into storage a vehicle not registered in Texas shall not charge for more than five days of storage before the date the request for owner information is sent to the appropriate governmental entity or to the private entity authorized by that governmental entity to obtain title, registration, and lienholder information using a single vehicle identification inquiry.

(5) A VSF shall charge a daily storage fee after notice, as prescribed in §85.703, is mailed or published for each day or portion of a day the vehicle is in storage until the vehicle is removed and all accrued charges are paid.

(e) Impoundment fee. A VSF may charge a vehicle owner or authorized representative an impoundment fee of \$20, subject to a biennial adjustment as set forth in Texas Occupations Code §2303.1552(b)(1). Per the 2023 [2024] biennial adjustment, the maximum amount that a VSF may charge for an impoundment fee is \$22.85 [\$21.03]. If the VSF charges a fee for impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.

(f) Governmental or law enforcement fees. A VSF may collect from a vehicle owner or authorized representative any fee that must be paid to a law enforcement agency, the agency's authorized agent, or a governmental entity.

(g) Additional fees. A VSF may not charge additional fees related to the storage of a vehicle other than fees authorized by these rules or a nonconsent-towing fee authorized by Texas Occupations Code, §2308.2065.

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

Filed with the Office of the Secretary of State on September 22, 2023.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 101. ASSESSMENT

##### SUBCHAPTER CC. COMMISSIONER'S

##### RULES CONCERNING IMPLEMENTATION OF THE ACADEMIC CONTENT AREAS TESTING PROGRAM

##### DIVISION 1. IMPLEMENTATION OF ASSESSMENT INSTRUMENTS

##### 19 TAC §101.3011

The Texas Education Agency (TEA) proposes an amendment to §101.3011, concerning the implementation and administration of academic content area assessment instruments. The proposed amendment would clarify the policies relating to the administration mode of certain required assessments.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 101.3011 addresses state and federal requirements relating to the implementation and administration of academic content area assessments. The proposed amendment to §101.3011 would clarify state policies relating to the administration mode of certain required assessments.

Texas Education Code (TEC), §39.0234, requires that TEA administer the State of Texas Assessments of Academic Readiness (STAAR®) online beginning with the 2022-2023 school year. House Bill (HB) 1225, passed by the 88th Texas Legislature, Regular Session, 2023, now allows two exceptions to online testing for STAAR®: (1) a student who qualifies for a special paper administration of an online assessment, and (2) any student whose parent, guardian, or teacher requests a paper version of the assessment. The number of students who are provided a paper-by-request administration of STAAR® may not exceed 3% of the number of eligible students enrolled in the district who are administered each assessment. The number of students who receive a paper-by-request administration is separate and distinct from the students who are eligible for a special paper administration of STAAR®.

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

there will be additional costs to state government for the first five years the proposal is in effect.

HB 1225, 88th Texas Legislature, Regular Session, 2023, permits school districts to administer assessment instruments in a paper format to any student upon request by the student's parent, guardian, or teacher for up to 3% of the number of enrolled students in a district. In addition, the bill specifies that the 3% of paper-by-request students is separate from the students whose admission, review, and dismissal committees determine that the students require accommodations that must be delivered in a paper format.

To provide approximately 3% of the student population with paper test materials, TEA will incur a cost of approximately \$1,657,062 each year. Additionally, if approximately half of the students receiving special education services require accommodations that must be delivered in a paper format, the costs will be about \$2,761,770 annually. Combining these two costs, TEA will incur a cost of approximately \$4,418,832 each year for fiscal years 2024-2028.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by permitting local education agencies to offer paper versions of assessments and increase the number of individuals subject to its applicability by allowing certain students to be administered a paper version of the assessment.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Laux has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to allow certain students the opportunity to be administered a paper version of the assessment. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would not have a new data or reporting impact. School districts and open-enrollment charter schools are currently required to register their students in the Test Information Distribution Engine (TIDE), the contractor's online test management system. With the new criteria for paper administrations, district testing personnel will be required to mark specific fields in TIDE to indicate which students will receive a paper version of the assessment.

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

**PUBLIC COMMENTS:** The public comment period on the proposal begins October 6, 2023, and ends November 6, 2023. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 6, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §39.023(a), (b), (c), and (l), which specify the required assessments for students in Grades 3-8, students enrolled in high school courses, and emergent bilingual students whose primary language is Spanish, respectively; TEC, §39.0234, which requires that assessment instruments under TEC, §39.023(a), (c), and (l); Grades 3-8; end-of-course; and Spanish assessments, respectively, be administered online, unless otherwise provided by commissioner rule; TEC, §39.02342(a), as added by House Bill (HB) 1225, 88th Texas Legislature, Regular Session, 2023, which permits school districts to administer assessments required under TEC, §39.023(a), (c), and (l); Grades 3-8; end-of-course; and Spanish assessments, respectively, in a paper format to any student whose parent, guardian, or teacher in the applicable subject area requests a paper format; and TEC, §39.02342(c), added by HB 1225, 88th Texas Legislature, Regular Session, 2023, which limits the number of students who take a paper-by-request version of the assessments during each administration to 3% of the students enrolled in the district, excluding students whose admission, review, and dismissal committee determines that the student requires an accommodation that must be delivered in a paper format.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§39.023(a), (b), (c), and (l); 39.0234; and 39.02342(a) and (c), as added by House Bill 1225, 88th Texas Legislature, Regular Session, 2023.

*§101.3011. Implementation and Administration of Academic Content Area Assessment Instruments.*

(a) The Texas Education Agency (TEA) shall administer each assessment instrument under Texas Education Code (TEC), §39.023(a), (b), (c), and (l), in accordance with the rules governing the assessment program set forth in Chapter 101 of this title (relating to Assessment).

(1) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student shall not be administered a grade-level assessment if the student:

(A) is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under TEC, §39.023(a), that aligns with the curriculum for that course or subject within the same content area; or

(B) is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an end-of-course assessment instrument developed under TEC, §39.023(c), that aligns with the curriculum for that course or subject within the same content area.

(2) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT® or the SAT®.

(3) A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.

(4) A student shall be administered the assessments under TEC, §39.023(a), (c), and (l), online as required by TEC, §39.0234, except for a student:

(A) who requires specific accommodations that cannot be provided online as specified in the test administration materials; or

(B) whose parent, guardian, or teacher in the applicable subject area requests a paper administration of an assessment. Requests must be submitted to the school district or open-enrollment charter school by the dates indicated in TEC, §39.02342(b). Requests from a district or charter school may not exceed 3% of eligible students enrolled in the district or charter school who are administered each assessment.

~~[(4) As specified in TEC, §28.0211(p), a Grade 5 or 8 student described by paragraph (1)(A) or (B) of this subsection may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student.]~~

(b) The TEA shall administer alternative assessment instruments under TEC, §39.023(b), that correspond to:

(1) the assessment instruments required under TEC, §39.023(a); and

(2) the following assessment instruments required under TEC, §39.023(c): English I, English II, Algebra I, biology, and U.S. history.

(c) Test administration procedures shall be established by the TEA in the applicable test administration materials. A school district, an open-enrollment charter school, or a private school administering the tests required by TEC, Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials.

(d) In accordance with TEC, §39.023(a)(5), the TEA shall administer to students assessments in any other subject and grade required by federal law.

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

Filed with the Office of the Secretary of State on September 25, 2023.

TRD-202303530

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: November 5, 2023

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



## TITLE 28. INSURANCE

### PART 1. TEXAS DEPARTMENT OF INSURANCE

#### CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

##### SUBCHAPTER RR. VALUATION MANUAL

###### 28 TAC §3.9901

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §3.9901, concerning the adoption of a valuation manual for reserving and related requirements. The amendment to §3.9901 implements Insurance Code §425.073.

EXPLANATION. The amendment to §3.9901 is necessary to comply with Insurance Code §425.073, which requires the commissioner to adopt a valuation manual that is substantially similar to the National Association of Insurance Commissioners (NAIC) Valuation Manual.

Under Insurance Code §425.073, the commissioner must adopt the valuation manual, and any changes to it, by rule.

Under Insurance Code §425.073(c), when the NAIC adopts changes to its valuation manual, the commissioner must adopt substantially similar changes. This subsection also requires the commissioner to determine that NAIC's changes were approved by an affirmative vote representing at least three-fourths of the voting NAIC members, but not less than a majority of the total membership. In addition, the NAIC members voting in favor of amending the valuation manual must represent jurisdictions totaling greater than 75% of the direct written premiums as reported in the most recently available life, accident, and health/fraternal annual statements and health annual statements.

TDI originally adopted the valuation manual in §3.9901 on December 29, 2016, in compliance with Insurance Code §425.073. On August 16, 2023, the NAIC voted to adopt changes to the valuation manual. Fifty jurisdictions, representing jurisdictions totaling 89.48% of the relevant direct written premiums, voted in favor of adopting the amendments to the valuation manual. The vote adopting changes to the NAIC Valuation Manual meets the requirements of Insurance Code §425.073(c).

This proposal includes provisions related to NAIC rules, regulations, directives, or standards. Under Insurance Code §36.004, TDI must consider whether authority exists to enforce or adopt the NAIC's changes. In addition, under Insurance Code §36.007, the commissioner cannot adopt or enforce a rule implementing an interstate, national, or international agreement that infringes on the authority of this state to regulate the business of insurance in this state, unless the agreement is approved by the Texas Legislature. TDI has determined that neither §36.004 nor §36.007 prohibit this proposal because Insurance Code

§425.073 requires the Texas insurance commissioner to adopt a valuation manual that is substantially similar to the valuation manual approved by the NAIC, and §425.073(c) expressly requires the commissioner to adopt changes to the valuation manual that are substantially similar to changes adopted by the NAIC.

In addition to clarifying existing provisions, the 2024 NAIC Valuation Manual includes changes that:

- require reporting on actuarial items, including company inflation assumptions;
- revise required hedge modeling for index credit hedging, a fundamentally different type of hedging from the type of hedging that existing requirements were designed to reflect; and
- update the required timing for companies to submit mortality experience data to allow for more timely creation of industry mortality tables.

The NAIC's adopted changes to the valuation manual can be viewed at [https://content.naic.org/sites/default/files/pbr\\_data\\_valuation\\_manual\\_future\\_edition\\_red-line.pdf](https://content.naic.org/sites/default/files/pbr_data_valuation_manual_future_edition_red-line.pdf).

Section 3.9901. The amendment to §3.9901 strikes the date on which the NAIC adopted its previous valuation manual and inserts the date on which the NAIC adopted its current valuation manual, adopting by reference the new valuation manual dated August 16, 2023.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Jamie Walker, deputy commissioner of the Financial Regulation Division, has determined that during each year of the first five years the proposed amendment is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendment, other than that imposed by the statute. Ms. Walker made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendment.

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

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years the proposed amendment is in effect, Ms. Walker expects that administering the proposed amendment will have the public benefit of ensuring that TDI's rules conform to Insurance Code §425.073.

Ms. Walker expects that the proposed amendment will not increase the cost of compliance with Insurance Code §425.073 because it does not impose requirements beyond those in the statute. Insurance Code §425.073 requires that changes to the valuation manual be adopted by rule and be substantially similar to changes adopted by the NAIC. As a result, any cost associated with adopting the changes to the valuation manual is a direct result of Insurance Code §425.073 and not the proposed amendment.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that the proposed amendment will not have an adverse economic effect on small or micro businesses, or on rural communities. This is because the amendment does not impose any requirements beyond those required by statute. As a result, and in accordance with

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

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does not impose a possible cost on regulated persons. In addition, no other rule amendments are required under Government Code §2001.0045 because the proposed amendment is necessary to implement legislation. The proposed rule implements Insurance Code §425.073, as added by Senate Bill 1654, 84th Legislature, 2015.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI has determined that for each year of the first five years that the proposed amendment is in effect, the amendment:

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

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

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 6, 2023. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by the TDI no later than 5:00 p.m., central time, on November 6, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

**STATUTORY AUTHORITY.** TDI proposes the amendment to §3.9901 under Insurance Code §425.073 and §36.001.

Insurance Code §425.073 requires the commissioner to, by rule, adopt changes to the valuation manual previously adopted by the commissioner that are substantially similar to any changes adopted by NAIC to its valuation manual.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the

powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 3.9901 implements Insurance Code §425.073.

§3.9901. *Valuation Manual.*

(a) The Commissioner adopts by reference the National Association of Insurance Commissioners (NAIC) Valuation Manual, including subsequent changes that were adopted by the NAIC through August 16, 2023, [August 13, 2022,] as required by Insurance Code §425.073.

(b) The operative date of the NAIC Valuation Manual in Texas is January 1, 2017.

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

Filed with the Office of the Secretary of State on September 22, 2023.

TRD-202303517

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 676-6555



**CHAPTER 5. PROPERTY AND CASUALTY  
INSURANCE  
SUBCHAPTER F. INLAND MARINE  
INSURANCE, [AND] MULTI-PERIL  
INSURANCE, AND COMMERCIAL LINES  
DIVISION 3. EXEMPT COMMERCIAL LINES  
28 TAC §5.5201**

The Texas Department of Insurance (TDI) proposes to amend the title of Subchapter F of 28 TAC Chapter 5 and to add new Division 3, containing new 28 TAC §5.5201, concerning exempt commercial lines. The new section implements Senate Bill 1367, 87th Legislature, 2021.

EXPLANATION. This proposal implements SB 1367, which exempts certain commercial lines of insurance from rate and form filing requirements. SB 1367 also authorizes the commissioner to exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources that might otherwise be used to review commercial lines filings.

As part of the implementation of 1367, a proposed amendment revises the title of Subchapter F to reflect that a section in it addresses commercial lines and adds new Division 3 to address exempt commercial lines.

Proposed new §5.5201 identifies 12 additional commercial lines of property and casualty insurance and exempts them from the rate and form filing requirements in Insurance Code Chapter 2251, Subchapter C, and Insurance Code Chapter 2301, Subchapter A. The rule does not exempt these insurance lines from any other applicable statute or rule.

These lines are appropriate to exempt because TDI receives comparatively few rate and form filings or policyholder complaints involving them. These factors indicate that there is less need for TDI to review forms and rates for these lines. Further, exempting these lines of insurance will promote enhanced competition and allow TDI to more effectively use its resources to review other commercial lines filings, as contemplated by SB 1367.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Mark Worman, deputy commissioner of the Property and Casualty Division, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Mr. Worman made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

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

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section is in effect, Mr. Worman expects that administering it will have the public benefits of ensuring that TDI's rules conform to Insurance Code §2251.0031 and §2301.0031 and promoting more effective use of TDI resources.

Mr. Worman expects that the proposed new section will not increase the cost of compliance with Insurance Code §2251.0031 and §2301.0031 because it does not impose requirements beyond those in the statute. Insurance Code §2251.0031 and §2301.0031 exempt certain lines of insurance from rate and form filing requirements and authorize the commissioner to exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources that might otherwise be used to review commercial lines filings. Because it will reduce the lines of insurance subject to filing requirements, the proposed new section will likely reduce the cost of compliance.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons. Even if it did, no additional rule amendments are required under Government Code §2001.0045 because proposed new §5.5201 is necessary to implement legislation. The proposed rule implements Insurance Code §2251.0031 and §2301.0031, as added by SB 1367.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;
- will not create new regulations;
- will limit existing regulations;
- will not increase the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

This rule will limit existing regulations by exempting additional lines of insurance from rate and form filing requirements.

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

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 6, 2023. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on November 6, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

**STATUTORY AUTHORITY.** TDI proposes new §5.5201 under Insurance Code §§2251.0031, 2301.0031, 36.001, and 36.002.

Insurance Code §2251.0031 exempts certain lines of insurance from rate filing requirements and provides that the commissioner may by rule exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources. Section 2251.0031 also provides that the commissioner may adopt reasonable and necessary rules to implement §2251.0031.

Insurance Code §2301.0031 exempts certain lines of insurance from form filing requirements and provides that the commissioner may by rule exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources. Section 2301.0031 also provides that the commissioner may adopt reasonable and necessary rules to implement §2301.0031.

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

Insurance Code §36.002 provides that the commissioner may adopt reasonable rules that are necessary to effect the purposes of Insurance Code Chapter 2251 and Chapter 2301, Subchapter A.

**CROSS-REFERENCE TO STATUTE.** Section 5.5201 implements Insurance Code §2251.0031 and §2301.0031.

§5.5201. Exempt Commercial Lines.

(a) The purpose of this section is to identify commercial lines of insurance that the commissioner of insurance has determined should be exempt from the rate filing requirements in Insurance Code Chapter 2251, Subchapter C, concerning Rate Filings, and the form filing requirements in Insurance Code Chapter 2301, Subchapter A, concerning Policy Forms Generally. These exemptions are in addition to the exceptions for certain lines of insurance listed in Insurance Code §2251.0031(a), concerning Exceptions for Certain Lines, and Insurance Code §2301.0031(a), concerning Exceptions for Certain Lines.

(b) The rate filing requirements in Insurance Code Chapter 2251, Subchapter C, and the form filing requirements in Insurance Code Chapter 2301, Subchapter A, do not apply to any line of the following kinds of insurance written under a commercial insurance policy or contract:

- (1) commercial credit insurance products that cover outstanding commercial debt, including trade credit insurance and commercial guaranteed auto protection (GAP) insurance;
- (2) crime insurance;
- (3) fidelity and surety products, whether referred to as a bond or insurance, including products that cover crime, forgery, and employee dishonesty;
- (4) financial guaranty;
- (5) glass insurance;
- (6) hail insurance on farm crops;
- (7) rain insurance;
- (8) employee benefits liability;
- (9) liquor liability;
- (10) owners and contractors protective liability;
- (11) railroad protective liability; or
- (12) commercial tuition withdrawal insurance.

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

Filed with the Office of the Secretary of State on September 19, 2023.

TRD-202303489

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 676-6555



## CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

The Texas Department of Insurance (TDI) proposes to amend 28 TAC Chapter 5, Subchapter H, §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013, and new §§5.7101 - 5.7110. As part of this proposal, TDI will divide Subchapter H into two new divisions. New Division 1 will contain §§5.7001 - 5.7018. New Division 2 will contain new §§5.7101 - 5.7110. The amendments and new sections implement:

- Senate Bill 1602, 87th Legislature, 2021, which requires insurers to nonrenew private passenger automobile policies if an insured fails or refuses to cooperate;
- House Bill 1900, 88th Legislature, 2023, which updates notice requirements for nonrenewal and cancellation of private passenger automobile policies; and
- House Bill 2065, 88th Legislature, 2023, which specifies that mandatory nonrenewal applies to third-party liability claims and removes a reference to named insured.

EXPLANATION. Proposed amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 implement Insurance Code §551.104(f) and §551.105, as amended by HB 1900. Insurance Code §551.104(f) requires insurers to send notice of cancellation of a personal automobile insurance policy not later than 60 days before the effective date of cancellation, rather than the 30th day, as required by the previous version of the statute. Likewise, amended Insurance Code §551.105 requires insurers to send notice of nonrenewal of a personal automobile insurance policy not later than the 60th before a policy expires, rather than the 30th day.

Amended §5.7005 also includes a change to implement HB 2065, which amended Insurance Code §551.1053 to address mandatory nonrenewal of a private automobile insurance policy when an insured fails to cooperate in—or cannot be contacted regarding—the investigation, settlement, or defense of a third-party liability claim or action.

SB 1602 amended Insurance Code §551.1053 effective September 1, 2021. However, most personal automobile insurance policy forms filed for review and approval since that effective date have not initially complied with §551.1053. Therefore, new §§5.7101 - 5.7110 are proposed to specify requirements to make it easier for insurers and TDI staff to ensure that forms and claim handling practices comply with Insurance Code §551.1053. In addition, to assist consumers, the new sections offer sample plain language notices and require that insurers give insureds at least 10 days from the date the notice is sent to cooperate in a claim.

Insurance Code §551.1053 gives rise to some complex situations for insurers when noncooperation occurs near the end of the policy period. Insurers may have already developed methods to deal with these issues, but the new sections will promote consistency in handling these complex situations.

To provide clarity and structure to the requirements in Subchapter H, TDI proposes to divide the subchapter into two new divisions. Division 1, titled "Miscellaneous," will include the current sections in Subchapter H, consisting of §§5.7001 - 5.7018. Division 2, titled "Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies," will include new §§5.7101 - 5.7110.

The proposed amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 and new §§5.7101 - 5.7110 are described in the following paragraphs, organized by division.

#### Division 1. Miscellaneous.

Sections 5.7005 and 5.7007. Amendments to §5.7005 and §5.7007 conform the sections to Insurance Code §551.104(f) and §551.105 by extending the deadline by which an insurer must give written notice of cancellation from 30 days to 60 days. The amendments also revise text to simplify language, address nonrenewal, and note that exceptions to the sections are provided in new §§5.7101 - 5.7110.

