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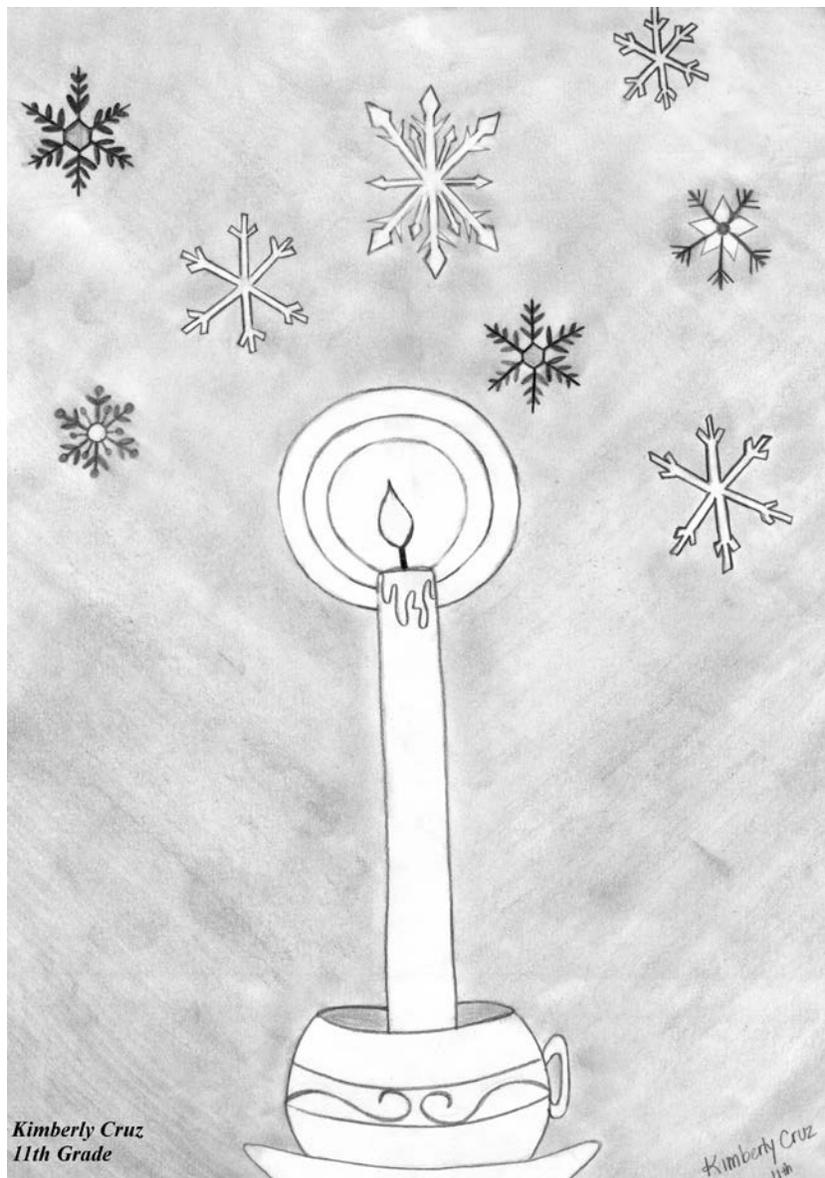
# TEXAS REGISTER

*Volume 40 Number 50*

*December 11, 2015*

*Pages 8835 - ; 234*

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School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

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# TEXAS REGISTER

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# Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:  
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: [register@sos.state.tx.us](mailto:register@sos.state.tx.us)

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://texasattorneygeneral.gov/og/open-government>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:  
<http://www.texas.gov>

...

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

# 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 October 6, 2015

Appointed to the Texas State Board of Pharmacy for a term to expire August 31, 2021, Isaac L. "Chip" Thornsburg of San Antonio (replacing Charles F. Wetherbee of Boerne whose term expired).

Appointed to the Texas State Board of Pharmacy for a term to expire August 31, 2021, Rebecca "Suzette" Tijerina of Castle Hills (replacing Joyce A. Tipton of Fulshear whose term expired).