Section 5.7011. Amendments to §5.7011 simplify language and change the word "subchapter" to "division" to account for new Division 2, clarifying that the scope of the section is unchanged.

Section 5.7012. Amendments to §5.7012 remove redundant and outdated statutory references. The current versions of statutes listed in §5.7012 are included in 28 TAC §5.7001(c), which provides the general applicability for Subchapter H. An amendment also changes "Board of Insurance" to "Texas Department of Insurance."

Section 5.7013. To conform to Insurance Code Chapter 35, for general liability and certain commercial automobile insurance policies, amendments to §5.7013(a) and (b) remove the requirement that notices must be mailed. Section 5.7013(a) is also amended to remove the specific number of days for notice of cancellation and add a reference to Insurance Code §551.053. Similarly, amendments to §5.7013(b) remove the specific number of days for notice of nonrenewal and add references to Insurance Code §551.054 and §551.1053. New §5.7013(c) is added to replace text removed from §5.7013(a) and (b). New §5.7013(c) provides that an insurer may comply with the section by requiring or permitting its agent to notify the policyholder, but that it is the insurer's responsibility to give notice to the policyholder if the agent fails to notify the policyholder.

Amendments to the sections also reorganize some text and include nonsubstantive plain language revisions to conform the text to current agency drafting style.

#### Division 2. Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

Section 5.7101. New §5.7101 states the purpose and applicability of new Division 2. Division 2 does not apply to policies written through the Texas Automobile Insurance Plan Association (TAIPA) because Insurance Code §551.102 specifically excludes TAIPA from the applicability of Insurance Code Chapter 551, Subchapter C.

Section 5.7102. New §5.7102 defines "notice" to mean the notice of nonrenewal and opportunity to cooperate required by Insurance Code §551.1053(a). This will streamline the rule text, making it easier to read.

Section 5.7103. New §5.7103 reiterates the Insurance Code §551.1053(a) requirement that insurers use reasonable efforts to contact and encourage cooperation from an insured who fails or refuses to cooperate in the investigation, settlement, or defense of a claim or action. The section does not define "reasonable efforts" because what is "reasonable" depends on the facts of each claim.

Section 5.7104. New §5.7104 requires an insurer to send a notice to the named insured within five days after determining an insured is uncooperative. Specifying this timing requirement promotes prompt and transparent communication between the parties and consistency in claims handling across insurers. It also keeps the claims process moving.

Section 5.7105. New §5.7105 requires an insurer to give an insured at least 10 days for the insured to cooperate after the insurer sends the notice. Insurance Code §551.1053(b) sets forth a required condition for nonrenewal—that the insured continues to fail or refuse to cooperate. This means the insurer must give the insured an opportunity to cooperate before it may nonrenew.

Because §551.1053 contemplates an opportunity to cooperate, the insurer must give the insured that opportunity, even if it



means extending the policy period. A 10-day period beyond the current term is reasonable and consistent with the existing 10-day cancellation notice requirement under Insurance Code §551.104(e).

Specifying a minimum time period that the insurer must give an insured to cooperate recognizes that an insured could cooperate and avoid nonrenewal on that basis. This helps encourage cooperation.

This section also clarifies that the insured has an opportunity to cooperate at any time during the policy term in which the insurer sends the notice. For example, if an insured had an accident on the last day of the policy term, the insurer would not send the notice until the next policy term, and thus the insurer would not be able to determine whether the insured cooperates until sometime within the next policy term.

Section 5.7106. New §5.7106 requires that if an insurer sends a notice less than 10 days before the end of the policy term, it must extend the policy to give the insured at least 10 days to cooperate. The insurer may charge for the coverage extension. This is not a new concept. Some insurers already extend policy periods if they intend to nonrenew or cancel but do not send notice in time.

If insurers extend a policy period to provide the 10-day minimum period to cooperate, the section allows them to charge for the extension on a pro rata basis.

Section 5.7107. New §5.7107 lists the required contents of a notice sent by an insurer under Insurance Code §551.1053. Prescribing specific, required elements for the notice will help prevent inconsistencies and consumer confusion. These required elements are designed to ensure that the named insured gets clear, complete, and correct information about the claim; what they need to do to cooperate; and the consequences if they do not cooperate.

The section requires insurers to provide either (1) the required notice in both English and Spanish, or (2) an English version with information in Spanish about how to get a Spanish version. According to the 2020 U.S. Census, over 7 million Texas households speak Spanish as their primary language. Providing Spanish instructions will help Spanish-speaking consumers understand their obligation to cooperate. Spanish notice requirements are consistent with other rules intended to alert consumers of important rights or changes in their policies.

Section 5.7108. New §5.7108 provides examples of notices. Providing sample notices encourages clear and consistent communication, saves insurers the time and expense of having to draft language, and helps insurers comply with the law. In addition to English and Spanish notices, TDI is providing a dual-language notice. The notice is in English and contains instructions on how to contact the insurer in Spanish. Plain language examples are consistent with TDI policy and Insurance Code plain language requirements, including §2301.053 regarding plain language form requirements, and §551.056 and §551.1055 regarding cancellation and nonrenewal. Insurers are not required to use a sample notice. If they do use one, they may alter the format, except that §5.7106(a)(2) requires insurers to use at least 10-point font. TDI's website provides plain language resources with guidance on formatting.

Section 5.7109. New §5.7109 reiterates that if the insured does not cooperate after the insurer gives notice, the insurer must nonrenew the policy. However, if an insured does cooperate at

any time before policy expiration or the end of the extended term, §5.7109 prohibits the insurer from nonrenewing the policy under Insurance Code §551.1053.

Section 5.7110. New §5.7110 affirms that insurers may nonrenew under other applicable statutes, even if the insured cooperates under Insurance Code §551.1053. When the insurer plans to nonrenew the policy under other applicable law, the insurer must still send a notice of nonrenewal and opportunity to cooperate. Because the notice encourages the insured to cooperate, the insurer must send the notice even when nonrenewal is certain for other reasons.

Date of compliance. Insurance Code §551.1053 became effective on September 1, 2021, and insurers must already comply with it. But to give insurers time to prepare for the requirements in new §§5.7101 - 5.7110, TDI will begin requiring compliance with those sections starting six months after the effective date of their adoption.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Marianne Baker, director, Property and Casualty Lines, has determined that during each year of the first five years the proposed amended and new sections are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amended and new sections other than that imposed by statute. Ms. Baker made this determination because the proposed amended and new sections do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amended and new sections.

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

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amended and new sections are in effect, Ms. Baker expects that administering them will have the public benefit of ensuring that TDI's rules conform to Insurance Code §§551.053, 551.054, 551.104, 551.105 and 551.1053. It will also have the benefit of providing consistency among insurers in implementing §551.1053. The public will benefit from consistent implementation because insureds will receive clear notices encouraging them to cooperate in a claim or be nonrenewed, thus increasing the likelihood that injured third parties will be paid. The public will also benefit from having 60 days rather than 30 days to shop for insurance when their insurer provides notice that their coverage will be nonrenewed.

Ms. Baker expects that the proposed amended and new sections may increase the cost of compliance with Insurance Code §§551.053, 551.054, 551.104, 551.105 and 551.1053. The cost to comply will vary depending on insurers' current operations. Insurers may incur programming, legal, and administrative costs to address new rule requirements, including those related to giving longer notice of nonrenewal and cancellation, developing the notice language, extending the policy period, and providing a Spanish translation of the notice.

*Cost of personnel associated with programming information systems.* The United States Department of Labor indicates that in Texas, the mean hourly wage for computer programmers is \$44.98 ([www.bls.gov/oes/current/oes\\_tx.htm#15-0000](http://www.bls.gov/oes/current/oes_tx.htm#15-0000)). TDI recognizes that costs will vary depending on each insurer's data systems and staffing strategies. Ms. Baker estimates that insurers may need 20 to 40 hours to complete the programming.

*Cost of personnel associated with updating notice language in forms.* The United States Department of Labor indicates that in Texas, the hourly mean wage for attorneys is \$80.10 and legal support workers is \$35.71 ([www.bls.gov/oes/current/oes\\_tx.htm#15-0000](http://www.bls.gov/oes/current/oes_tx.htm#15-0000)). According to the 2019 survey of the State Bar of Texas on income and hourly rates, the median hourly rate for attorneys is \$291 (<https://tinyurl.com/mr7n3vpc>). TDI recognizes that costs will vary depending on each insurer's staffing strategies. Ms. Baker estimates insurers will need 15 to 30 hours to complete the drafting necessary to update the notice language.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that the proposed amended and new sections may have an adverse economic effect on small or micro businesses. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses. TDI estimates that the proposed amended and new sections could affect fewer than 150 small or micro businesses.

TDI has determined that the proposed amended and new sections will not have an adverse economic effect or a disproportionate effect on rural communities because the sections do not apply to rural communities.

TDI considered the following alternatives to minimize any adverse effect on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing new §§5.7101 - 5.7110;
- (2) proposing different requirements for small and micro businesses; and
- (3) postponing the applicability of new §§5.7101 - 5.7110.

Not proposing §§5.7101 - 5.7110. Policy forms filed with TDI have not complied with Insurance Code §551.1053. To address this problem, the proposal establishes uniform requirements for insurers that implement important consumer protections. Not proposing §§5.7101 - 5.7110 would result in continued insurer misunderstanding of and failure to comply with statutory requirements, which could harm consumers because they may not get the information required under Insurance Code §551.1053. For these reasons, TDI rejected this option.

Proposing different requirements for small and micro businesses. Proposing different standards for small and micro businesses would not accomplish the goal of creating a uniform procedure to implement Insurance Code §551.1053. All consumers should receive clear, consistent, timely notices regarding mandatory nonrenewal of private passenger automobile coverage. In addition, harmonizing rules with statutes is important to ensure fair competition and foster a competitive market for all insurers, to protect and ensure fair treatment of consumers, and to ensure insurance laws are executed. For these reasons, TDI rejected this option.

Postponing the applicability of new §§5.7101 - 5.7110. Providing a six-month delay before the uncooperative insured requirements of new §§5.7101 - 5.7110 apply will help alleviate some of the possible economic impacts on all insurers, including small and micro businesses, by giving insurers the ability to incorporate the requirements with other updates and process changes they are implementing. For these reasons, TDI has decided to incorporate this option into the proposal.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does impose a possible cost on regulated persons. However, Government Code §2001.0045 does not require any rule amendments or repeals because the proposed amendments and new sections are necessary to implement legislation. The proposed rule implements Insurance Code §§551.104, 551.105, and 551.1053.

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

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

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

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received no later than 5:00 p.m., central time, on November 6, 2023. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on November 6, 2023. If TDI holds a public hearing, the department will consider written and oral comments presented at the hearing.

## **SUBCHAPTER H. CANCELLATION, DENIAL, AND NONRENEWAL OF CERTAIN PROPERTY AND CASUALTY INSURANCE**

### **DIVISION 1. MISCELLANEOUS**

#### **28 TAC §§5.7005, 5.7007, 5.7011 - 5.7013**

**STATUTORY AUTHORITY.** TDI proposes amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 under Insurance Code §§551.1053, 551.112, 1951.002, and 36.001.

Insurance Code §551.1053 requires insurers to nonrenew private passenger automobile insurance policies when an insured

fails or refuses to cooperate with the insurer in the investigation, settlement, or defense of a claim or action.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

Insurance Code §1951.002 authorizes the commissioner to adopt and enforce rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C.

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

CROSS-REFERENCE TO STATUTE. Sections 5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 implement Insurance Code §551.104 and §551.105.

*§5.7005. Special One-Year Rule Applicable Only to Personal Automobile Policies.*

(a) Purpose of rule. The [It is the] purpose of this [special] section is to:

(1) require [provide] continuity of coverage for [a period of] at least one year when the policy is written for a lesser term; and [- Its purpose is also to permit]

(2) allow cancellation at the expiration of a one-year term when coverage is written for [to cover a period of] more than one year.

(b) Cancellation or nonrenewal. An insurer [A company] may cancel or nonrenew personal automobile policies for any legal reason [irrespective of the reasons which prompt it to do so], if the purpose is to terminate coverage concurrently with the expiration of any annual period, beginning with the original effective date of the policy. The prohibition [contained] in §5.7002 of this title (relating to Cancellations) does not apply [is inapplicable] to such cancellations. An insurer that [It is especially provided, however, that a company which] cancels on the anniversary, and in accordance with [the provisions of] this subsection, must give the policyholder at least 60 [30] days prior written notice of cancellation.

(c) Except as provided in Division 2 of this subchapter (relating to Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies), personal [Personal] automobile policies that [which] are written for [a period of] less than one year must be renewed, at the option of the insured, for additional periods so as to accumulate a minimum of 12 months' continuous coverage.

*§5.7007. Renewal of Policies.*

(a) Except as provided in Division 2 of this subchapter (relating to Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies), a [A] policy must be renewed at expiration, at the option of the policyholder, unless the insurer [company] has mailed written notice of nonrenewal to the policyholder [of its intention to decline renewal] at least 60 [30] days before the policy's [in advance of the policy] expiration date. The insurer [company] may comply with this provision by requiring or permitting its agent to notify the policyholder. However, it is the insurer's responsibility to give [of giving] notice to the policyholder [insured remains with the company] if the agent fails [to carry out its instructions] to notify the insured.

(b) An insurer [A company] may not decline to renew personal automobile policies because of the ages of the insureds.

*§5.7011. Violations.*

In addition to all other remedies provided by law, any policy cancellation or restriction of coverage made in violation of this subchapter is [shall be] deemed to be null and void and of no effect. Policies on which notice of nonrenewal is not given as required by this division must [subchapter shall] be renewed at the request of the insured.

*§5.7012. Reason for Declination, Cancellation, or Nonrenewal.*

Insurers must provide to policyholders or applicants a written statement of the reason or reasons for the declination, cancellation, or nonrenewal of any policy regulated by the Texas Department [State Board] of Insurance [pursuant to the Insurance Code, Chapter 5,] upon request by the policyholder or applicant. [This section is applicable to policies prescribed or approved by the board under authority of the Insurance Code, Articles 5-06, 5-13-1, 5-15, 5-15-1, 5-35, 5-36, 5-53, 5-53-A, 5-56, 5-57, 5-81, and 5-91.]

*§5.7013. Notice Requirements for Cancellation and Nonrenewal for General Liability and Certain Automobile Insurance Policies.*

(a) An insurer may cancel general [General] liability insurance policies and commercial automobile insurance policies to which this section applies [may be cancelled by the company] by providing the notice required by Insurance Code §551.053, concerning Written Notice of Cancellation Required [mailing written notice to the insured of its intent to cancel at least 45 days prior to the effective date of cancellation], except as provided by [in] §5.7014 of this title (relating to Exceptions to Cancellations and Nonrenewal Notice Requirements for General Liability and Certain Automobile Insurance Policies). [However, the responsibility of giving notice to the insured remains with the company if the agent fails to carry out its instructions to notify the insured.]

(b) General liability insurance policies and automobile insurance policies to which this section applies must be renewed at expiration, at the option of the policyholder, unless the company has provided the [mailed] written notice required by Insurance Code §551.054, concerning Written Notice of Nonrenewal Required, or by Insurance Code §551.1053, concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies. If [to the policyholder of its intention to decline renewal at least 45 days in advance of the policy expiration date except as provided in §5.7014(d) of this title (relating to Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability and Certain Automobile Insurance Policies). The company may comply with this provision by requiring or permitting its agent to notify the policyholder. However, the responsibility of giving notice to the insured remains with the company if the agent fails to carry out its instructions to notify the insured. Upon failure of] the insured does not [to] pay the renewal premium when due, the insurer's [company's] obligation to renew terminates on the policy's [policy on its] expiration date [terminates], regardless of whether the company has given [any] notice of nonrenewal [intent to decline renewal].

(c) An insurer may comply with this section by requiring or permitting its agent to notify the policyholder. However, it is the insurer's responsibility to give notice to the policyholder if the agent fails to notify the policyholder.

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

Filed with the Office of the Secretary of State on September 18, 2023.

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**DIVISION 2. MANDATORY RENEWAL  
OF PRIVATE PASSENGER AUTOMOBILE  
INSURANCE POLICIES**

**28 TAC §§5.7101 - 5.7110**

STATUTORY AUTHORITY. TDI proposes new §§5.7101 - 5.7110 under Insurance Code §§551.1053, 551.112, 1951.002, and 36.001.

Insurance Code §551.1053 requires insurers to nonrenew private passenger automobile insurance policies when an insured fails or refuses to cooperate with the insurance company in the investigation, settlement, or defense of a claim or action.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

Insurance Code §1951.002 authorizes the commissioner to adopt and enforce rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C.

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

CROSS-REFERENCE TO STATUTE. Sections 5.7101 - 5.7110 implement Insurance Code §551.1053.

§5.7101. Division Purpose and Applicability.

(a) This division implements Insurance Code §551.1053, concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

(b) Insurance Code §551.1053 requires insurers to nonrenew a policy if the insured fails or refuses to cooperate with an insurer in an investigation, settlement, or defense of a claim or action.

(c) This division applies to third-party liability claims and actions:

(1) involving insurers identified in Insurance Code §551.101, concerning Definition; and

(2) on private passenger automobile insurance policies that are:

(A) personal automobile insurance policies, or

(B) policies written for any governmental entity or political subdivision identified in Insurance Code §551.102(4), concerning Applicability of Subchapter.

(d) This division does not apply to policies written through the Texas Automobile Insurance Plan Association.

§5.7102. Definition.

In this division, "notice" means the notice of nonrenewal and opportunity to cooperate required by Insurance Code §551.1053(a), concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

§5.7103. Reasonable Efforts.

An insurer must use reasonable efforts to contact and encourage cooperation from an insured who fails or refuses to cooperate in an investigation, settlement, or defense of a claim or action.

§5.7104. Notice Timing.

(a) An insurer must send a notice to the named insured within five days after determining that the insured failed or refused to cooperate.

(b) If an insurer determines that an insured is not cooperating, the insurer must send the notice even if the insurer has already sent a notice of nonrenewal for another reason.

§5.7105. Cooperation Timeframe.

(a) An insured may cooperate at any time during the policy term in which a notice is sent or during any extended term required under §5.7106 of this title (relating to Extension of Term and Additional Premium). If the insured cooperates, the insurer may not nonrenew for failure or refusal to cooperate.

(b) An insurer must give the insured at least 10 days to cooperate from the date the insurer sends the notice, regardless of when the policy term ends.

§5.7106. Extension of Term and Additional Premium.

(a) If a notice is sent less than 10 days before the end of the policy term, the insurer must extend the policy term to give the insured 10 days to cooperate.

(b) An insurer may charge additional premium for any extended term on a pro rata basis, based on the premium for the expiring term.

§5.7107. Contents of Notice.

(a) A notice must be written in:

(1) plain language (see TDI's website for plain language guidance); and

(2) at least 10-point type.

(b) The notice must inform the named insured:

(1) of the identity of the insured who failed or refused to cooperate;

(2) how the insured failed or refused to cooperate;

(3) of the insurer's attempts to contact the insured;

(4) of the claim number or action for which the insurer is requesting cooperation;

(5) that the insurer will not renew the policy if the insured continues to fail or refuse to cooperate;

(6) that the insured still has time to cooperate;

(7) that the insured must cooperate before the end of the policy term (or any extended term) to stop nonrenewal of the policy;

(8) that if the insured cooperates, then the insurer will not nonrenew the policy for failure or refusal to cooperate;

(9) that even if the insured cooperates, the insurer may nonrenew for other reasons;

(10) of the date of nonrenewal; and

(11) of any other information the insurer deems appropriate.

(c) Insurers may provide the notice either:

(1) in both English and Spanish; or

(2) in English with a statement in Spanish on the first page that the policy will be nonrenewed if the insured continues to fail or refuse to cooperate. The statement must list a phone number where an insured can speak in Spanish with the insurer's representative to discuss the items listed in subsection (b) of this section.

(d) Insurers are not required to file the notice with TDI unless requested.

(e) The notice may include additional information that does not violate other statutes or rules.

§5.7108. Sample Notice of Nonrenewal and Opportunity to Cooperate.

The figures in this section provide examples of written notices that comply with §5.7107 of this title (relating to Contents of Notice). Insurers are not limited to using the examples in this section; they may use other content and formatting as long as the notice they provide complies with this division.

Figure 1: 28 TAC §5.7108

Figure 2: 28 TAC §5.7108

Figure 3: 28 TAC §5.7108

§5.7109. Nonrenewal Under Insurance Code §551.1053.

(a) If an insured does not cooperate after the insurer provides a notice, the insurer must nonrenew the policy at the end of the policy term or at the end of the extended term under §5.7106 of this title (relating to Extension of Term and Additional Premium).

(b) Insurance Code §551.105, concerning Nonrenewal of Policies; Notice Required, and Insurance Code §551.106, concerning Renewal and Reinstatement of Personal Automobile Insurance Policies, do not apply where they conflict with the requirement to nonrenew the policy under Insurance Code §551.1053.

(c) If the insured cooperates before the end of the policy term or the end of the extended term under §5.7106 of this title, then the insurer may not nonrenew under this division.

§5.7110. Nonrenewal Under Other Statutes.

(a) An insurer may nonrenew a policy for a reason other than an insured's failure or refusal to cooperate under §5.7109 of this title (relating to Nonrenewal Under Insurance Code §551.1053) if the insurer complies with other rules and statutes governing renewal and nonrenewal, including Insurance Code §551.105, concerning Nonrenewal of Policies; Notice Required, and Insurance Code §551.106, concerning Renewal and Reinstatement of Personal Automobile Insurance Policies.

(b) To encourage cooperation, even if an insurer has already sent a notice of nonrenewal for another reason, the insurer must still send the notice required by Insurance Code §551.1053(a).

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

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Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6555



## CHAPTER 21. TRADE PRACTICES SUBCHAPTER T. SUBMISSION OF CLEAN CLAIMS

### 28 TAC §21.2819

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §21.2819, concerning extensions of time frame requirements on providers and health plans for claim submissions and payments in Insurance Code §§843.337, 843.342, 1301.102, and 1301.137--prompt pay deadlines--due to a catastrophic event. The proposed amendments to §21.2819 implement Senate Bill 1286, 88th Legislature, 2023.

EXPLANATION. This proposal implements SB 1286, which provides two ways that an entity--an HMO, a preferred provider carrier, an exclusive provider carrier, a physician, or a provider--can qualify for an extension of a prompt pay deadline after a catastrophic event. An entity can extend its prompt pay deadlines after a catastrophic event either under an extension granted by commissioner notice or by TDI approving a request for an extension submitted by the entity.

SB 1286 is a TDI biennial recommendation. During the COVID-19 pandemic, TDI issued bulletins about extensions of various deadlines. There were questions about processes for these extensions; TDI agreed clarifications were necessary and made a recommendation to the legislature in its Biennial Report. Based on this, the biennial recommendation's goal was to clarify (1) the standards for entities requesting extensions to prompt pay deadlines; (2) the duration of the extensions; and (3) TDI's authority to approve, limit, or disapprove requests. This proposal provides needed clarity in the process for requesting and receiving prompt pay deadline extensions.

Section 21.2819 provides the process for an entity to notify TDI about its need for an extension of prompt pay deadlines due to the effects of a catastrophic event on its normal business operations.

An amendment to subsection (a) clarifies the date range in which an entity must notify TDI that a catastrophic event has interfered with normal business operations.

One amendment to subsection (b) clarifies how entities will electronically communicate with TDI regarding an extension, and what information they need to provide. Rather than notifying TDI a second time at the end of the business interruption, entities will be required to provide all necessary information in their initial request. Another amendment eliminates the need for the notification to be a sworn affidavit, as that is an unnecessary additional expense to entities that are experiencing administrative challenges.

Amendments are also proposed to the required notification elements in subsection (b) to better track extension requests; for example, a physician's or provider's national provider identification number or a managed care carrier's (MCC's) NAIC number will be required. The proposed amendments also require a state-

ment that there is a substantial interference to normal business operations, to ensure that the statutory requirements are met. Some entities contract with third parties or delegees to administer their payment requirements. In that instance, the entity will notify TDI that a catastrophic event interrupted the business operations of the third party and that interruption is also affecting the entity's business operations. TDI will take this business arrangement into consideration in its review of a request.

The proposed amendments also require an entity to provide the initial date of the interference, the expected end date, and information needed to identify entities and locations that are affected by an event.

Proposed amendments to subsection (c) clarify the time frame of an extension. If the extension is related to a notice from the commissioner, the notice will specify the extension's expected end date. For extension requests independent of a commissioner notice, the applicable deadlines in 28 TAC §§21.2804, 21.2806 - 21.2809, and 21.2815 will be tolled until TDI either disapproves the request or sends an approval with a specified end date.

In addition, in new subsection (d) the proposal sets out a process for requesting an extension request, should an entity require more time than a commissioner notice or TDI approval previously allowed. The entity must submit this request at least three business days before the existing extension's expiration explaining why it needs additional time.

The proposed amendments add subsection (e) to address the possibility that TDI may need additional information when determining whether to approve a request for an extension. The new subsection also specifies that TDI may disapprove a request if the nature of the event does not meet the definition of a catastrophic event or may limit a requested extension if the duration of interruption to normal business operations is not proportional to the nature of the catastrophic event.

The amendments clarify that extensions will be based on the date the catastrophic event begins substantially interfering with normal business operations rather than requiring the date of the event itself, as events such as pandemics may affect business operations at different times.

Lastly, the proposed amendments include nonsubstantive editorial and formatting changes to conform the section to the agency's current drafting style and usage guidelines and to improve the rule's clarity. These changes include modifying the references to TDI for consistency.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Rachel Bowden, director of the Regulatory Initiatives Office, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Ms. Bowden made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

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

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years the proposed amendments are in effect, Ms. Bowden expects that administering the proposed amendments will have

the public benefit of ensuring that TDI's rules conform to Insurance Code §§843.337, 843.342, 1301.102, and 1301.137.

Ms. Bowden expects that the proposed amendments will not increase the cost of compliance with Insurance Code §§843.337, 843.342, 1301.102, and 1301.137 because the amendments do not impose requirements beyond those in the statutes and the current rule. The existing rule addresses notifying TDI any time a governed entity is unable to meet a prompt pay deadline. SB 1286 also affords a governed entity the ability to qualify for an extension upon TDI's approval of a request. The proposed amendments specify the process for these distinct options. As a result, the costs associated with submitting notifications to TDI under the proposed amendments result from the enforcement or administration of current regulations and SB 1286.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that the proposed amendments will have no adverse effect on small or micro businesses or rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal, which explains that associated costs are attributable to SB 1286 and not the proposed rule, also applies to these small and micro businesses and rural communities.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does not impose an increased cost on regulated persons. However, even if it did, no additional rule amendments are required under Government Code §2001.0045 because the proposed amendments to §21.2819 are necessary to implement legislation. The proposed amendments implement Insurance Code §§843.337, 843.342, 1301.102, and 1301.137, as amended by SB 1286. The cost analysis in the Public Benefit and Cost Note section of this proposal explains that any costs for regulated persons are attributable to SB 1286 and not the proposed rule.

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

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

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

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later

than 5:00 p.m., central time, on Nov. 6, 2023. Send your comments to ChiefClerk@tdi.texas.gov or to the Chief Clerk's Office, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Chief Clerk's Office, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on Nov. 6, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

STATUTORY AUTHORITY. TDI proposes amendments to §21.2819 under Insurance Code §§843.151, 843.337, 1301.007, 1301.102, and 36.001.

Insurance Code §843.151 authorizes the commissioner to adopt rules necessary to implement Chapter 843.

Insurance Code §843.337 authorizes the commissioner to adopt rules necessary to implement TDI's approval of a physician or provider's request for an extension of claim submission deadlines due to a catastrophic event that substantially interferes with normal business operations.

Insurance Code §1301.007 authorizes the commissioner to adopt rules necessary to implement Chapter 1301.

Insurance Code §1301.102 authorizes the commissioner to adopt rules necessary to implement TDI's approval of a physician or provider's request for an extension of claim submission deadlines due to a catastrophic event that substantially interferes with normal business operations.

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

CROSS-REFERENCE TO STATUTE. Section 21.281 implements Insurance Code §§843.337, 843.342, 1301.102, and 1301.137.

§21.2819. *Catastrophic Event.*

(a) An MCC, a physician, or a provider must notify the Texas Department of Insurance (TDI) ~~[department]~~ if, due to a catastrophic event, it is unable to meet the deadlines in §21.2804 of this title (relating to Requests for Additional Information from Treating Preferred Provider), §21.2806 of this title (relating to Claims ~~[Claim]~~ Filing Deadline), §21.2807 of this title (relating to Effect of Filing a Clean Claim), §21.2808 of this title (relating to Effect of Filing ~~[a]~~ Deficient Claim), §21.2809 of this title (relating to Audit Procedures), and §21.2815 of this title (relating to Failure to Meet the Statutory Claims Payment Period), as applicable. The entity must send the notification required under this section ~~[subsection]~~ to TDI ~~[the department]~~ within five days of the date the catastrophic event began substantially interfering with the normal business operations of the entity, or as specified in a notice published by the commissioner regarding the catastrophic event.

(b) An ~~[Within 10 days after the entity returns to normal business operations, the]~~ entity must send the notification required under this section ~~[a certification of the catastrophic event]~~ to TDI ~~[the Texas Department of Insurance]~~ by email to PromptPay@tdi.texas.gov, unless an alternative electronic method is provided by TDI for a specified event ~~[promptpay@tdi.texas.gov]~~. The notification ~~[certification]~~ must:

(1) be ~~[in the form of a sworn affidavit]~~ from:

(A) ~~if for a physician or a provider, the physician, [the] provider, [the] office manager, [the] administrator, or their designee [designees]; or~~

(B) ~~if for an MCC, a corporate officer or a corporate officer's designee;~~

(2) identify the specific nature ~~[and date]~~ of the catastrophic event; ~~[and]~~

(3) identify the first date ~~[length of time]~~ the catastrophic event caused an interruption in the claims submission or processing activities of the physician, ~~[the] provider, or [the] MCC; [-]~~

(4) identify the date the physician, provider, or MCC expects to resume normal business operations;

(5) state that the catastrophic event is substantially interfering with the entity's normal business operations;

(6) include the contact information for the physician, provider, or MCC, including each entity's name, email address, phone number, and:

(A) ~~if for a physician or provider, the national provider identification number; or~~

(B) ~~if for an MCC, the entity's NAIC number; and~~

(7) include the physical address of each business or practice location affected by the catastrophic event.

(c) A notification ~~[valid certification to the occurrence of a catastrophic event]~~ under this section tolls the applicable deadlines in §§21.2804, 21.2806, 21.2807, 21.2808, 21.2809, and 21.2815 of this title for the number of days between the date identified in subsection (b)(3) of this section and any date specified in a notice published by the commissioner or listed in TDI's approval of a request, or the date TDI disapproves a request. ~~[as of the date of the catastrophic event.]~~

(d) If a catastrophic event continues to substantially impair an entity's normal business operations past the date in a notice published by the commissioner or in TDI's approval of an extension request, then the entity must send an additional notification meeting the requirements of this section to TDI at least three business days before the expiration of the existing extension. The new notification must explain why an additional extension is needed.

(e) TDI will contact the physician, provider, or MCC if more information is needed. TDI may disapprove a request if the nature of the event does not meet the definition of a catastrophic event that substantially interferes with the entity's normal business operations. TDI may limit a requested extension if the identified duration of interruption to normal business operations is not proportional to the nature of the catastrophic event.

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

Filed with the Office of the Secretary of State on September 20, 2023.

TRD-202303511

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 5, 2023

For further information, please call: (512) 676-6555





# 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 103. HEALTH AND SAFETY

##### SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

###### 19 TAC §103.1209, §103.1211

The Texas Education Agency (TEA) adopts amendments to §103.1209 and §103.1211, concerning mandatory school drills and active threat exercises. The amendment to §103.1209 is adopted with changes to the proposed text as published in the June 23, 2023 issue of the *Texas Register* (48 TexReg 3380) and will be republished. The amendment to §103.1211 is adopted without changes to the proposed text as published in the June 23, 2023 issue of the *Texas Register* (48 TexReg 3380) and will not be republished. The adopted amendments reorganize definitions and provide clarifications in §103.1209 and add requirements for certain active threat exercises in §103.1211.

**REASONED JUSTIFICATION:** Section 103.1209 requires that school districts and open-enrollment charter schools conduct emergency safety drills in accordance with Texas Education Code (TEC), §37.114.

The adopted amendment to §103.1209(b) reorganizes the definitions to distinguish between general terms, terms defining levels of exercises, and terms defining types of drills. The changes ensure distinction between events that include persons role playing as active aggressors and circumstances designed to train for, assess, practice, and improve incident mitigation, prevention, preparedness, response, and recovery in a risk-free environment. Subsections (c)(4) and (5) and (d)(4) are amended to clarify existing language.

Based on public comment, references to open-enrollment charter schools were added throughout §103.1209.

Section 103.1211 defines the requirements a school district must meet if it elects to conduct active threat exercises.

The adopted amendment to §103.1211 adds new subsection (c) to delineate between discussion-based tabletop exercises and operations-based, functional, or full-scale exercises. Additionally, subsection (c)(2) clarifies that the notice requirements currently in rule apply to an operations-based, a functional, or a full-scale exercise.

Section 103.1211(c)(4)(A) is amended to require that input from law enforcement personnel be solicited in the design of an operations-based, a functional, or a full-scale exercise.

New §103.1211(c)(5) is added to ensure that operations-based, functional, or full-scale exercises are conducted during non-instructional time when non-participants are not present in a district facility. Further, subsection (c)(5)(A)-(C) outlines requirements for participants. More specifically, although student participation would be discouraged, age requirements are detailed for students who receive an educational benefit by participating in an exercise, and all participants are required to opt in rather than opt out of an exercise. In addition, subsection (c)(5)(D) ensures that any exercise conducted is overseen by first responders or emergency management personnel.

New §103.1211(c)(6) is added to ensure local education agencies conduct an after-action review of the exercise to determine the extent to which it achieved key planning objectives.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began June 23, 2023, and ended July 24, 2023. Following is a summary of public comments and agency responses.

**Comment:** An individual commented in favor of mandatory shelter-in-place drills being combined, requiring one drill for either hazmat or bad weather annually. Simultaneously, the commenter expressed concern related to these drills requiring separate protocols. Specifically, the commenter stated that if only one of the drills is practiced, people may not know how to handle the other situation.

**Response:** The agency provides the following clarification. In accordance with TEC, §37.114, TEA designates the number and type of mandatory school drills to be conducted each semester of the school year. Flexibility is provided for the type of shelter-in-place drill conducted, allowing for local determination of the hazard most likely to impact a school. This does not prevent school systems from conducting additional drills to better ensure the safety and security of students, staff, and visitors.

**Comment:** Texas Public Charter Schools Association (TPCSA) indicated that open-enrollment charter schools are referenced inconsistently in §103.1209. TPCSA stated that by leaving out "open-enrollment charter schools" in some parts of the rule, it is not abundantly clear to all stakeholders that public charter schools are included.

**Response:** The agency agrees and has modified §103.1209 at adoption to include additional references to open-enrollment charter schools.

**Comment:** TPCSA suggested that TEA make student participation requirements clear for every drill type outlined in §103.1209. TPCSA commented that it is clear students should not participate in "simulated active shooter" exercises, but it is not explicitly stated that students should participate in all other required drills.

Response: The agency disagrees and has determined that §103.1209 is sufficient as written.

Comment: The Texas State Teachers Association (TSTA) expressed support for the proposed amendments regarding mandatory drills and active threat exercises, specifically that the rule on active threat exercises discourages student participation, requires all participants to opt in versus opt out, and permits exercise participants to withdraw from the exercise at any time. TSTA commented that the proposed rules demonstrate commitment to Texas students.

Response: The agency agrees. TEA is committed to better ensuring the safety and security of students, staff, and visitors across the state.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §37.114, which requires the commissioner of education to provide best practices for conducting emergency drills and exercises and to designate the number and type of mandatory school drills to be conducted each semester of the school year; and TEC, §37.1141, which provides guidelines before a school district may conduct an active threat exercise.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §37.114 and §37.1141.

§103.1209. *Mandatory School Drills.*

(a) Requirement. Each school district and open-enrollment charter school shall conduct emergency safety drills in accordance with Texas Education Code (TEC), §37.114. Drills do not include persons role playing as active aggressors or other simulated threats.

(b) Definitions and related terms. The following words and terms related to drills and exercises, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. These definitions do not apply to an active threat exercise, which is defined in TEC, §37.1141, and associated rules, if any.

(1) General terms.

(A) Active aggressor--An individual actively engaged in killing or attempting to kill people in a confined and populated area.

(B) Drill--A set of procedures that test a single, specific operation or function. Drills do not include persons role playing as active aggressors or other simulated threats. Drill examples include evacuating for a fire or locking down from an internal threat.

(C) Exercise--An instrument to train for, assess, practice, and improve performance in mitigation, prevention, preparedness, response, and recovery in a risk-free environment. While drills and exercises may overlap in some aspects, discussion-based and operation-based exercises are often more in depth and multi-faceted.

(2) Terms defining the level of exercise.

(A) Full-scale exercise--Typically the most complex and resource-intensive type of exercise. It involves multiple agencies, organizations, and jurisdictions and validates many facets of preparedness. This exercise often includes many players operating under cooperative systems such as the Incident Command System (ICS) or Unified Command. Resources and staff are mobilized as needed. All actions are taken as if the emergency is real. A full-scale exercise is the most time-consuming activity in the exercise continuum and is a multi-agency, multi-jurisdictional effort in which all resources are deployed. A full-scale exercise tests collaborations among the agencies and participants, public information systems, communication systems, and equipment. An Emergency Operations Center is established by either

law enforcement or fire services, and the ICS is activated. Because of all the logistics and resources needed for a full-scale exercise, it often takes a year to plan and is not held often. Usually, a school district or an open-enrollment charter school is not the organizer of such an exercise, but the district or charter school would play a critical role in both function and potential facility use.

(B) Functional exercise--Designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. A functional exercise is typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. It allows participants to practice their specific roles or functions in an emergency. This type of exercise is conducted in a realistic, real-time simulated environment and often includes simulators (individuals who assist with the facilitation of the exercise) and follows a master scenario events list that dictates additional information, occurrences, or activities that affect the exercise scenario.

(C) Seminar exercise--A discussion-based exercise designed to orient participants to new or updated plans, policies, or procedures through informal discussions. Seminar exercises are often used to impart new information and formulate new ideas.

(D) Tabletop exercise--A small group discussion that walks through a scenario and the courses of action a school will need to take before, during, and after an emergency to lessen the impact on the school community. Participants problem-solve together through a detailed discussion of roles, responsibilities, and anticipated courses of action. A tabletop exercise leverages a defined scenario to direct discussion and may need an experienced facilitator depending on the complexity and objectives of the exercise.

(E) Workshop exercise--A type of discussion-based exercise focused on increased participant interaction and achieving or building a product (e.g., plans or policies). A workshop exercise is typically used to test new ideas, processes, or procedures; train groups in coordinated activities; and obtain consensus. A workshop exercise often uses breakout sessions to explore parts of an issue with smaller groups.

(3) Terms defining the type of drill.

(A) Evacuation drill--A response action schools take to quickly move students and staff from one place to another. The primary objective of an evacuation is to ensure that all staff, students, and visitors can quickly move away from the threat. Evacuation examples include a bomb threat or internal gas leak.

(B) Fire evacuation drill--A method of practicing how a building would be vacated in the event of a fire. The purpose of fire drills in buildings is to ensure that everyone knows how to exit safely as quickly as possible.

(C) Lockdown drill--A response action schools take to secure (close, latch, and lock) interior portions of school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary objective is to quickly ensure all school students, staff, and visitors are secured away from immediate danger.

(D) Secure drill--A response action schools take to secure (close, latch, and lock) the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. This type of drill uses the security of the physical facility to act as protection to deny entry.

(E) Shelter-in-place for hazardous materials (hazmat) drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because

it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Examples of a shelter-in-place for hazmat drill include train derailment with chemical release or smoke from a nearby fire.

(F) Shelter for severe weather drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.

(c) Frequency. TEC, §37.114(2), requires the commissioner of education to designate the number of mandatory school drills to be conducted each semester of the school year, not to exceed eight drills each semester and sixteen drills for the entire school year. Neither this rule, nor the law, precludes a school district or an open-enrollment charter school from conducting more drills as deemed necessary and appropriate by the district or charter school. Following is the required minimum frequency of drills by type.

- (1) Secure drill--One per school year.
- (2) Lockdown drill--Two per school year (once per semester).
- (3) Evacuation drill--One per school year.
- (4) Shelter-in-place drill (for either severe weather or hazmat) --One per school year.
- (5) Fire evacuation drill--School districts and open-enrollment charter schools should consult with the local authority having jurisdiction (e.g., fire marshal) and comply with its requirements and recommendations. If a district does not have a local authority, it shall conduct four per school year (two per semester).