Appointed to the Texas State Board of Pharmacy for a term to expire August 31, 2021, Jennifer D. "Jenny" Yoakum of Kilgore (replacing Wilson "Ben" Fry of San Benito whose term expired).

### Appointments for October 20, 2015

Appointed to the Texas Crime Stoppers Council for a term to expire September 1, 2017, Jeffrey B. "J.B." Smith of Lufkin (replacing Chief William R. "Randy" McDaniel of Montgomery who resigned).

### Appointments for October 21, 2015

Designating Robert W. "Bobby" Jenkins of Austin as presiding officer of the Texas Higher Education Coordinating Board for a term at the pleasure of the Governor. Mr. Jenkins is replacing Harold W. Hahn of El Paso as presiding officer.

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2021, Ramon Manning of Houston (replacing Mark Warner Eidman of Austin whose term expired).

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2021, Rodney K. Moore of Lufkin (Mr. Moore is being reappointed).

### Appointments for October 26, 2015

Pursuant to HB 1396, 84th Legislature, Regular Session, appointed to the Commission to Study and Review Certain Penal Laws for a term at the pleasure of the Governor, Justin "Brett" Busby of Houston.

Pursuant to HB 1396, 84th Legislature, Regular Session, appointed to the Commission to Study and Review Certain Penal Laws for a term at the pleasure of the Governor, Andrea S. Thomson of Plano. Ms. Thompson will serve as presiding officer of the commission.

### Appointments for October 27, 2015

Pursuant to HB 48, 84th Legislature, Regular Session, appointed to the Timothy Cole Exoneration Commission for a term at the pleasure of the Governor, Charles R. Eskridge III of Houston.

### Appointments for October 28, 2015

Appointed to the Texas Private Security Board for a term to expire January 31, 2019, Debbra G. "Debi" Ulmer of Houston (replacing Charles E. Crenshaw of Spicewood who resigned).

### Appointments for October 30, 2015

Designating Jason P. Cooper of Midland as presiding officer of the Texas Physician Assistant Board for a term at the pleasure of the Governor. Mr. Cooper is replacing Margaret K. Bentley of DeSoto as presiding officer.

Appointed to the Texas Farm and Ranch Lands Conservation Council for a term to expire February 1, 2021, Leslie L.W. Kinsel of Cotulla (replacing Daniel Dierschke of Austin whose term expired).

Appointed to the Texas Farm and Ranch Lands Conservation Council for a term to expire February 1, 2021, Natalie C. Koehler of Clifton (replacing James C. Cathey of College Station whose term expired).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2017, Jennifer L. Clarner of Austin (Pursuant to SB 622, 84th Legislature, Regular Session).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2019, Melinda A. Gottschalk of Round Rock (Pursuant to SB 622, 84th Legislature, Regular Session).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2021, Clayton P. "Clay" Bulls of Abilene (Pursuant to SB 622, 84th Legislature, Regular Session).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2021, Karrie L. Crosby of Waco (replacing Linda C. Delaney of Allen whose term expired).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2021, Maribel De Ponce of McAllen (Pursuant to SB 622, 84th Legislature, Regular Session).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2021, Victor Ho of Houston (replacing Reginald C. "Reg" Baptiste of Austin whose term expired).

Appointed to the Texas Physician Assistant Board for a term to expire February 1, 2021, Jorge Martinez of McAllen (replacing Margaret K. Bentley of DeSoto whose term expired).

### Appointments for November 3, 2015

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2021, Larry Gene Holt of College Station (Mr. Holt is being reappointed).

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2021, Romanita Matta-Barrera of San Antonio (replacing Martha Doty Freeman of West Lake Hills whose term expired).

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2021, Martha Wong of Houston (replacing Sandra S. Pickett of Liberty whose term expired).

### Appointments for November 4, 2015

Designating J. Coalter Baker of Austin as presiding officer of the Texas State Board of Public Accountancy for a term at the pleasure of the

Governor. Mr. Baker is replacing Thomas G. Prothro of Tyler as presiding officer.