(d) Best practices for conducting drills and exercises. This subsection highlights best practices for conducting drills and exercises. For more information about best practices, refer to Texas School Safety Center guidance.

(1) Drills and exercises should be designed and conducted in accordance with guidance and best practice resources provided by the Texas School Safety Center.

(2) Drill and exercise design should include purpose, goals, and objectives that are stated in plans for each type of drill. Purpose, goals, and objectives should be developed with input from all sectors of the school community. Input in planning should be sought from multiple stakeholder perspectives for each type of drill and exercise, including from:

- (A) the district or charter school School Safety and Security Committee;
- (B) first responders;
- (C) mental and behavioral health professionals;
- (D) students and families; and
- (E) staff, including non-traditional teachers, coaches, trade instructors, custodians, and food service workers.

(3) Drill and exercise design elements should include:

- (A) physical and psychological safety for all participants;
- (B) planning in a trauma-informed manner to maximize learning and to minimize potential trauma for students and staff;

(C) providing advance notification of drills and exercises;

(D) planning for post-drill or after-action reviews of each drill and exercise; and

(E) ensuring drills and exercises are age and developmentally appropriate with the understanding that more complex drills and exercises will require a hierarchy of learning to achieve or obtain more advanced goals or objectives.

(4) Exercises are more complex than drills. It is recommended that school systems start with discussion-based exercises and work up to operation-based exercises. Discussion-based exercises include seminar exercises, tabletop exercises, and workshop exercises. Operation-based exercises include functional exercises and full-scale exercises. Exercises can be used for:

(A) testing and validating policies, plans, procedures, training, equipment, and interagency agreements;

(B) clarifying and training personnel in roles and responsibilities;

(C) improving interagency coordination and communications;

(D) identifying gaps in resources;

(E) improving individual performance; and

(F) identifying opportunities for improvement.

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 September 20, 2023.

TRD-202303510

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: October 10, 2023

Proposal publication date: June 23, 2023

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



## TITLE 34. PUBLIC FINANCE

### PART 9. TEXAS BOND REVIEW BOARD

#### CHAPTER 190. ALLOCATION OF STATE'S LIMIT ON CERTAIN PRIVATE ACTIVITY BONDS

##### SUBCHAPTER A. PROGRAM RULES

###### 34 TAC §§190.1 - 190.6, 190.8

The Texas Bond Review Board (BRB) adopts amendments to Texas Administrative Code, Title 34, Part 9, Chapter 190, Subchapter A, §190.1 General Provisions; §190.2 Allocation and Reservation System; §190.3 Filing Requirements for Applications for Reservation; §190.4 Filing Requirements for Applications for Carryforward; §190.5 Consideration of Qualified

Applications by the Board; §190.6 Expiration Provisions; and §190.8 Notices, Filings, and Submissions. The amendments are adopted without changes as proposed in the August 18, 2023, issue of the *Texas Register* (48 TexReg 4476) and will not be republished.

#### Reasoned Justification for the Adoption of the Amendments

The BRB adopted updates and clarifications to its rules in Texas Administrative Code (TAC) Chapter 190 based on the passage of House Bill 1766 by the 88th Legislature (2023 Regular Session). HB 1766 updates sections of Chapter 1372 of the Texas Government Code to stretch the limited "state-ceiling-resource" of the Private Activity Bond (PAB) program and incorporates a new first-priority classification for qualified residential rental projects.

An overview of the adopted rule amendments is as follows:

- 1) Adopted rule amendment to §190.3(e)(11) extends the limited "state ceiling" by restricting the amount of allocation designated at closing to a residential rental project if the program is oversubscribed for a program year (the amount of residential rental requests submitted for the lottery exceeds the total available amount for SC4 and SC5) as required by HB 1766,
- 2) Adopted rule amendment to §190.2(d), and §190.3(e)(10) incorporate a new first priority classification and shifts the subsequent existing priority classifications down by one increment as required by HB 1766,
- 3) Adopted rule amendment to §190.1(c)(34), and §190.3(e)(4) provide uniformity among the timeframe requirements for all bond resolutions to make them valid for a period of 18 months,
- 4) Adopted rule amendment to §190.5(h), and §190.8(e) correct or eliminate any outdated language in order to conform to current practice, and
- 5) Adopted rule amendment to §190.2(d), §190.3(b)(13) - (16), §190.3(e)(7), §190.3(e)(9), §190.4(e)(5), §190.6(a), and §190.8(d) correct capitalization, punctuation, typographical, and other miscellaneous grammatical errors.

#### Public Comment and BRB Responses

The public comment period on the adopted amendments opened on August 18, 2023, and extended through midnight on Sunday, September 17, 2023. During the public comment period, one comment was received electronically from Dominion Development. Specific comments are addressed below.

The BRB held a public meeting to consider comments on the adopted rule changes on Thursday, September 21, 2023, at 10:00 a.m. in Capitol Extension Room E2.028, 1100 Congress Ave., Austin, Texas 78701, and via videoconference meeting.

Public Comment by Khayree Duckett from Dominion Development

#### COMMENT

Mr. Duckett offered the following comments in support of the proposed rule amendment to §190.3(e)(11):

"House Bill 1766 established a cap on the percentage of a project's costs that may be financed with private activity bonds will result in more vital housing projects being built with the limited state ceiling of available private activity bonds. By instituting a conditional 55 percent bond financing cap applicable in years when demand for these bonds is high, the Legislature sought to reverse trends that saw diluted effectiveness of private activity bond funding and a failure to maximize the number of projects ultimately built in Texas."

"While some language in HB 1766 has proven ambiguous, 34 TAC §§190.3(e)(11) seeks to extend the limited state ceiling of certain private activity bonds by restricting the amount of allocation designated at closing to a residential rental project if the program is oversubscribed for a program year. Dominion is pleased to see that BRB has determined that that 1372.037(b) is: always applicable throughout a program year; for all allocations of residential rental project bonds, regardless of subceilings; and does not exclude allocations of residential rental project bonds that close with traditional or non-traditional carryforward on or after January 1, 2024, thus fulfilling the 88th Legislature's intent."

#### RESPONSE

The BRB appreciates the supportive comment. BRB will continue to strive to administer the Private Activity Bond Program to achieve the intent of the Legislature.

#### Concise Restatement of Statutory Authority:

The amendments are adopted under Texas Government Code §1372.004, which authorizes the BRB to adopt rules relating to its administration of the PAB program. They are also adopted under Texas Government Code §1372.006, which authorizes the BRB to require fees, and Texas Government Code §1372.0321, which sets forth priorities for reservations among issuers of qualified residential rental project issues. The statutory basis that authorizes BRB to designate an unencumbered state ceiling to an issuer is Texas Government Code §1372.073.

No other statute, articles, or codes are affected by the adopted rule amendments.

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 September 21, 2023.

TRD-202303516

Rob Latsha

Executive Director

Texas Bond Review Board

Effective date: October 11, 2023

Proposal publication date: August 18, 2023

For further information, please call: (512) 463-1741



# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Office of Consumer Credit Commissioner

### Title 7, Part 5

On behalf of the Finance Commission of Texas (commission), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 85, Subchapter B, concerning Rules for Crafted Precious Metal Dealers.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before the 30th day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this subchapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov). Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional public comment period prior to final adoption or repeal by the commission.

TRD-202303555  
Matthew Nance  
General Counsel  
Office of Consumer Credit Commissioner  
Filed: September 27, 2023



Texas Education Agency

### Title 19, Part 2

The State Board of Education (SBOE) proposes the review of 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 33 relate to investments and are organized under the following subchapters: Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 33, Subchapters A and B, continue to exist.

The public comment period on the review begins October 6, 2023, and ends at 5:00 p.m. on November 10, 2023. A form for submitting public comments on the proposed rule review is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBOE\\_Rules\\_\(TAC\)/State\\_Board\\_of\\_Education\\_Rule\\_Review](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/State_Board_of_Education_Rule_Review). The SBOE will take registered oral and written comments on the review at the appropriate committee meeting in November 2023 in accordance with the SBOE board operating policies and procedures.

TRD-202303556  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: September 27, 2023



Department of State Health Services

### Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 49, Oral Health Improvement Program

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 49, Oral Health Improvement Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHSCRulesCoordinationOffice@hhs.texas.gov](mailto:HHSCRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 49" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([texas.gov](https://www.texas.gov)).

TRD-202303562

Jessica Miller  
Director, Rules Coordination Office  
Department of State Health Services  
Filed: September 27, 2023



## Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

- Chapter 303, Preadmission Screening and Resident Review (PASRR)
- Subchapter A General Provisions
- Subchapter B PASRR Screening and Evaluation Process
- Subchapter C Responsibilities
- Subchapter D Vendor Payment
- Subchapter E Habilitation Coordination
- Subchapter F Habilitative Service Planning for A Designated Resident
- Subchapter G Transition Planning
- Subchapter H Compliance Review
- Subchapter I MI Specialized Services

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 303, Preadmission Screening and Resident Review (PASRR), may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 303" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202303534  
Jessica Miller  
Director, Rules Coordination Office  
Health and Human Services Commission  
Filed: September 25, 2023



## Texas Commission on Environmental Quality

### Title 30, Part 1

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 39, Public Notice.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state

agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 39 continue to exist.

Comments regarding suggested changes to the rules in Chapter 39 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rule-making action by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 39. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: [www.tceq.commentinput.com/](http://www.tceq.commentinput.com/). File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-037-039-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303576  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 50, Action on Applications and Other Authorizations.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 50 continue to exist.

Comments regarding suggested changes to the rules in Chapter 50 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rule-making action by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 50. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: [www.tceq.commentinput.com/](http://www.tceq.commentinput.com/). File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-038-050-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303577  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 55 continue to exist.

Comments regarding suggested changes to the rules in Chapter 55 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 55. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: [www.tceq.commentinput.com/](http://www.tceq.commentinput.com/). File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-039-055-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303578

Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 299, Dams and Reservoirs.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 299 continue to exist.

Comments regarding suggested changes to the rules in Chapter 299 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 299. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: [www.tceq.commentinput.com/](http://www.tceq.commentinput.com/). File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-093-299-CE. Comments must be received by November 6, 2023. For further information, please contact Trina Lancaster, Critical Infrastructure Division, at (512) 239-4283.

TRD-202303575

Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 352, Coal Combustion Residuals Waste Management.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 352 continue to exist.

Comments regarding suggested changes to the rules in Chapter 352 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 352. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: [www.tceq.commentinput.com/](http://www.tceq.commentinput.com/). File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-119-352-WS. Comments must be received by November 6, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202303574

Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



### Comptroller of Public Accounts

#### Title 34, Part 1

The Comptroller of Public Accounts proposes to review Texas Administrative Code, Title 34, Part 1, Chapter 1, concerning Central Administration; Chapter 4, concerning Treasury Administration; Chapter 5, concerning Funds Management (Fiscal Affairs); and Chapter 6, concerning Investment Management.

The review will include, at the minimum, whether the reasons for readopting continue to exist.

The comptroller will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments pertaining to this review may be directed accordingly.

#### Chapter 1, Central Administration

##### Subchapter A, Practice and Procedures, and

##### Subchapter B, Miscellaneous Non-Tax Reporting and Remittance Requirements

James Arbogast, General Counsel for Hearings and Tax Litigation

P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: James.Arbogast@cpa.texas.gov

**Chapter 1, Central Administration**

**Subchapter C, Administration**

Katie Repka, Manager, Human Resources Division  
P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: Katie.Repka@cpa.texas.gov

**Chapter 1, Central Administration**

**Subchapter F, Negotiation and Mediation of Contract Disputes**

Jason Frizzell, Deputy General Counsel for Contracts, Operations & Support Legal Services

P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: Jason.Frizzell@cpa.texas.gov

**Chapter 4, Treasury Administration**

Macy Douglas, Director, Treasury Operations Division  
P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: Macy.Douglas@cpa.texas.gov

**Chapter 5, Funds Management (Fiscal Affairs)**

Rob Coleman, Director, Fiscal Management Division  
P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: Rob.Coleman@cpa.texas.gov

**Chapter 6, Investment Management**

Macy Douglas, Director, Treasury Operations Division  
P.O. Box 13528, Austin, Texas 78711-3528  
or by email to: Macy.Douglas@cpa.texas.gov

TRD-202303529  
Jenny Burleson  
Director, Tax Policy Division  
Comptroller of Public Accounts  
Filed: September 25, 2023



Texas Public Finance Authority

**Title 34, Part 10**

The Texas Public Finance Authority (TPFA) files this notice of intent to review the rules in 34 Texas Administrative Code, Part 10. The review will include the following chapters in Title 34: Chapter 221, concerning the Distribution of Bond Proceeds; Chapter 223, concerning the Historically Underutilized Business Program; Chapter 225, concerning the Master Lease Purchase Program; and Chapter 227, concerning Administration.

This review is being conducted in accordance with the requirements of Texas Government Code §2001.039, which requires that each of a state agency's rules be periodically reviewed and considered for re-adoption.

The TPFA will consider whether the initial reasons for adopting each rule in these chapters continues to exist and whether each rule should be repealed, readopted, or readopted with amendments.

Written comments on this review may be submitted by mail to Devyn F. Wills, Assistant General Counsel, P.O. Box 12906, Austin, Texas 78711; or e-mailed to Devyn.Wills@tpfa.texas.gov.

The Authority must receive comments postmarked no later than 30 days from the date this notice is published in the *Texas Register*.

Additionally, please include "Quadrennial Rule Review" in the subject line of any comments which are submitted electronically.

TRD-202303512  
Devyn F. Wills  
Assistant General Counsel  
Texas Public Finance Authority  
Filed: September 21, 2023



State Pension Review Board

**Title 40, Part 17**

The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 601, concerning general provisions, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303523  
Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 603, concerning officers and meetings, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303524



Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 604, concerning the Historically Underutilized Business Program, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303525  
Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 605, concerning standardized forms adopted by the board, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas, 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303526  
Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 607, concerning the Minimum Educational Training Program for public retirement systems, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or re-adopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

The board anticipates a need for substantive amendments to the rules on the minimum educational training program and invites stakeholders to provide input through the rule review process as well as through ongoing informal opportunities to engage with board staff contemporaneously.

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303527  
Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



The Texas Pension Review Board (board) files this notice of intent to review 40 Texas Administrative Code Chapter 609, concerning investment expense reporting requirements for public retirement systems, in accordance with Texas Government Code §2001.039. The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The board will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Tamara Aronstein, General Counsel, Texas Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498 or to rules@prb.texas.gov with the subject line "Rule Review."

The board anticipates a potential need for substantive amendments to the rules pertaining to investment expense reporting and invites stakeholders to provide input through the rule review process as well as through ongoing informal opportunities to engage with board staff contemporaneously.

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202303528  
Tamara Aronstein  
General Counsel  
State Pension Review Board  
Filed: September 25, 2023



## Adopted Rule Reviews

Texas Education Agency

### Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 102, Educational Programs, Subchapter AA, Commissioner's Rules Concerning Early Childhood Education Programs; Subchapter CC, Commissioner's Rules Concerning Coordinated Health Programs; Subchapter DD, Commissioner's Rules Concerning the Texas Accel-

erated Science Achievement Program Grant; Subchapter EE, Commissioner's Rules Concerning Pilot Programs; Subchapter FF, Commissioner's Rules Concerning Educator Award Programs; Subchapter GG, Commissioner's Rules Concerning College and Career Readiness School Models; Subchapter HH, Commissioner's Rules Concerning the Texas Adolescent Literacy Academies; Subchapter II, Commissioner's Rules Concerning Texas High Performance Schools Consortium; Subchapter JJ, Commissioner's Rules Concerning Innovation District; Subchapter KK, Commissioner's Rules Concerning Compliance Investigations in Connection with State-Funded Education Program Grants; Subchapter LL, Commissioner's Rules Concerning Innovative Instructional Programs; and Subchapter MM, Commissioner's Rules Concerning Supplemental Special Education Services Program, pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 102, Subchapters AA and CC-MM, in the April 28, 2023 issue of the *Texas Register* (48 TexReg 2191).

Relating to the review of 19 TAC Chapter 102, Subchapter AA, TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. TEA received no comments related to the review. In the future, TEA anticipates making updates to §102.1003 to update prekindergarten guidelines and align the rule with changes made to teacher qualifications by the 88th Texas Legislature, 2023.

Relating to the review of 19 TAC Chapter 102, Subchapter CC, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. In the future, TEA anticipates making updates related to the criteria for evaluating coordinated health programs for elementary, middle, and high school students.

Relating to the review of 19 TAC Chapter 102, Subchapter DD, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 102, Subchapter EE, TEA finds that the reasons for adopting §§102.1051, 102.1055, and 102.1057 continue to exist and readopts the rules. TEA finds that the reasons for adopting §102.1056 and §102.1058 do not exist. Texas Education Code (TEC), §§39.407, 39.411, and 39.416, which provided statutory authority for §102.1056, were repealed by Senate Bill (SB) 1376, 86th Texas Legislature, Regular Session, 2019. TEC, §28.0061, which provided statutory authority for §102.1058, expired September 1, 2021. TEA received no comments related to the review. At a later date, TEA anticipates repealing §102.1056 and §102.1058.

Relating to the review of 19 TAC Chapter 102, Subchapter FF, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 102, Subchapter GG, TEA finds that the reasons for adopting §102.1091 and §102.1095 continue

to exist and readopts the rules. TEA finds the reason for adopting §102.1093 does not exist. TEC, §39.407 and §39.416, which provided statutory authority for §102.1093, were repealed by SB 1376, 86th Texas Legislature, Regular Session, 2019. TEA received no comments related to the review. In the future, TEA anticipates repealing §102.1093 and making changes to §102.1091 and §102.1095 to align the two sections more closely and update definitions, evaluation, renewal, and revocation of authority.

Relating to the review of 19 TAC Chapter 102, Subchapter HH, TEA finds that the reasons for adopting the rule do not continue to exist. SB 1267, 87th Texas Legislature, Regular Session, 2021, repealed TEC, §21.4551, which provided statutory authority for the rule. TEA received no comments related to the review. As a result of the review, TEA anticipates repealing §102.1101.

Relating to the review of 19 TAC Chapter 102, Subchapter II, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 102, Subchapter JJ, TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. TEA received no comments related to the review. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 102, Subchapter KK, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. In the future, TEA anticipates updating the language in §102.1401 to align terminology with statute.

Relating to the review of 19 TAC Chapter 102, Subchapter LL, TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. TEA received no comments related to the review. In the future, TEA anticipates updating §102.1503 to remove the requirement to track interim assessment results.

Relating to the review of 19 TAC Chapter 102, Subchapter MM, TEA finds that the reasons for adopting the rule continue to exist and readopts the rule. TEA received no comments related to the review. In the future, TEA anticipates updating §102.1601 to align with changes made by House Bill 1926, 88th Texas Legislature, Regular Session, 2023.

This concludes the review of 19 TAC Chapter 102.

TRD-202303557

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: September 27, 2023



# TABLES & GRAPHICS

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Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

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Figure: 16 TAC §7.460(b)(1)

**Classification System**

<b>Violation Factors</b>	<b>Factor Value (1-4)</b>	<b>Points Tally</b>
Customer is disconnected in violation of subsection (b)(1) of this section for 24 hours or more	4	
Customer is disconnected in violation of subsection (b)(1) of this section for less than 24 hours, but more than 12 hours	3	
Customer is disconnected in violation of subsection (b)(1) of this section for 12 hours or less	2	
The temperature is 10 degrees or less during the period of disconnection	4	
The temperature is more than 10 degrees but less than or equal to 20 degrees during the period of disconnection	3	
The temperature is more than 20 degrees but less than or equal to 32 degrees during the period of disconnection	2	
Repeat violations based on provider's history of compliance	3	
Good faith effort to remedy violation	-2	
No effort to remedy violation during the extreme weather emergency	4	
		Total
		<b>Penalty maximum per violation</b>
10 points or more = Class A violation		More than \$5,000 <sup>1</sup>
7-9 points = Class B violation		\$5,000
4-6 points = Class C violation		\$4,000
1-3 points = Class D violation		\$3,000

<sup>1</sup> Pursuant to Utilities Code §105.023(f), the required classification system shall provide that a penalty in an amount that exceeds \$5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.

## Call us now! Help us with this claim or we can't renew your policy!

### Notice of Nonrenewal and Opportunity to Cooperate

**We can't renew your policy unless you help us with this claim. If you don't help us, you won't have coverage after [DATE policy term ends or the end of extended term].**

You still have time to cooperate and work with us on the claim [OR action] described below. If you cooperate before [DATE policy term ends or the end of extended term], we won't nonrenew your policy for this reason.

#### What we need from you:

Call us **now** at [insurer contact information].

[Insurer should explain specifically what the insured or named insured should do or provide.]

#### What happened:

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

#### Claim [or Action] information:

Named Insured name: [\_\_\_\_\_]

[Name of other insured: [include if applicable] [\_\_\_\_\_]]

Auto policy number: [\_\_\_\_\_]

Claim number: [\_\_\_\_\_]

[Action: [include if applicable] [\_\_\_\_\_]]

Date of loss: [\_\_\_\_\_]

Location or address where damage or loss took place: [\_\_\_\_\_]

**Warning:** If you continue to fail or refuse to cooperate, we will nonrenew your policy. Even if you cooperate, we may still not renew your policy for other reasons allowed by law.

## ¡Llámenos ahora! ¡Ayúdenos con esta reclamación o no podremos renovar su póliza!

Notificación de No Renovación y Oportunidad para Cooperar

**No podemos renovar su póliza a menos que usted nos ayude con esta reclamación. Si no nos ayuda, no tendrá cobertura después del [DATE policy term ends or the end of extended term].**

Usted todavía tiene tiempo para cooperar y colaborar con nosotros en la reclamación [OR action] que se describe a continuación. Si usted coopera antes del [DATE policy term ends or the end of extended term], no cancelaremos la renovación de su póliza por este motivo.

### Lo que necesitamos de usted:

Llámenos **ahora** al [phone number of Spanish-speaking person at company].

[Insurer should explain specifically what the insured or named insured should do or provide.]

### Lo que sucedió:

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

### Información sobre la reclamación [o Acción]:

Nombre del Asegurado Principal: [\_\_\_\_\_]

[Nombre de otros asegurados: [include if applicable] [\_\_\_\_\_]]

Número de la póliza de automóvil: [\_\_\_\_\_]

Número de reclamación: [\_\_\_\_\_]

[Acción: [include if applicable] [\_\_\_\_\_]]

Fecha de la pérdida: [\_\_\_\_\_]

Lugar o dirección en donde ocurrió el daño o la pérdida: [\_\_\_\_\_]

**Advertencia:** Si usted continúa sin responder o si se niega a cooperar, no renovaremos su póliza. Incluso si usted coopera, es posible que no renovemos su póliza por otras razones permitidas por la ley.

Notificación de No Renovación y Oportunidad para Cooperar

Figure 3: 28 TAC §5.7108 - Dual-Language Sample Notice

**Call us now! Help us with this claim or  
we can't renew your policy!**

**Notice of Nonrenewal and Opportunity to Cooperate**

**We can't renew your policy unless you help us with this claim. If you don't help us, you won't have coverage after [DATE policy term ends or the end of extended term].**

**¡Llámenos ahora mismo al [phone number of Spanish-speaking person at company]!  
No podemos renovar su póliza a menos que usted nos ayude con esta  
reclamación. Si no nos ayuda, no tendrá cobertura después del [DATE policy term  
ends or the end of extended term].**

You still have time to cooperate and work with us on the claim [OR action] described below. If you cooperate before [DATE policy term ends or the end of extended term], we won't nonrenew your policy for this reason.

**What we need from you:**

Call us **now** at [insurer contact information].

[Insurer should explain specifically what the insured or named insured should do or provide.]

**What happened:**

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

**Claim [or Action] information:**

Named Insured name: [\_\_\_\_\_]

[Name of other insured: [include if applicable] [\_\_\_\_\_]]

Auto policy number: [\_\_\_\_\_]

Claim number: [\_\_\_\_\_]

[Action: [include if applicable] [\_\_\_\_\_]]

Date of loss: [\_\_\_\_\_]

Location or address where damage or loss took place: [\_\_\_\_\_]

**Warning:** If you continue to fail or refuse to cooperate, we will not renew your policy. Even if you cooperate, we may still not renew your policy for other reasons allowed by law.

Notice of Nonrenewal and Opportunity to Cooperate





The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§ 303.003, 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/02/23 - 10/08/23 is 18.00% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/02/23 - 10/08/23 is 18.00% for commercial<sup>2</sup> credit.

<sup>1</sup> Credit for personal, family, or household use.

<sup>2</sup> Credit for business, commercial, investment, or other similar purpose.

TRD-202303554

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: September 27, 2023



## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 6, 2023**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **November 6, 2023**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, pro-

vides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: A&B TRADING, LLC dba Country Side; DOCKET NUMBER: 2022-1392-PST-E; IDENTIFIER: RN101434579; LOCATION: Mabank, Van Zandt County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-0184; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: City of Montgomery; DOCKET NUMBER: 2022-0935-MWD-E; IDENTIFIER: RN105021836; LOCATION: Montgomery, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (5), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014737001, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of sewage into or adjacent to any water in the state; PENALTY: \$10,125; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-0184; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: City of Palmer; DOCKET NUMBER: 2022-0146-MWD-E; IDENTIFIER: RN102092962; LOCATION: Palmer, Ellis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.65 and §305.125(2) and TWC, §26.121(a)(1), by failing to maintain authorization to discharge wastewater into or adjacent to any water in the state; PENALTY: \$6,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,400; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: City of Ranger; DOCKET NUMBER: 2021-1533-MWD-E; IDENTIFIER: RN103118923; LOCATION: Ranger, Eastland County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0011557003, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with permitted effluent limitations; PENALTY: \$27,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$21,700; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(5) COMPANY: DALLARDSVILLE-SEGNO WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-0463-MLM-E; IDENTIFIER: RN101439560; LOCATION: Livingston, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(1), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.44(h)(4), by failing to have all backflow prevention assemblies tested upon installation and on an annual basis by a recognized back-

flow prevention assembly tester and certified that they are operating within specifications; 30 TAC §290.46(f)(2) and (3)(C)(i), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids; 30 TAC §290.46(m)(6), by failing to maintain all pumps, motors, valves, and other mechanical devices in good working condition; 30 TAC §290.46(q)(6) and Texas Health and Safety Code, §341.0315(c), by failing to meet the required actions prior to rescinding a boil water notice; 30 TAC §290.119(b)(7), by failing to use an acceptable analytical method for disinfectant analysis; 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with monitoring requirements; and 30 TAC §291.93(3)(A) and TWC, §13.139(d), by failing to provide a written planning report for a utility possessing a Certificate of Convenience and Necessity that has reached or exceeded 85% of all or part of its capacity; PENALTY: \$1,800; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: Duran Apartment Management Incorporated; DOCKET NUMBER: 2023-0457-UTL-E; IDENTIFIER: RN101442234; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$500; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(7) COMPANY: Energy Transfer GC NGL Fractionators LLC f/k/a Lone Star NGL Fractionators LLC; DOCKET NUMBER: 2021-0232-AIR-E; IDENTIFIER: RN106018260; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O3586, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; 30 TAC §101.201(b)(1)(G) and (H) and §122.143(4), FOP Number O3586, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; and 30 TAC §§116.115(c), 116.615(2), and 122.143(4), Standard Permit Registration Number 93813, FOP Number O3586, GTC and STC Numbers 8, 11.B, 12 and 15.B, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$39,206; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$15,682; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: ERVIN TRADING INCORPORATED; DOCKET NUMBER: 2023-0810-PST-E; IDENTIFIER: RN101539922; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; and 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; PENALTY: \$3,781; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Galveston County Municipal Utility District Number 12; DOCKET NUMBER: 2022-0560-MWD-E; IDENTIFIER: RN102096229; LOCATION: Bayou Vista, Galveston County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1) and (5), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010435002, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of sewage into or adjacent to any water in the state; PENALTY: \$3,563; ENFORCEMENT COORDINATOR: Mistie Gonzales, (254) 761-3056; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: LINDEL FARMS, LLC; DOCKET NUMBER: 2022-1590-WQ-E; IDENTIFIER: RN101517662; LOCATION: Pampa, Gray County; TYPE OF FACILITY: dairy farm; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of sewage into or adjacent to any water in the state; PENALTY: \$56,250; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(11) COMPANY: Mallard Point WWTP, LLC; DOCKET NUMBER: 2020-0958-MWD-E; IDENTIFIER: RN102342722; LOCATION: Greenville, Hunt County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014215001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (17) and TPDES Permit Number WQ0014215001, Sludge Provisions, Section IV.C, by failing to submit an annual sludge report to the TCEQ by September 30th of each year; and 30 TAC §305.125(1) and (17) and §319.7(d), and TPDES Permit Number WQ0014215001, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results at intervals specified in the permit; PENALTY: \$20,000; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: Occidental Permian Ltd.; DOCKET NUMBER: 2021-0896-AIR-E; IDENTIFIER: RN102414307; LOCATION: Odessa, Ector County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §106.4(a)(1)(B) and §106.6(b), Permit by Rule Registration Number 44178, and Texas Health and Safety Code, §382.085(b), by failing to comply with all representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration; PENALTY: \$151,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$60,600; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(13) COMPANY: OXY USA WTP LP; DOCKET NUMBER: 2021-0962-AIR-E; IDENTIFIER: RN102199759; LOCATION: Odessa, Ector County; TYPE OF FACILITY: oil and gas handling and production facility; RULES VIOLATED: 30 TAC §106.4(a)(1)(B) and §106.6(b), Permit by Rule Registration Number 44032, and Texas Health and Safety Code, §382.085(b), by failing to comply with all representations with regard to construction plans, operating procedures, and maximum registered emission rates; PENALTY: \$234,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$93,600; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(14) COMPANY: PICO PROPANE OPERATING LLC; DOCKET NUMBER: 2023-1139-WQ-E; IDENTIFIER: RN102785805; LOCATION: Boerne, Kendall County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit for stormwater discharges; PENALTY: \$875; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(15) COMPANY: Silva Industries, LLC; DOCKET NUMBER: 2021-0912-WQ-E; IDENTIFIER: RN110402583; LOCATION: Seguin, Guadalupe County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §§305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System General Permit Number TXG112325, Part IV Standard Permit Conditions 7.f, by failing to timely submit monitoring results at intervals specified in the permit; PENALTY: \$1,425; ENFORCEMENT COORDINATOR: Shane Glantz, (325) 698-6124; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(16) COMPANY: THE BUILDERS GROUP, LLC; DOCKET NUMBER: 2021-1607-WQ-E; IDENTIFIER: RN111378790; LOCATION: Nemo, Somervell County; TYPE OF FACILITY: residential construction site; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121, and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$4,000; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: The George R. Brown Partnership, L.P.; DOCKET NUMBER: 2023-0779-AIR-E; IDENTIFIER: RN111692851; LOCATION: Post, Garza County; TYPE OF FACILITY: sour condensate/crude oil production facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$1,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$650; ENFORCEMENT COORDINATOR: Karyn Olschesky, (817) 588-5896; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(18) COMPANY: THOMPSON, WESLEY; DOCKET NUMBER: 2023-1122-MSW-E; IDENTIFIER: RN111428728; LOCATION: Post, Garza County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Celia Garza, (512) 239-2095; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(19) COMPANY: WHITE, CODY L; DOCKET NUMBER: 2023-1141-WOC-E; IDENTIFIER: RN103565511; LOCATION: Lawn, Taylor County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational

license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Daphne Green, (903) 535-5157; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(20) COMPANY: YETI INVESTMENT LLC dba Kiranna 101; DOCKET NUMBER: 2022-0177-PST-E; IDENTIFIER: RN101443265; LOCATION: Princeton, Collin County; TYPE OF FACILITY: retail convenience store; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202303547

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: September 26, 2023



### Enforcement Orders

An agreed order was adopted regarding VARAHI CONVENIENCE LLC dba Speedys, Docket No. 2021-0780-PST-E on September 26, 2023 assessing \$4,394 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Utilities Investment Company, Inc., Docket No. 2022-0173-PWS-E on September 26, 2023 assessing \$6,650 in administrative penalties with \$1,330 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RIVER CITY READY MIX, INC., Docket No. 2022-0212-AIR-E on September 26, 2023 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Heather Lancour, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Carriers, LLC, Docket No. 2022-0652-AIR-E on September 26, 2023 assessing \$5,625 in administrative penalties with 1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Metalwala Brothers 2 LLC dba New Way Mobil, Docket No. 2022-0903-PST-E on September 26, 2023 assessing \$3,600 in administrative penalties with \$720 deferred. Information concerning any aspect of this order may be obtained by contacting Horus Garcia, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jose G. Guerra, Docket No. 2022-1563-OSS-E on September 26, 2023 assessing \$500 in administrative penalties with \$100 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202303570  
Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



#### Enforcement Orders

An agreed order was adopted regarding Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC, Docket No. 2020-0770-AIR-E on September 27, 2023 assessing \$14,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kuraray America, Inc., Docket No. 2021-0569-AIR-E on September 27, 2023 assessing \$22,125 in administrative penalties with \$885 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Eastman Chemical Texas City, Inc., Docket No. 2023-0598-AIR-E on September 27, 2023 assessing \$7,800 in administrative penalties with \$1,560 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ExxonMobil Oil Corporation, Docket No. 2023-0194-AIR-E on September 27, 2023 assessing \$25,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DEER PARK REFINING LIMITED PARTNERSHIP, Docket No. 2023-0340-AIR-E on September 27, 2023 assessing \$13,375 in administrative penalties with \$2,675 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of West, Docket No. 2022-0280-MLM-E on September 27, 2023 assessing \$11,145 in administrative penalties with \$2,229 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Jeffery Pope, Docket No. 2021-1221-MLM-E on September 27, 2023 assessing \$9,255 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Teresa Flores, Docket No. 2021-0611-MSW-E on September 27, 2023 assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katherine Keithley, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding KD GILL LLC dba Four Corner, Docket No. 2022-0574-PST-E on September 27, 2023 assessing \$41,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding LKK Ventures LLC dba 24 Seven 27, Docket No. 2021-1090-PST-E on September 27, 2023 assessing \$12,521 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding A DEEL'S BUSINESS INC. dba A DEELS 2, Docket No. 2021-0895-PST-E on September 27, 2023 assessing \$6,550 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Old Town Water Supply Corporation, David Hicks dba Old Town Water Supply Corporation, Ben Adams dba Old Town Water Supply Corporation, and Terry Adams dba Old Town Water Supply Corporation, Docket No. 2022-0009-PWS-E on September 27, 2023 assessing \$7,748 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Miles Whener, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Tommy Tackett dba Rock Island RV Park, Docket No. 2022-1715-PWS-E on September 27, 2023 assessing \$10,717 in administrative penalties with \$2,143 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Ballinger, Docket No. 2023-0547-PWS-E on September 27, 2023 assessing \$3,475 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Miles Caston, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding MAPLE WATER SUPPLY CORPORATION, Docket No. 2022-1133-UTL-E on September 27, 2023 assessing \$625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Megan Grace, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202303571  
Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: September 27, 2023



#### Notice of Correction to Agreed Order Number 10

In the September 1, 2023, issue of the *Texas Register* (48 TexReg 4877), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 10, for Texas Health Presbyterian Hospital Denton dba Denton Community Hospital; Docket Number 2022-0952-PST-E. The error is as submitted by the commission.

The reference to the Company should be corrected to read: "Texas Health Presbyterian Hospital Denton."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202303548

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: September 26, 2023



#### Notice of Correction to Shutdown/Default Order Number 1

In the August 25, 2023, issue of the *Texas Register* (48 TexReg 4687), the Texas Commission on Environmental Quality (commission) published notice of a Shutdown/Default Order, specifically Item Number 1, for Samad Brothers LLC dba Kingsley One Stop Foodmart; Docket Number 2021-1182-PST-E. The error is as submitted by the commission.

The reference to the Order Type should be corrected to read: "Default"

For questions concerning the error, please contact Marilyn Norrod at (512) 239-5916.

TRD-202303545

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: September 26, 2023



#### Notice of District Petition

Notice issued September 21, 2023

TCEQ Internal Control No. D-08092023-026; Nortex Valencia Land Bank, LP, a Texas limited partnership and Cayetano Development, LLC, a Texas limited liability company (Petitioners) filed a petition for creation of Nortex Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 841.078 acres located within Kaufman County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, road facilities, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, the proposed District is not anticipating issuing bonds to finance or reimburse the costs of District improvements. The proposed District is anticipated

to operate District water, wastewater, drainage, detention or road facilities payable from an operations and maintenance tax.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202303564

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



#### Notice of District Petition

Notice issued September 25, 2023

TCEQ Internal Control No. D-07142023-027; Beasley 119, LLC, a Texas limited liability company and Grunwald 109, LLC, a Texas limited liability company (Petitioners), filed a petition (petition) for the creation of Fort Bend County Municipal Utility District No. 257 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, b1Bank, Inc., a Louisiana state chartered bank, successor by merger to Citizens Bank, N.A., on the property to be included in the proposed District and the aforementioned entity has consented to the creation of the district; (3) the proposed District will contain approximately 228.36 acres of land located within Fort Bend

County, Texas; and (4) all of the land to be included within the proposed district is located wholly within the extraterritorial jurisdiction of the City of Rosenberg, Texas (City). In accordance with Local Government Code § 42.042 and Texas Water Code § 54.016, a petition was submitted to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, a petition was submitted to the City to provide water and sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code § 54.016(c) expired and information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code § 54.016(d), failure to execute such an agreement constitutes authorization for the Petitioners to proceed to the TCEQ for inclusion of the land into the District. The petition further states that the work to be done by the proposed District at the present time is to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, industrial, or commercial purposes or provide adequate drainage for the District; to collect, transport, process, dispose of and control domestic, industrial, or commercial wastes; to gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the District; and to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consistent with the purposes for which the District is created, all as more particularly described in an engineer's report filed simultaneously with the filing of this Petition, to which reference is made for a more detailed description. Additional work and services which may be performed by the District include the purchase, construction, acquisition, provision, operation, maintenance, repair, improvement, extension, and development of a roadway system for the District.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$42,600,000 (\$19,550,000 for water, wastewater, and drainage plus \$13,350,000 for roads and \$9,700,000 for recreational facilities).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commis-

sioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202303566

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



#### Notice of District Petition

Notice issued September 25, 2023

TCEQ Internal Control No. D-06192023-038; Sutton Field Investments, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Scharff Road Municipal Utility District No. 1 of Grayson County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Lone Star, FLCA, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 193 acres located within Grayson County, Texas; and (4) the land within the proposed District is located within the extraterritorial jurisdiction of the City of Gunter. By Resolution No. 2021-09-16-2, passed and approved on September 16, 2021, the City of Gunter, Texas, withheld its consent to the creation of the proposed District. The petition further states that the proposed District will: (1) construct a water distribution system for domestic purposes; (2) construct a wastewater system; (3) control, abate, and amend harmful excess waters and the reclamation of drainage of overflowed lands within the proposed District; (4) construct and finance macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) construct, install, maintain, purchase, and operate additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. Additionally, the proposed District will design, acquire, construct, finance, issue bonds for, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance, a road or any improvement in aid of the road, pursuant to Texas Water Code §54.234. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$28,775,000 (\$22,900,000 for water, wastewater, and drainage and \$5,875,000 for roads). The Property is located within the extraterritorial jurisdiction of the City of Gunter, Grayson County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed Dis-

tract. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202303567

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



#### Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 6, 2023**. TWC, §7.075, also requires that the commission promptly

consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 6, 2023**. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: GPB PETROLEUM, LLC dba Charge Up 29; DOCKET NUMBER: 2021-0843-PST-E; TCEQ ID NUMBER: RN102404985; LOCATION: 1410 West Virginia Street, Beaumont, Jefferson County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,375; STAFF ATTORNEY: Benjamin Pence, Litigation, MC 175, (512) 239-2157; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202303544

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: September 26, 2023



#### Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Lil Countryside WSC SOAH Docket No. 582-24-01474 TCEQ Docket No. 2021-1540-PWS-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference at:

10:00 a.m. - October 26, 2023

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

**Meeting ID:** 161 984 0712

**Password:** TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

**Meeting ID:** 161 984 0712

**Password:** 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 27, 2023 concerning assessing administrative penalties against and requiring certain actions of Lil Countryside WSC, for violations in Hunt County, Texas, of: Tex. Water Code § 5.702 and 30 Texas Administrative Code §§290.51(a)(6), 290.108(e), 290.109(d)(4)(B), 290.110(e)(4)(A) and (f)(3), 290.117(c)(2)(C), (h), and (i)(l), 290.122(c)(2)(A) and (f), 290.271(b), and 290.274(b) and (c).

The hearing will allow Lil Countryside WSC, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Lil Countryside WSC, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Lil Countryside WSC to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Lil Countryside WSC, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341 and 30 Texas Administrative Code chs. 70 and 290; Tex. Water Code § 7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §§70.108 and 70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting William Hogan, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at [www.tceq.texas.gov/goto/efilings](http://www.tceq.texas.gov/goto/efilings) or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.**

**In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 25, 2023

TRD-202303569

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of POSTMUS DAIRY, L.L.C. SOAH Docket No. 582-24-01361 TCEQ Docket No. 2022-0089-AGR-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference at:

10:00 a.m. - October 26, 2023

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

**Meeting ID:** 161 984 0712

**Password:** TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

**Meeting ID:** 161 984 0712

**Password:** 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 24, 2023 concerning assessing administrative penalties against and requiring certain actions of POSTMUS DAIRY, L.L.C., for violations in Erath County, Texas, of: Tex. Water Code § 26.121(a)(1), 30 Texas Administrative Code §305.125(1) and §321.37(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG92099, Part III.A.5(a)(2).

The hearing will allow POSTMUS DAIRY, L.L.C., the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford POSTMUS DAIRY, L.L.C., the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of POSTMUS DAIRY, L.L.C. to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** POSTMUS DAIRY, L.L.C., the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.



Legal Authority: Tex. Water Code § 7.054 and Tex. Water Code chs. 7 and 26, 30 Texas Administrative Code chs. 70 and 305; Tex. Water Code § 7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting David Keagle, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at [www.tceq.texas.gov/goto/efilings](http://www.tceq.texas.gov/goto/efilings) or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.**

**In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 25, 2023

TRD-202303568

Laurie Gharis  
Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



#### Notice of Public Meeting for TPDES Permit for Municipal Wastewater New Permit No. WQ0016224001

**APPLICATION.** JDS Nursery Tract LLC, 5005 Riverway Drive, Suite 500, Houston, Texas 77056, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016224001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. TCEQ received this application on September 20, 2022.

The facility will be located approximately 0.48 of a mile northeast of the intersection of Farm-to-Market Road 359 and Settegast Ranch Road, in Fort Bend County, Texas 77406. The treated effluent will be discharged to an unnamed tributary, thence to the Jones Creek portion of Upper Oyster Creek in Segment No. 1245 of the Brazos River Basin. The unclassified receiving water use is limited aquatic life use for the unnamed tributary. The designated uses for Segment No. 1245 are primary contact recreation, intermediate aquatic life use, and public water supply.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the Jones Creek portion of Upper Oyster Creek, which has been identified as having intermediate aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application. <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bb-ddd360f8168250f&marker=-95.826666%2C29.657777&level=12>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

**ALTERNATIVE LANGUAGE NOTICE.** Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

**PUBLIC COMMENT / PUBLIC MEETING.** A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Monday, November 6, 2023, at 7:00 p.m.**

**Palm Royal Villa**

**3330 FM 1463**

**Katy, Texas 77494**

**INFORMATION.** Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at [www.tceq.texas.gov/goto/comment](http://www.tceq.texas.gov/goto/comment). If you need more information about the permit application or the permitting

process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our web site at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Bob Lutts Fulshear/Simonton Branch Library, 8100 Farm-to-Market Road 359 South, Fulshear, Texas. Further information may also be obtained from JDS Nursery Tract LLC at the address stated above or by calling Mr. Jonathan Nguyen, Quiddity Engineering at (512) 685-5156.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or 1-800-RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: September 22, 2023

TRD-202303563

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



## Notice of Water Quality Application

The following notice was issued on September 22, 2023:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS MAILED.

### INFORMATION SECTION

Broumley Dairy, LLC, 360 County Road 240, Hico, Texas 76457 has applied to the Texas Commission on Environmental Quality (TCEQ) for a Minor Amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003395000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to modify the production area by reconfiguring drainage area #1, removing slurry basin #1, plugging well #7 and adding new well #20. The facility maps have been revised as a result of these changes. The design calculations for retention control structure (RCS) #1 required capacity were revised, which changed the required RCS capacity from 66.31 ac-ft to 64.39 acre-feet. The authorized maximum capacity of 4,100 total dairy cattle, of which 3,500 are milking cows, and the total land application area of 490 acres will remain the same. The facility is located at 360 County Road 240, Hico in Hamilton County, Texas. The facility is located in the drainage area of the North Bosque River in Segment No. 1226 of the Brazos River Basin.

TRD-202303565

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 27, 2023



## General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of September 11, 2023 to September 22, 2023. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, September 29, 2023. The public comment period for this project will close at 5:00 p.m. on October 29, 2023.

Federal License and Permit Activities:

**Applicant:** Cedar Marine Terminals (subsidiary of Vertex Energy)

**Location:** The project site is located in Cedar Bayou, at 200 Atlantic Pipeline Road, in Baytown, Chambers County, Texas.

**Latitude and Longitude:** 29.673146, -94.929803

**Project Description:** The applicant proposes to modify an existing permit to perform mechanical maintenance dredging within a 440-foot-long by 134-foot-wide (1.35 acre) area of Cedar Bayou to a total depth of 13.5 feet below mean lower low water for a total of 15,142 cubic yards of material proposed to be dredged. The dredged material for this upcoming maintenance dredging cycle is proposed to be placed within Chambers County Navigation District's existing dredged material placement area (DMPA) #6. This application also requests to add the Adloy DMPA as an optional authorized DMPA for this project for future maintenance dredging. No compensatory mitigation is proposed for this project.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-1992-02709. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 24-1004-F1

**Applicant:** Freeport LNG Development, L.P.

**Location:** The project site is located on the Freeport Harbor Ship Channel, near the City of Freeport, in Brazoria County, Texas. The Freeport Maintenance Offshore Dredge Material Disposal Site (ODMDS) is located approximately 3 miles offshore and about 1,000 feet southwest of the centerline of the Outer Bar Channel.

**Latitude and Longitude:** 28.982761, -95.309178

**Project Description:** Freeport LNG Development (FLNG) have requested a Department of the Army maintenance dredge permit to include the use of mechanical, hydraulic and hopper dredges and to dispose of the dredged material in the Freeport Harbor Maintenance Offshore Dredge Material Disposal Site (ODMDS). The maintenance dredge permit authorizes dredging of the entire FLNG Basin (both Dock 1 and Dock 2). Dredging conducted via a hydraulic cutter head dredge and/or mechanical clamshell will utilize to a dump scow barge. The barge will be transported to the Freeport Harbor Maintenance ODMDS where the material will be dumped. Maintenance dredge cycles utilizing a hopper dredge will not require a barge for transportation of the dredged material. Each maintenance dredging cycle is expected to take 3 months to complete. Submittals to evaluate effects of dredging and disposal of dredge material will be conducted, as required by Section 103 of the MPRSA. FLNG has estimated that maintenance dredge cycles will occur annually and are estimated to remove approximately 250,000 cubic yards.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2013-00147. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 24-1005-F1

**Applicant:** Golden Pointe, LLC

**Location:** The project site is located in Packery Channel, approximately 0.3-mile northeast of the intersection of Aquarius Street and South Padre Island Drive, in Corpus Christi, Nueces County, Texas.

**Latitude and Longitude:** 27.631449, -97.222392

**Project Description:** The applicant proposes to develop approximately 40 residential lots and the associated infrastructure (roads, sidewalks, utilities, etc.) on approximately 16.92 acres. The proposed project includes construction for future lot development, entry road and culverts, interior road with a cul-de-sac, and an elevated board walk that transverses the outer edges of the proposed development along Packery Channel. The proposed project would permanently affect approximately 1.037 acres and temporarily affect 0.61 acre of estuarine wetlands from fill activities. Fill associated with the entry road and culverts would permanently impact approximately 0.515 acre of wetlands. Temporary impacts associated with the entry road development would be approximately 0.61 acre. Fill associated with the interior roads would be approximately 0.522 acres of permanent impacts. The proposed boardwalk would be located within estuarine wetlands along the outer edge of the proposed development on Packery Channel. The proposed boardwalk will be approximately 4 feet high with 2-inch by 4-inch decking spaced 1-inch apart. The applicant proposes to mitigate for the proposed impacts by mechanically lowering uplands to create a total of 0.68 acre of shallow water, tidally influenced estuarine wetlands and to preserve 6.968 acres of existing tidally influenced estuarine wetlands and mudflats.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-2015-00111. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 24-1006-F1

**Applicant:** City of Aransas Pass

**Location:** The project site is located in Conn Brown Harbor, which is connected to Redfish Bay and is adjacent to Bigelow Street, east of its intersection with Huff Street in Aransas Pass, Aransas County, Texas.

**Latitude and Longitude:** 27.9060, -97.1352

**Project Description:** The applicant proposes to construct the docking capacity within the existing harbor consistent with the original authorization, creating the same 432 boat slips, but dependent upon vessel size is expected to accommodate up to approximately 544 boat vessels on approximately 103,255 square feet of floating and/or piling-supported docks extending from the western harbor bulkhead and an additional approximately 27,902 square feet of piling support docks extending from the eastern harbor bulkhead. Piles would be placed by either jetting, vibratory, or pile-driving methods. No dredge activities, bulkhead construction/repair, or terrestrial development is proposed as part of this project. Construction of dock facilities would occur throughout the duration of the permit authorization (five years). No mitigation is proposed. The stated purpose and need of the project is to enhance use

of the existing Conn Brown Harbor by satisfying the public need for additional pleasure craft facilities and services, to help improve the marina facilities, as well as to maintain and improve use by commercial shrimping and fishing operations.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2004-00003. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 24-1007-F1

**Applicant:** Powell Electrical Systems, Inc.

**Location:** The project site is located in Carpenters Bayou, at 16535 Jacintoport, in Houston, Harris County, Texas.

**Latitude and Longitude:** 29.75920, -95.106320

**Project Description:** The applicant is proposing to modify their existing permit by re-aligning the proposed bulkhead and discharge approximately 10,000 cubic yards (CY) of fill material to backfill behind the bulkhead and fill in an existing 2.9-acre inlet to match existing surrounding elevations. The applicant has stated that this project does not propose a discharge of fill material into any special aquatic site, therefore, no compensatory mitigation is proposed for this project.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-2000-03009. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 24-1019-F1

**Applicant:** TXGC Properties, L.L.C. and TXGC Pipelines, L.L.C.

**Location:** The project site is located in Sabine Pass and multiple wetlands and water bodies including, the Gulf Intracoastal Waterway and Trinity River, in multiple locations starting at ONEOK's existing natural gas liquids (NGL) fractionation and storage facility in Mont Belvieu, Chambers County, through Liberty County, and terminating at Sabine Pass, in Jefferson County, Texas, including a portion of the Sabine Pass Channel, in Cameron Parish, Louisiana.

**Latitude and Longitude:** 29.735894, -93.878456

**Project Description:** The applicant proposes to permanently discharge fill into 194.51 acres of estuarine emergent (EEM) wetlands, 12.35 acres of estuarine scrub shrub (ESS) wetlands, and 1.03 acres of ponds to construct a new natural gas liquids (NGL) export terminal on an approximately 220-acre tract of land located adjacent to the Sabine Pass Channel in Jefferson County, Texas. Approximately 1,409,085 cubic yards (CY) of material will be mechanically and/or hydraulically dredged from 41.98 acres of the Sabine Pass Channel to a maximum depth of approximately -46 feet below mean lower low water (MLLW) to create the terminal's ship basin and allow vessel access. Dredged material would be placed into Placement Areas (PAs) 5, 8, and 9, and in Keith Lake for beneficial use (BU). Approximately 77.97 acres of the marine basin will be located in Texas and 4.08 acres will be located in Louisiana. Slope protection measures will be installed along the entire shoreline of the Marine Berth including a 9-inch-thick revetment mattress and rip rap. Approximately 4,300 linear feet of revetment mattress and 5,000 CY of rip rap will be used to stabilize the shoreline of the new marine berth.

The export terminal will also include the construction of four dock structures with appurtenant infrastructure for product loading onto very large gas carriers (VLGCs), very large ethane carriers (VLECs), and other smaller vessels. Each dock structure will consist of a 122-foot-wide by 73-foot-long loading platform, four 96-inch-diameter breast-

ing dolphins, five 84-inch-diameter steel monopile mooring dolphins, steel walkways, a 39-foot-wide by 92-foot-long dock house platform, a 20-foot-wide by 206-foot-long concrete approach-way, a 30-foot-wide by 108-foot-long concrete pipe rack, and a 55-foot-wide by 34-foot-long valve containment structure. Docks 1 and 2 will share a 24-foot-wide by 18-foot-long concrete mooring dolphin, and Docks 3 and 4 will share a concrete mooring dolphin with the same dimensions. Docks 1 and 2 will each include a 92-foot-wide by 27-foot-long water intake platform. The export terminal facility also includes a new proposed tug dock that will consist of a steel pile supported concrete dock and concrete approach-way. The new tug dock will be at the southern end of the new ship basin, centered on the basin's centerline, between Docks 1 and 3. The concrete dock will be approximately 440-foot-wide by 20-foot-long, while the concrete approach-way will be approximately 20-foot-wide by 153-foot-long and both will be supported by steel piles. Lastly, the terminal dock infrastructure includes a proposed new Material Offloading Facility with a 100-foot-wide by 132-foot-long concrete dock supported by concrete and steel battered piles, two 65-foot-wide by 20-foot-long concrete piers, a 220-foot-long steel sheet pile bulkhead, and four 48-inch-diameter steel monopile breasting dolphins. The Material Offloading Facility will be adjacent to the new Dock 4 and dredged to a maximum depth of -27 feet MLLW.

Additionally, the applicant proposes to temporarily discharge fill into 346.86 acres of wetlands, 4.17 acres of streams (20,289 feet), and 94.69 acres of open waters (43,274 linear feet) to construct approximately 68 miles of two 20-inch-diameter pipelines to transport natural gas liquids from ONEOK's existing NGL fractionation and storage facility in Mont Belvieu, Texas to the new proposed marine export terminal at Sabine Pass (as described above). Construction of the pipelines will generally require an approximately 125-foot-wide construction corridor consisting of a 50-foot-wide permanent operation easement and 75-foot-wide temporary workspace corridor. Installation of the pipeline will also result in a permanent discharge of fill into 0.31 acre of palustrine forested (PFO) wetlands and 0.22 acre of EEM wetlands for the construction of metering/valve stations. All temporarily impacted areas will be restored to pre-construction contours once the project is complete.

The applicant stated that the purpose of the project is to transport NGL products from ONEOK's existing fractionation and storage facility in Mont Belvieu, Texas to an accessible marine terminal that can accommodate very large gas carriers (VLGCs) and very large ethane carriers (VLECs) for loading and export into the commercial market. The purpose is driven by growing global demand for NGL products and expectations of importing countries, including China, India, and European countries, that the United States will meet their growing demand.

The applicant proposes to mitigate for the temporary and permanent conversion impacts to PFO and PSS wetlands by purchasing functional capacity units (FCUs) from the following compensatory mitigation banks: 1) Cow Island Bayou Mitigation Bank (12.74 Physical FCUs, 21.08 Biological FCUs, and 10.42 Chemical FCUs); 2) Spindletop Bayou Mitigation Bank (0.14 Physical FCUs, 0.26 Biological FCUs, and 0.13 Chemical FCUs); and 3) Sabine Lake Mitigation Bank (0.10 Physical FCUs, 0.17 Biological FCUs, and 0.12 Chemical FCUs).

The applicant proposes to implement a permittee responsible mitigation (PRM) plan at Keith Lake, approximately 4 miles northwest of the proposed terminal site, to offset the avoidable impacts to 194.73 acres of EEM and 12.35 acres of ESS wetlands in these areas where in-kind mitigation bank credits are not available. The PRM plan will include a functional assessment and anticipated "lift" generated from proposed marsh restoration at the Keith Lake PRM site. The final acreage of marsh restoration required to satisfy the FCU requirements is anticipated to be approximately 270 acres.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-2022-00684. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 24-1020-F1

**Applicant:** PI Dock Facilities LLC

**Location:** The project site is located in the Sabine-Neches Waterway, at 2500 Martin Luther King Drive, in Port Arthur, Jefferson County, Texas.

**Latitude and Longitude:** 29.8225, -93.955556

**Project Description:** The applicant proposes to perform new dredging and periodic maintenance dredging at the North and South berths (20.35 acres total) with hydraulic dredge, mechanical dredge, or blade leveling methods to deepen and maintain the mudline from EL -40-foot mean lower low water (MLLW) (plus 2-ft. over dredge) to a new depth of EL -52-foot MLLW, matching the final authorized depth of the Sabine-Neches Waterway (SNWW). The intent is to deepen and maintain the berth to a depth that corresponds with the deepening of the SNWW Channel Improvement Project. The applicant also proposes to periodically maintenance dredge as needed 17.80 acres within the federal channel limits. This area will be dredged only if the Corps dredge cycle does not line up with applicant's needs. Dredged material will be placed in either USACE Dredge Material Placement Area(s) (DPMA) 5, 5b, 8, 9, 11, 12, or 13, the JD Murphree Wildlife Management Area, Avera, or the Texas Deepwater Placement Area in Houston, Texas. The applicant also proposes to construct a 1,084-square-foot covered boatlift extending 53 feet into the Sabine-Neches Waterway. Project components include a 30-foot by 30-foot covered boat lift and an 8-foot by 23-foot walkway. The structure will be supported by piles 1-foot above the mean high water. Compensatory mitigation is not proposed.

**Type of Application:** U.S. Army Corps of Engineers permit application #SWG-2011-01123. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 24-1021-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202303558

Mark Havens

Chief Clerk

General Land Office

Filed: September 27, 2023

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**Texas Health and Human Services Commission**

Correction of Error

The Health and Human Services Commission (HHSC) adopted amendments to 26 TAC §511.1 in the September 29, 2023, issue of the *Texas*

*Register* (48 TexReg 5676). Due to an error by the Texas Register, the section title is incorrect as published. The section title should read as follows:

§511.1. Purpose.

TRD-202303531



#### Public Notice: TxHmL EVV Amendment

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Texas Home Living (TxHmL) program. HHSC administers the TxHmL Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the TxHmL waiver application through February 28, 2027. The proposed effective date for this amendment is February 19, 2024.

The request proposes to amend Appendix I to change existing language regarding Electronic Visit Verification (EVV) requirements. HHSC will require program providers to use EVV for certain services. This requirement is to address the expansion of EVV in home health care services as required by §1903(l) of the Social Security Act (U.S.C. Title 42, §1396b, subsection l) as amended by the 21st Century Cures Act. The services impacted by this change in the TxHmL waiver are: respite (EVV requirement specific to in-home); individualized skills and socialization (EVV requirement specific to in-home); nursing services; occupational therapy services; and physical therapy services and the consumer directed services (CDS) option for the following services: respite (EVV requirement specific to in-home) and nursing.

HHSC also removed Attachment #1: Transition Plan as it is no longer applicable.

The TxHmL waiver program provides services and supports to individuals with intellectual disabilities who live in their own homes or in the home of another person, such as a family member. Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued community-based living and to supplement, rather than replace, existing informal or formal supports and resources.

Services in the TxHmL waiver program are respite, supported employment, prescription medications, financial management services, support consultation, adaptive aids, minor home modifications, audiology services, behavioral support, community support, dental treatment, dietary services, employment assistance, occupational therapy services, physical therapy services, nursing, speech-language pathology services, and individualized skills and socialization.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by November 6, 2023.

The Access and Eligibility Services for local benefit offices will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

[TX\\_Medicaid\\_Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

TRD-202303572

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: September 27, 2023



#### Updated Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) provides this update to a public notice published on April 28, 2023.

HHSC announces its intent to submit an amendment to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendment is effective October 1, 2023. The April 28, 2023 notice indicated that the amendment would be effective June 1, 2023.

The purpose of the amendment is to update the reimbursement methodology for the Disproportionate Share Hospital (DSH) Program. This proposal amends the definition of the rural provider classes, establishes a new rural DSH pool, describes a methodology for redistribution of certain recouped funds, modifies the calculation of the Low-Income Utilization Rate to reflect federal law, updates the calculation of the State Payment Cap and payment allocation methodology, establishes changes to qualifications of the program, revises the advance payment methodology for federal fiscal year 2024, and makes other clarifying amendments. For the DSH program, the annual aggregate expenditures are expected to remain fiscally neutral with this amendment.

Public Hearing.

A public hearing was conducted via webinar on April 25, 2023. Information about the public hearing was published in the *Texas Register*. Additional information and the notice of public hearing can be found at <https://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at [Medicaid\\_Chip\\_SPA\\_Inquiries@hhs.state.tx.us](mailto:Medicaid_Chip_SPA_Inquiries@hhs.state.tx.us). Copies of the proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of the Texas Department of Aging and Disability Services).

## Written Comments.

Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

### U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance Department

Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance Department

North Austin Complex

Mail Code H-400

4601 W. Guadalupe St.

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

[pfd\\_hospitals@hhsc.state.tx.us](mailto:pfd_hospitals@hhsc.state.tx.us)

TRD-202303553

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: September 27, 2023



## Texas Higher Education Coordinating Board

Notice of Intent to Engage in Negotiated Rulemaking-Dual Credit (Public Community Colleges, State Colleges, Technical Colleges, Universities, and Independent School Districts)

The Texas Higher Education Coordinating Board (THECB) intends to engage in negotiated rulemaking to amend definitions for dual credit and dual enrollment in Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D, to better align with House Bill 8, 88th Texas Legislature, Regular Session (2023) and College Connect Courses in new rule 4.86.

The amendments to 19 Texas Administrative Code, Subchapter D, are authorized by Texas Education Code, §§28.009(b), 28.0095, 61.059(p), 130.001(b)(3) - (4) and 130.008, which govern the offering and funding of college-level courses to high school students. Texas Education Code Section 28.009 directs the THECB, in coordination with the Texas Education Agency, to employ the negotiated rulemaking process described in Chapter 2008 of the Texas Government Code when adopting rules relating to dual credit.

In identifying persons likely affected by the proposed rules, the Convener of Negotiated Rulemaking sent a memo via GovDelivery to all chancellors and presidents at Texas public community colleges, state colleges, technical colleges, and universities soliciting their interest

and willingness to participate in the negotiated rulemaking process or nominate a representative from their campus.

From this effort, 47 individuals responded (out of approximately 1391 affected entities) and expressed an interest to participate or nominated a representative from their system/institution to participate on the negotiated rulemaking committee for dual credit. The positions held by the volunteers and nominees indicate a probable willingness and authority of the affected interests to negotiate in good faith and a reasonable probability that a negotiated rulemaking process can result in a unanimous or, if the committee so chooses, a suitable general consensus on the proposed rule.

The following is a list of the stakeholders who are significantly affected by this rule and will be represented on the negotiated rulemaking committee for dual credit:

1. Public Community Colleges;
2. Public State Colleges;
3. Public Technical Colleges;
4. Public Universities;
5. Public Independent School Districts;
6. Texas Education Agency; and
7. Texas Higher Education Coordinating Board.

The THECB proposes to appoint the following 16 individuals to the negotiated rulemaking committee for dual credit to represent affected parties and the agency:

### Public Community Colleges

Sara Mann, Interim Chief, High School Programs Officer, Director, District Charter Partnerships and Alamo Collegiate Network, Alamo Colleges District

Robin Garrett, Provost and Vice Chancellor, Academic and Student Success, Central Texas College

Patricia Benavides-Dominguez, Vice President, Student Affairs, Del Mar College

Tonie Badillo, Dean, Dual Credit and Early College High Schools, El Paso Community College

Dava Washburn, Vice President, Instruction, Grayson College

Susan Cooper, Director, Dual Credit, North Central Texas College

Sonia Townsend, Dean, Dual Credit Partnerships and Student Development, San Jacinto College

Ryan Fitzgerald, Dean, Dual Enrollment and Early College Programs, Director, Institutional Research, South Plains College

### Public State Colleges

Wendy Elmore, Provost and Executive Vice President, Academic and Student Affairs, Lamar State College-Orange (Texas State University System)

### Public Technical Colleges

Cledia Hernandez, Vice Chancellor, Texas State Technical College System

### Public Universities

Warren von Eschenbach, Vice Chancellor, Academic Affairs, University of North Texas System

Jennifer Porter, Managing Director, OnRamps, The University of Texas at Austin (The University of Texas System)

### **Public Independent School Districts**

Angela Herron, Chief Teaching and Learning Officer, Grand Prairie Independent School District

Elizabeth Swaner, Executive Director, Advanced Learning Services, Richardson Independent School District

### **Texas Education Agency**

Alexis Bauserman, Director, College, Career, and Military Preparation

### **Texas Higher Education Coordinating Board**

Elizabeth Mayer, Assistant Commissioner, Academic and Health Affairs

If there are persons who are significantly affected by these proposed rules and are not represented by the persons named above, those persons may apply to the agency for membership on the negotiated rule-making committee or nominate another person to represent their interests. Application for membership must be made in writing and include the following information:

1. Name and contact information of the person submitting the application;
2. Description of how the person is significantly affected by the rule and how their interests are different than those represented by the persons named above;
3. Name and contact information of the person being nominated for membership; and
4. Description of the qualifications of the nominee to represent the person's interests.

The THECB requests comments on the Notice of Intent to engage in negotiated rulemaking and on the membership of the negotiated rule-making committee for dual credit. Comments and applications for membership on the committee must be submitted by October 15, 2023, to Laurie A. Frederick, Convener, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via email at Laurie.Frederick@highered.texas.gov.

TRD-202303559

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: September 27, 2023



### **Notice of Intent to Engage in Negotiated Rulemaking-Texas Innovative Adult Career Education (ACE) Grant Program (Participating Non-profits)**

House Bill 8, 88th Texas Legislature, Regular Session, transfers administration of the Texas Innovative Adult Career Education (ACE) Grant Program from Austin Community College to the Texas Higher Education Coordinating Board (THECB). The legislation provides the THECB authority to adopt rules for the administration of the program.

The THECB intends to engage in negotiated rulemaking to develop Title 19, Part 1, Chapter 21, Subchapter V rules for the ACE grant program trustee funds allocation methodology for participating non-profits and to develop procedures for THECB staff to verify the accuracy of the application of that allocation methodology. This is in accordance with the provisions of House Bill 8 passed by the 88th Texas Legis-

lature, Regular Session, which moved the ACE program under Texas Education Code chapter 136 to the THECB for administration.

In identifying persons likely affected by the proposed rules, the Convener of Negotiated Rulemaking sent a memo to potentially affected parties, including participating non-profits soliciting their interest and willingness to participate in the negotiated rulemaking process or nominate a representative from their non-profit.

From this effort, eight individuals responded (out of approximately eight affected entities) and expressed an interest to participate or nominated a representative from their non-profit to participate on the negotiated rulemaking committee for the ACE grant program. The positions held by the volunteers and nominees indicate a probable willingness and authority of the affected interests to negotiate in good faith and a reasonable probability that a negotiated rulemaking process can result in a unanimous or, if the committee so chooses, a suitable general consensus on the proposed rule.

The following is a list of the stakeholders who are significantly affected by this rule and will be represented on the negotiated rulemaking committee for the ACE grant program:

1. Capital IDEA-Austin;
2. Capital IDEA-Houston;
3. Digital Workforce Academy, Inc.;
4. Pitzer Family Education Foundation;
5. Project ARRIBA;
6. Project QUEST, Inc.;
7. Valley Initiative for Development and Advancement; and
8. Texas Higher Education Coordinating Board.

The THECB proposes to appoint the following eight individuals to the negotiated rulemaking committee for the ACE grant program to represent affected parties and the agency:

### **Participating Non-profit**

Alyssia Palacios-Woods, Executive Director, Capital IDEA-Austin

Michelle Paul, Executive Director, Capital IDEA-Houston

Melvin White, President, Digital Workforce Academy, Inc.

Anthony Haynes, Executive Director, Pitzer Family Education Foundation

Roman S. Ortiz, President/CEO, Project ARRIBA

Molly Biglari, President/CEO, Project QUEST, Inc.

### **ACE Grant Past Advisory Board Member**

Woody Hunt, Senior Chairman, Board of Directors, Hunt Companies, Inc.

### **Texas Higher Education Coordinating Board**

Jennielle Strother, Assistant Commissioner Student Success

If there are persons who are significantly affected by these proposed rules and are not represented by the persons named above, those persons may apply to the agency for membership on the negotiated rule-making committee or nominate another person to represent their interests. Application for membership must be made in writing and include the following information:

1. Name and contact information of the person submitting the application;

2. Description of how the person is significantly affected by the rule and how their interests are different than those represented by the persons named above;
3. Name and contact information of the person being nominated for membership; and
4. Description of the qualifications of the nominee to represent the person's interests.

The THECB requests comments on the Notice of Intent to engage in negotiated rulemaking and on the membership of the negotiated rulemaking committee for the ACE grant program. Comments and applications for membership on the committee must be submitted by October 15, 2023, to Laurie A. Frederick, Convener, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via email at Laurie.Frederick@highered.texas.gov.

TRD-202303560  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Filed: September 27, 2023

◆        ◆        ◆

## Texas Department of Housing and Community Affairs

### Public Notice of Demolition/Reconstruction of Jaipur Lofts Apartments

Jaipur Lofts Apartments is a 71-unit affordable multifamily complex located on lots around Annex Avenue and Cabell Drive, Dallas, Texas. The site consists of a single residential structure constructed between 1918 and 1933. The new property- to be known as Jaipur Lofts - will be one building with 4 floors and consist of twenty-six 1-bedroom and thirty-seven 2-bedroom and eight 3-bedroom units for a total of 71 units. Demolition was completed in February 2023, and all units are anticipated to be reconstructed by February 2025. It is anticipated that all residents will be permanently displaced as a result of reconstruction occurring over a 16-month period. Funding is provided through Low Income Housing Tax Credit (LIHTC) equity from Hunt Capital Partners with HOME American Rescue Plan (ARP) funding provided by the Texas Department of Housing and Community Affairs, and City of

Dallas HOME funds, along with deferred developer fee and contractor loyalty contribution. All 71 units will remain lower income dwelling units for 45 years from the date of initial occupancy as recorded in the Development's HOME-ARP and LIHTC Land Use Restriction Agreements.

#### Public Comment Period

Starts at 8:00 a.m. Austin local time on September 29, 2023.

Ends at 5:00 p.m. Austin local time on October 16, 2023.

Comments received after 5:00 p.m. Austin local time on October 16, 2023, will not be accepted.

Written comments may be submitted to:

Texas Department of Housing and Community Affairs

Attn: Carmen Roldan, Jaipur Lofts Apartments

P.O. Box 13941

Austin, Texas 78711-3941

Email: [carmen.rolدان@tdhca.state.tx.us](mailto:carmen.rolدان@tdhca.state.tx.us)

Written comments may be submitted in hard copy or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific rule, policy, or plan related to their comment, as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

Las personas que no pueden hablar, leer, escribir o entender el idioma inglés pueden llamar al (512) 475-3800 o al número de llamada gratuita (800) 525-0657 para solicitar asistencia con la traducción de documentos, eventos u otra información del Departamento de Vivienda y Asuntos Comunitarios de Texas (Texas Department of Housing and Community Affairs).

Quédese en la línea y permanezca en silencio durante nuestras indicaciones automatizadas de voz en inglés hasta que un representante responda. El representante lo pondrá en espera y le comunicará con un intérprete para ayudarle con su llamada.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Street Address: 221 East 11th Street, Austin, TX 78701

Mailing Address: PO Box 13941, Austin, TX 78711-3941

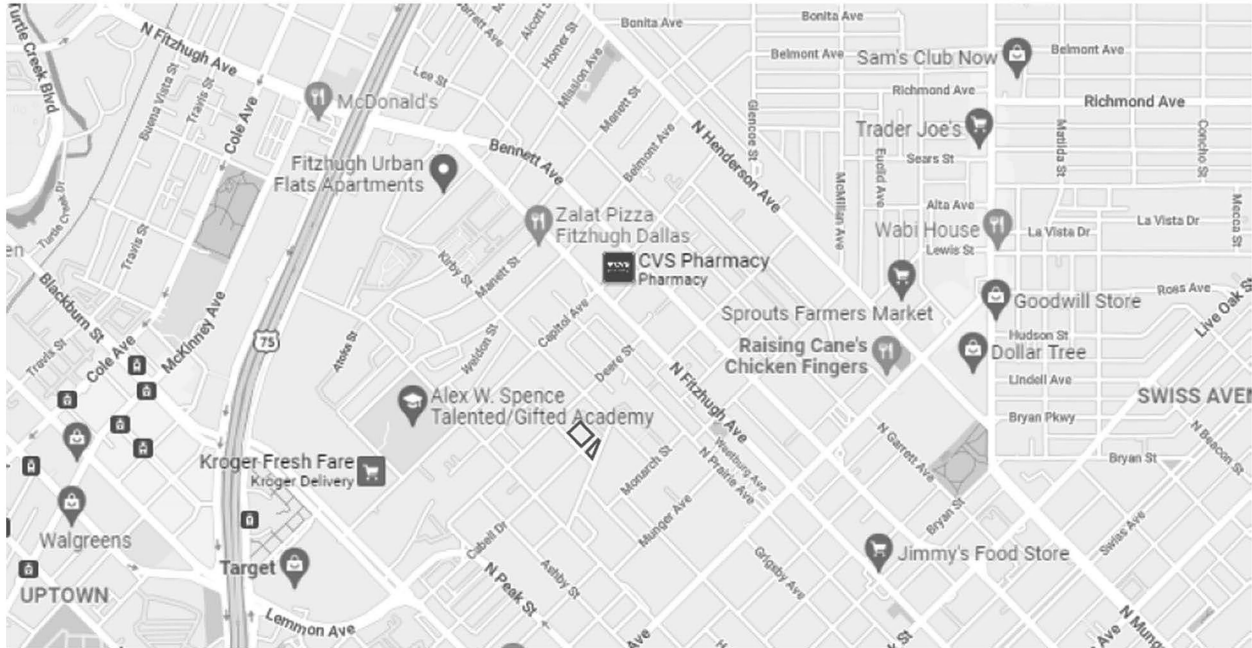
Main Number: 512-475-3800

Toll Free: 1-800-525-0657

Email: info@tdhca.state.tx.us

Web: www.tdhca.state.tx.us

Location of lower-income dwelling units that will be demolished



TRD-202303543  
Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: September 26, 2023

**Texas Department of Insurance**

Company Licensing

Application for Centene Venture Insurance Company Texas, a domestic life, accident and/or health company with HMO authority, DBA (doing business as) Wellcare by Allwell. The home office is in Austin, Texas.

Application for Centene Venture Insurance Company Texas, a domestic life, accident and/or health company with HMO authority, DBA (doing business as) Wellcare Complete. The home office is in Austin, Texas.

Application for Centene Venture Insurance Company Texas, a domestic life, accident and/or health company with HMO authority, DBA (doing business as) Wellcare. The home office is in Austin, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202303573  
Justin Beam  
Chief Clerk  
Texas Department of Insurance  
Filed: September 27, 2023

**Texas Juvenile Justice Department**

Correction of Error

The Texas Juvenile Justice Department adopted emergency rules 37 TAC §344.200 and §344.204 in the September 15, 2023, issue of the *Texas Register* (48 TexReg 5129). Due to an error by the Texas Regis-

ter, the name of Title 37 was published incorrectly. The name should have been published as:

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

TRD-202303549



## Texas Lottery Commission

Scratch Ticket Game Number 2533 "THE PERFECT GIFT"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2533 is "THE PERFECT GIFT". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2533 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2533.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, STAR SYMBOL, WREATH SYMBOL, TREE SYMBOL, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000 and \$250,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2533 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR

25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON

52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
STAR SYMBOL	WIN\$
WREATH SYMBOL	WINX5
TREE SYMBOL	WINX10
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH
\$250,000	250TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2533), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2533-0000001-001.

H. Pack - A Pack of the "THE PERFECT GIFT" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of

the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "THE PERFECT GIFT" Scratch Ticket Game No. 2533.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "THE PERFECT GIFT" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the HOLIDAY NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "STAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "WREATH" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "TREE" Play Symbol, the player wins 10 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly sixty-six (66) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-six (66) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$5,000 and \$250,000 will each appear at least once, except on Tickets winning thirty (30) times and with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

G. Tickets winning more than one (1) time will use as many HOLIDAY NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

H. No matching HOLIDAY NUMBERS Play Symbols will appear on a Ticket.

I. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$10 and 10, \$20 and 20, \$25 and 25 and \$50 and 50).

J. On all Tickets, a Prize Symbol will not appear more than five (5) times, except as required by the prize structure to create multiple wins.

K. On Non-Winning Tickets, a HOLIDAY NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

L. The "STAR" (WIN\$) Play Symbol will never appear on the same Ticket as the "WREATH" (WINX5) or "TREE" (WINX10) Play Symbols.

M. The "STAR" (WIN\$) Play Symbol will win the prize for that Play Symbol.

N. The "STAR" (WIN\$) Play Symbol will never appear more than once on a Ticket.

O. The "STAR" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

P. The "STAR" (WIN\$) Play Symbol will never appear as a HOLIDAY NUMBERS Play Symbol.

Q. The "WREATH" (WINX5) Play Symbol will never appear more than once on a Ticket.

R. The "WREATH" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

S. The "WREATH" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

T. The "WREATH" (WINX5) Play Symbol will never appear as a HOLIDAY NUMBERS Play Symbol.

U. The "TREE" (WINX10) Play Symbol will never appear more than once on a Ticket.

V. The "TREE" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

W. The "TREE" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

X. The "TREE" (WINX10) Play Symbol will never appear as a HOLIDAY NUMBERS Play Symbol.

Y. The "WREATH" (WINX5) and "TREE" (WINX10) Play Symbols will never appear on the same Ticket.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "THE PERFECT GIFT" Scratch Ticket Game prize of \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the

procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "THE PERFECT GIFT" Scratch Ticket Game prize of \$1,000, \$5,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "THE PERFECT GIFT" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
  2. in default on a loan made under Chapter 52, Education Code;
  3. in default on a loan guaranteed under Chapter 57, Education Code; or
  4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "THE PERFECT GIFT" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "THE PERFECT GIFT" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial

bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned

by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2533. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2533 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	696,000	8.62
\$20.00	408,000	14.71
\$25.00	240,000	25.00
\$50.00	120,000	50.00
\$100	85,000	70.59
\$200	14,050	427.05
\$500	2,000	3,000.00
\$1,000	675	8,888.89
\$5,000	30	200,000.00
\$250,000	7	857,142.86

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.83. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket

Game No. 2533 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the



Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2533, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202303561  
Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: September 27, 2023

◆   ◆   ◆

## Panhandle Regional Planning Commission

Groundwater Management Area #1 - Request for Qualifications  
MEMORANDUM

To: Firms/Individuals Interested in Groundwater Availability  
From: Jarian Fred  
Date: September 21, 2023  
Re: GMA 1 - Request for Qualifications

On behalf of the GMA 1, I would like to take this opportunity to thank you for expressing interest in our recently issued Request for Qualifications. As noted in the publication, the RFQ is designed to identify a consultant or consultants who demonstrates the highest level of professional qualifications to assist in providing technical services for the development of Desired Future Conditions (DFC).

Attached to this memorandum you will find a copy of the full Request for Qualifications (RFQ) regarding the GMA 1's preparation of the DFCs. Please provide a response that clearly identifies your firm(s) qualifications in light of the posted Request for Qualifications.

If you have any questions at all, please call Jarian Fred, Local Government Services Program Coordinator, at (806) 372-3381.

Groundwater Management Area 1 Joint Planning Committee

Request for Qualifications:

Professional Services Related to Development and Adoption of Desired Future Conditions within Groundwater Management Area 1

GMA 1 (Groundwater Management Area) REQUEST FOR STATEMENT OF QUALIFICATIONS

Professional Services (modeling and advisory services) for the Development and Adoption of Desired Future Conditions within Groundwater Management Area # 1

The Joint Planning Committee (Committee) of GMA 1 acting through the Panhandle Regional Planning Commission (PRPC) invites all qualified parties to submit a statement of qualifications for supporting the GMA 1 Committee in its efforts to conduct all necessary and appropriate activities to develop and adopt desired future conditions (DFCs) within the boundaries and planning scope of GMA 1.

### BACKGROUND

In 2005, the Texas Legislature determined that GMAs should meet regularly to conduct joint planning necessary to establish DFCs for all relevant aquifers in the GMAs. This responsibility assigned to GMAs established the intersection between the GMA effort and the regional

water planning process established by Senate Bill 1 in 1997. Each GMA is legislatively required to adopt DFCs for all relevant major and minor aquifers in their region. The GMA 1 Committee is comprised of the groundwater conservation districts subject to Texas Water Code, Chapter 36, including: Hemphill County Underground Water Conservation District ("Hemphill District") {Hemphill County}, portions of the High Plains Underground Water Conservation District ("High Plains District") {Potter, Randall, & Armstrong counties}, the North Plains Groundwater Conservation District ("North Plains District") {Dallam, Sherman, Hansford, Hutchinson, Ochiltree, Lipscomb, Hartley, Moore counties}, and the Panhandle Groundwater Conservation District ("Panhandle District") {Potter, Carson, Roberts, Hutchinson, Gray, Wheeler, Armstrong, & Donley counties}.

GMA 1 is comprised of eighteen counties in the northern section of the Texas Panhandle including: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Randall, Armstrong, and Donley counties. The PRPC serves as the administrative agent for GMA 1. As such, GMA 1 procurement will be conducted through the PRPC procurement policies, 2 CFR as well as Texas Water Code Chapter 36.

### SCOPE OF WORK

Pursuant to Chapter 2254, Texas Government Code (Professional Services Procurement Act), the selection of one or more Respondent(s) will be based on demonstrated competence and qualifications to perform the work described in the draft scope of services provided below. Monetary or cost information should NOT be included in a response to this RFQ, and any responses including monetary or cost information will be rejected by the Committee. GMA 1 recently went through the joint planning process and the existing materials from the 2016 DFC adoption process (Explanatory Report, model runs, etc.) may be utilized by the selected consultant for the next round of joint planning.

The following draft scope of services is intended to give Respondents a description of work the Committee expects to be performed by the selected consultant(s). The primary focus of this Request for Qualification is for the GMA 1 Committee to consider the qualifications of consulting firms that can provide technical research, analysis, documentation, and groundwater availability modeling services.

### TECHNICAL SERVICES AND GROUNDWATER AVAILABILITY MODELING SERVICES

Document aquifer uses and conditions within GMA 1. (TWC 36.108(d) (1)).

Document water supply needs and water management strategies in the state water plan. (TWC 36.108(d) (2)).

Document hydrological conditions within GMA 1, including total estimated recoverable storage, the average annual recharge, inflows, and discharge. (TWC 36.108(d)(3)).

Document environmental impacts of proposed DFCs. (TWC 36.108(d) (4)).

Document impacts on subsidence of proposed DFCs. (TWC 36.108(d)(5)).

Document socioeconomic impacts reasonably expected to occur with the adoption and implementation of proposed DFCs. (TWC 36.108(d) (6)).

Document impacts on the interests and rights in private property by the adoption and implementation of proposed DFCs. (TWC 36.108(d) (7)).

Document the feasibility of achieving proposed DFCs. (TWC 36.108(d) (8)).

Document other information relevant to proposed DFCs. (TWC 36.108(d) (9)).

Document relevant comments and proposed revisions received by member districts during the public comment period and public hearings. (TWC 36.108(d-2)).

Development of the DFC explanatory report. (TWC 36.108(d-3)).

Obtain the appropriate files and information from the Texas Water Development Board to model groundwater availability within GMA 1.

Update pumping files for relevant groundwater availability models utilizing information through 2022 for GMA 1 using flow meter data (including alternative meter methods) provided by member districts within GMA 1.

Perform groundwater availability model runs and provide associated reports as deemed necessary by the Committee.

#### GUIDELINES AND RULES

Consultants submitting SOQ should be familiar with the rules for state and regional water planning and DFCs

#### GUIDELINES AND RULES

Consultants submitting qualifications should be familiar with the rules for state and regional water planning and desired future conditions defined in Title 31, Part 10, §356.10 (6) of the Texas Administrative Code.

Consultants should also be familiar with the rules for state and regional water planning and regional water planning grant assistance adopted by the TWDB (31 TAC Chapter 355, Subchapter C, Regional Water Planning Grant Rules; and 31 TAC Chapter 358, State Water Planning Guideline Rules). These rules contain procedures governing applications for financial assistance related to the development or revision of regional water management plans, and guidelines for the development of the state water plan. Particularly, the rules contain specific time frames and requirements for deadlines for the submittal of specific deliverables associated with the scope of work, the initially prepared plan, and the adopted regional water plan.

#### ADDITIONAL INFORMATION

The purpose of this request for SOQ is to permit the evaluation of the relative technical qualifications of respondents.

The SOQ should be no more than 15 pages in length, including cover letter and resumes of project team members. Responses should address the following:

Describe your firm's approach to executing the work associated with this project.

Describe your firm's experience and involvement in the development and adoption of Desired Future Conditions and the Regional Water Planning process.

Provide the location, size and description of your firm and services offered.

Provide a description of how your firm will make itself available in region as needed.

Identify the person proposed by the Firm to serve as the point of contact for the scope of services development and negotiations.

Provide similar projects to the scope of services discussed herein, with descriptions of the projects, members of the project teams, time schedule, and contact persons who are able to verify the information presented.

Identify the project manager and team members (including subcontractors) with their professional licenses and qualifications to perform the proposed professional services. Include an organizational chart identifying the specific individuals (by name) and their role(s) within this project.

Describe your firm's experience and expertise with groundwater availability modeling in the State of Texas.

Provide a resume for each team member associated with the project (Submitted as part of the SOQ and included in the page limit). This should include a succession plan for a scenario where key project members are no longer available to the firm.

Provide an indication of the number and purposes of subcontractors including a detail of the percentage of the project anticipated to utilize subcontractors.

Provide any additional information you would like the Committee to be aware of or which you feel might have a direct bearing on your firm's qualification to perform on the project.

Experience with modeling simulations for the development of DFCs as they relate to the Joint Planning process.

Provide an indication of the familiarity with previous modeling efforts and explanatory report for GMA

#### SELECTION

The selection of the successful firm(s) shall be accomplished by a vote of the GMA 1 Joint Planning Committee. Based on the number of responses received and the preference of the Committee, the Committee may request formal presentations from a short list of selected firms for the project.

#### SELECTION CRITERIA

Category

Maximum Points

Relevant Experiences of the Firm with GAMs

20

Relevant Experiences of the Firm with the Ogallala Aquifer & minor aquifers in the boundaries of the GMA.

20

Capacity to Perform

30

Availability of Staff

10

Experience with groundwater conservation districts & GMAs including Chapter 36 of the Texas Water Code

25

Specific Expertise in Comprehensive Water Planning

15

Ability to Avoid Cost Escalation & Overrun

20

Total

140

#### SCHEDULE

September 20, 2023, Approve, advertise, and mail notices for Request for Statement of Qualifications (SOQ)

October 19, 2023, Statement of Qualifications Due

November 15, 2023, Review of SOQs and preparation of recommendation; the Committee may recommend that short-listed firms make a presentation to the GMA 1 Committee.

\*The Committee reserves the right to hold additional review meetings regarding SOQ submittals as necessary.

January 17, 2024, Presentations and Q&A sessions by short-listed consultants if requested by the Committee.

\*Firms submitting SOQs will be directly notified at least 1 week prior to the GMA 1 meeting date in order to ensure that travel arrangements may be made.

#### ACKNOWLEDGEMENTS

The submittal either as part of the Statement of Qualifications or the cover letter shall provide the following acknowledgments:

Acknowledgment that, if selected, the key individuals of the proposed team will not be changed without the written approval of the GMA 1; and

Acknowledgment that, if selected, you will conform to TWDB rules and requirements

#### SUBMISSION

Proposals will only be accepted from firms or individuals having requested an RFQ package. RFQ Packages are available by written request for the Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo Texas, 79105. Telephone (806) 372-3381, email: jfred@theprpc.org. Faxed or e-mailed requests will be accepted; however, the requesting entity must verify receipt. All inquiries and requests must be directed to the attention of: Jarian Fred, Local Government Services Program Coordinator.

The deadline for responses to this request is 4:00 p.m. on Thursday, October 19th, 2023.

The PRPC will reserve the right to reject all responses and repost if the responses are not suitably targeted to meet the GMA 1 scientific, planning, and programmatic needs.

The SOQ should be no more than 15 pages in length, including cover letters and resumes of project team members.

One (1) electronic copy in PDF format and twelve (12) hard copies, which shall include eleven (11) bound copies and one (1) unbound copy by U.S. mail or FedEx/UPS of each submittal shall be delivered to Jarian Fred, Administrative agent of the GMA 1, at the following address:

Jarian Fred

PRPC

P.O. Box 9257

Amarillo, Texas 79105

Or:

Jarian Fred

PRPC

415 W. 8th

Amarillo, Texas 79101

TRD-202303513

Jarian Fred

Local Government Services Program Coordinator

Panhandle Regional Planning Commission

Filed: September 21, 2023

## Texas Parks and Wildlife Department

### Notice of Public Comment Hearing on an Application for a Sand and Gravel Permit

Texas Parks and Wildlife Department State Parks Division (TPWD-SP) has applied to the Texas Parks and Wildlife Department (TPWD) for an Individual Permit pursuant to Texas Parks and Wildlife Code, Chapter 86, to remove or disturb approximately 1,350 cubic yards of sedimentary material within the Leon River along the southern boundary of Mother Neff State Park in Coryell County. The location is 0.02 miles upstream of State Highway 236 at approximately 31°18'52.11"N and 97°28'22.06"W. Flooding in 2021 resulted in a large blockage of mostly woody debris in the Leon River approximately 1,459 feet in length at this location. TPWD-SP acquired an Emergency Watershed Protection Grant from the Natural Resources Conservation Service to remove the debris, mitigate flood damage, and restore natural flows to the Leon River. The quantity of silt uncovered under the woody debris has high potential to catch more debris and result in another blockage of the Leon River. TPWD-SP proposes to remove the silt deposit to restore the Leon River channel to its natural state prior to the 2021 blockage. The natural river channel will not be disturbed or excavated during the work. No known threatened or endangered species were found during surveys conducted in the spring of 2023. Impacts to wildlife should be minimal because the river channel will not be disturbed or excavated. TPWD-SP does not anticipate future removal efforts of silt or debris. This notice is being published and mailed pursuant to 31 TAC §69.105(d).

TPWD will hold a public comment hearing regarding the application at 11:00 a.m. on Friday, November 3, 2023, at TPWD headquarters, located at 4200 Smith School Road, Austin, Texas 78744. A remote participation option will be available upon request. Potential attendees should contact Sue Reilly at (512) 389-8622 or at sue.reilly@tpwd.texas.gov for information on how to participate in the hearing remotely. The hearing is not a contested case hearing under the Texas Administrative Procedure Act. Oral and written public comment will be accepted during the hearing.

Written comments may be submitted directly to TPWD and must be received no later than 30 days after the date of publication of this notice in the *Texas Register*. A written request for a contested case hearing from an applicant or a person with a justiciable interest may also be submitted and must be received by TPWD prior to the close of the public comment period. Timely hearing requests shall be referred to the State Office of Administrative Hearings. Submit written comments, questions, requests to review the application, or requests for a contested case hearing to the TPWD Sand and Gravel Program by mail: Attn: Sue Reilly, Texas Parks and Wildlife Department, Inland Fisheries Division, 4200 Smith School Road, Austin, Texas 78744; or via e-mail: sand.gravel@tpwd.texas.gov.

TRD-202303552

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: September 27, 2023

## Permian Basin Metropolitan Planning Organization

### Notice to Professional Consultants Request for Qualifications (RFQ)

The Permian Basin Metropolitan Planning Organization (MPO) for the Midland-Odessa metropolitan area, is seeking proposals from qualified individuals or firms for consultant services to assist with specific tasks for on call Contract for General Transportation Planning assistance.

To view the full RFQ document, visit our website at [www.permianbasinmpo.com](http://www.permianbasinmpo.com).

For more information, contact Cameron Walker at Permian Basin MPO, (432) 617-0129.

TRD-202303540

Cameron Walker

Executive Director

Permian Basin Metropolitan Planning Organization

Filed: September 25, 2023

## Texas Public Finance Authority

### Request for Qualifications Bond Counsel 2023

Pursuant to Texas Government Code, Sections 1232.059 and 1201.027, the Texas Public Finance Authority (the "Authority") solicits responses to this Request for Qualifications ("RFQ") from law firms interested in providing bond counsel services, including disclosure counsel services, to the Authority for up to a four-year period beginning December 1, 2023.

Based on consideration of the responses to this RFQ, the Authority's Board of Directors (the "Board") may either: (1) select one or more firms with which to contract for all bond matters; or (2) pre-qualify firms eligible to be selected for an engagement for a specific bond issuance. The number of contracts resulting from this RFQ, and all procedures relating to such contracts, are subject to the discretion of the Board. Further, contracts and related invoices resulting from this RFQ are subject to approval by the Office of the Attorney General. The Authority has determined that this solicitation does not provide subcontracting opportunities for bond counsel services.

A copy of the RFQ is available on the Authority's website at <http://www.tpfa.texas.gov/rfp.aspx> and the Electronic State Business Daily ("ESBD") at <http://www.txsmartbuy.com/sp>.

Responses are due no later than 3:00 p.m. (CT) on October 16, 2023, pursuant to the instructions in the RFQ.

TRD-202303539

Kevin Van Oort

General Counsel

Texas Public Finance Authority

Filed: September 25, 2023

## Public Utility Commission of Texas

### Notice of Application to Amend Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas on September 22, 2023, to amend a designation as an eligible telecommunications carrier (ETC) in the State

of Texas under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Docket Title and Number: Application of TAG Mobile, LLC to Amend Eligible Telecommunications Carrier Designation, Docket Number 55586.

The Application: TAG Mobile requests that its ETC designation be amended to reflect a new name: Air Voice Wireless, LLC.

Persons who wish to file a motion to intervene or comments on the application should contact the commission no later than October 26, 2023, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 55586.

TRD-202303546

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: September 26, 2023

### Preliminary Notice and Request for Comments on Chapter 21 Rule Review

The Public Utility Commission of Texas (commission) publishes this preliminary notice of intention to review Chapter 21, Interconnection Agreements for Telecommunications Service Providers, in accordance with Texas Government Code §2001.039, Agency Review of Existing Rules. The text of the rules may be found in the Texas Administrative Code, Title 16, Economic Regulation, Part 2, or through the commission's website at [www.puc.texas.gov](http://www.puc.texas.gov).

The commission seeks comments on whether any rule in Chapter 21 should be repealed or amended. Interested persons may file comments electronically through the interchange on the commission's website or may submit comments to the filing clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Friday, October 13 2023. When filing comments, interested persons are requested to comment on the sections in the same order they are found in the chapter and to clearly designate which section is being commented upon. All comments should refer to Project Number 55293.

If it is determined that any section of Chapter 21 needs to be repealed or amended, and that the repeal or amendment can be completed as a part of this rule review, the commission will include the proposed repeal or amendment into its formal notice of intention to review Chapter 21. Interested persons will have an opportunity to comment on these proposed rule repeals and amendments at that time.

If it is determined that any section of Chapter 21 may need to be repealed or amended, but the repeal or amendment requires further investigation or is inappropriate for consideration as a part of a rule review, the commission may consider the repeal or amendment in a future rule-making proceeding.

TRD-202303514

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: September 21, 2023

Preliminary Notice and Request for Comments on Chapter 27 Rule Review

The Public Utility Commission of Texas (commission) publishes this preliminary notice of intention to review Chapter 27, Rules for Administrative Services, in accordance with Texas Government Code §2001.039, Agency Review of Existing Rules. The text of the rules may be found in the Texas Administrative Code, Title 16, Economic Regulation, Part 2, or through the commission's website at www.puc.texas.gov.

The commission seeks comments on whether any rule in Chapter 27 should be repealed or amended. Interested persons may file comments electronically through the interchange on the commission's website or may submit comments to the filing clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Friday, October 13, 2023. When filing comments, interested persons are requested to comment on the sections in the same order they are found in the chapter and to clearly designate which section is being commented upon. All comments should refer to Project Number 55307.

If it is determined that any section of Chapter 27 needs to be repealed or amended, and that the repeal or amendment can be completed as a part of this rule review, the commission will include the proposed repeal or amendment into its formal notice of intention to review Chapter 27. Interested persons will have an opportunity to comment on these proposed rule repeals and amendments at that time.

If it is determined that any section of Chapter 27 may need to be repealed or amended, but the repeal or amendment requires further investigation or is inappropriate for consideration as a part of a rule review, the commission may consider the repeal or amendment in a future rule-making proceeding.

TRD-202303515  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 21, 2023



Public Notice of Public Hearing on Proposed ERCOT Budget for 2024 and 2025 and Request for Comments

The staff of the Public Utility Commission of Texas (commission) will hold a public hearing regarding the proposed budget and System Administrative Fee (Fee) for 2024 and 2025 for the Electric Reliability Council of Texas (ERCOT) on Friday, October 13, 2023 at 9:30 a.m. in the Commissioners Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Project Number 38533, *PUC Review of ERCOT Budget*, has been established for this proceeding. 16 Texas Administrative Code §25.363(d) (relating to ERCOT Budget and Fees), requires ER-

COT to submit for commission review its board-approved budget, budget strategies, and staffing needs, with a justification for all expenses, capital outlays, additional debt, and staffing requirements.

The commission may approve, modify, or reject ERCOT's proposed budget and any item included in the proposed budget. Under Public Utility Regulatory Act (PURA) section 39.151, the proceeding to consider changes to ERCOT's proposed budget or to authorize and set the range for the Fee is not a contested case. Additionally, under section 39.151, the commission may require ERCOT to prepare an annual or biennial budget. Finally, the commission must review ERCOT's performance as part of the budget review process. On August 25, 2023, ERCOT made a filing in Project Number 38533 entitled "ERCOT's 2024/2025 Biennial Budget and System Administration Fee Submission." As part of its 2024 and 2025 budget, ERCOT proposes to increase the Fee from \$0.555 per MWh to \$0.710 per MWh.

Questions concerning the public hearing or this notice should be referred to Kasey Feldman-Thomason, General Counsel, (512) 936-7144. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1.

TRD-202303538  
Andrea Gonzalez  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 25, 2023



**Texas State Soil and Water Conservation Board**

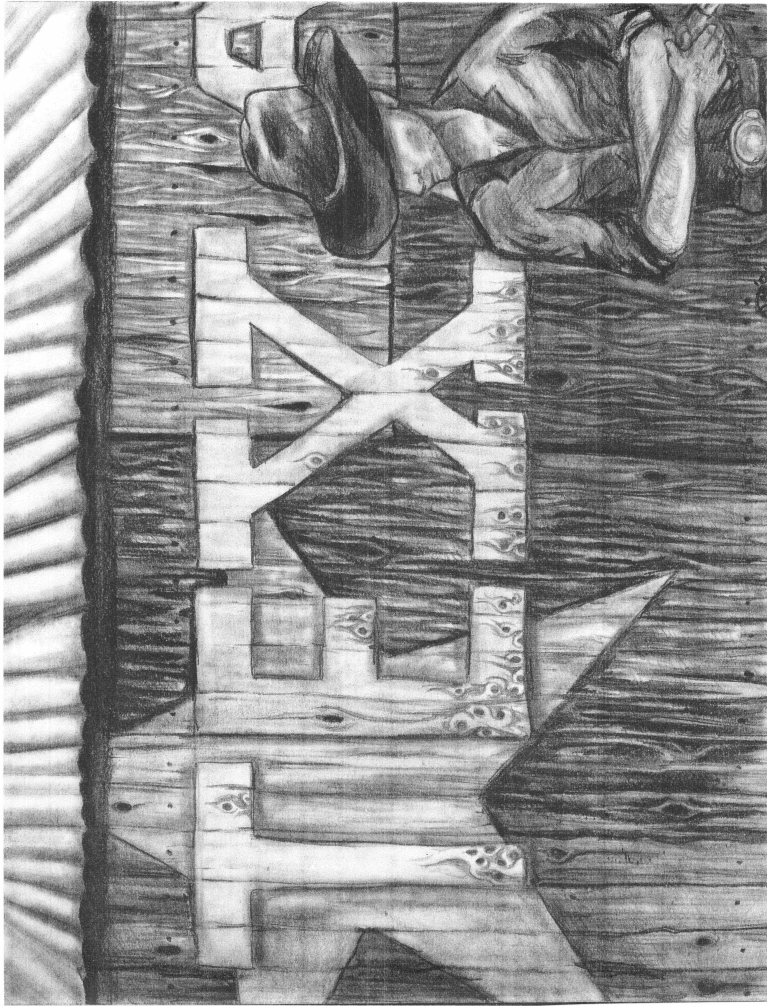
Correction of Error

The Texas State Soil and Water Conservation Board adopted an amendment to 31 TAC §519.8 in the September 22, 2023, issue of the *Texas Register* (48 TexReg 5552). The amendment was effective September 28, 2023.

Due to an error by the Texas Register, incorrect information was published in the signature block at the end of the adoption. The correct information should have been published as follows:

Heather Bounds  
Government Affairs Specialist  
Texas State Soil and Water Conservation Board  
Effective date: September 28, 2023  
Proposal publication date: August 4, 2023  
For further information, please call: (254) 773-2250 x247  
TRD-202303532





## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 48 (2023) is cited as follows: 48 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “48 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 48 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
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26. Health and Human Services
28. Insurance
30. Environmental Quality
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34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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