Appointed to the Texas State Board of Public Accountancy for a term to expire January 31, 2021, Ross T. Johnson of Houston (replacing Everett R. Ferguson of Abilene whose term expired).

Appointed to the Texas State Board of Public Accountancy for a term to expire January 31, 2021, Timothy L. "Tim" LaFrey of Austin (replacing Maribess L. Miller of Dallas whose term expired).

Appointed to the Texas State Board of Public Accountancy for a term to expire January 31, 2021, Alice Roselyn "Rosie" Morris of San Marcos (replacing James C. Flagg of Brenham whose term expired).

Appointed to the Texas State Board of Public Accountancy for a term to expire January 31, 2021, Benjamin "Ben" Pena of Mission (replacing Thomas G. Prothro of Tyler whose term expired).

Appointed to the Texas State Board of Public Accountancy for a term to expire January 31, 2021, Kimberly E. Wilkerson of Lubbock (replacing Jon R. Keeney of Lake Village whose term expired).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2017, Jarrod D. Smith of Danbury (replacing Cynthia O. "Cindy" Bourland of Round Rock who resigned).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, Russel D. "Rusty" Boles of Round Rock (replacing Robert E. "Bob" Tesch of Georgetown whose term expired).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, Cynthia A. Flores of Round Rock (replacing Sara L. Mackie of Salado whose term expired).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, Charles R. "Rick" Huber III of Granbury (replacing Michel "Todd" Brashears of Wolfforth whose term expired).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, John Henry Luton of Granbury (replacing Chet D. Creel of Newcastle whose term expired).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, William J. "Bill" Rankin of Brenham (Mr. Rankin is being reappointed).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, Jeffrey S. "Jeff" Tallas of Sugar Land (Mr. Tallas is being reappointed).

Appointed to the Brazos River Authority Board of Directors for a term to expire February 1, 2021, William W. "Ford" Taylor III of Waco (replacing Kari Belt of Gatesville whose term expired).

#### **Appointments for November 5, 2015**

Appointed to the Texas Real Estate Commission for a term to expire January 31, 2021, Robert H. "Bob" Leonard of San Antonio (replacing Jaime B. Hensley of Lufkin whose term expired).

Appointed to the Texas Real Estate Commission for a term to expire January 31, 2021, Rayito O. Stephens of Pearland (replacing Joanne H. Justice of Arlington whose term expired).

Appointed to the Texas Real Estate Commission for a term to expire January 31, 2021, Thomas J. "T.J." Turner of Austin (Mr. Turner is being reappointed).

#### **Appointments for November 6, 2015**

Appointed to the Texas Racing Commission for a term to expire February 1, 2021, Gary P. Aber of Simonton (Dr. Aber is being reappointed).

Appointed to the Texas Racing Commission for a term to expire February 1, 2021, Margaret L. Martin of Boerne (replacing Vicki Smith Weinberg of Colleyville whose term expired).

Appointed to the Texas Racing Commission for a term to expire February 1, 2021, Rolando Pablos of El Paso (replacing Michael Floyd Martin of San Antonio whose term expired).

Appointed to the Governing Board of the Texas School for the Deaf for a term to expire January 31, 2019, David A. Saunders of Waxahachie (replacing Beatrice Burke of Temple whose term expired).

Appointed to the Governing Board of the Texas School for the Deaf for a term to expire January 31, 2021, Ryan D. Hutchison of Austin (replacing Walter "Walt" Camenisch III of Austin whose term expired).

#### **Appointments for November 9, 2015**

Appointed to the University of North Texas System Board of Regents for a term to expire May 22, 2021, Ashok K. "A.K." Mago of Dallas (replacing Stephen H. "Steve" Mitchell of Richardson whose term expired).

Appointed to the University of North Texas System Board of Regents for a term to expire May 22, 2021, George B. "Brint" Ryan of Dallas (Mr. Ryan is being reappointed).

Appointed to the University of North Texas System Board of Regents for a term to expire May 22, 2021, Laura Wright of Dallas (replacing Michael R. "Mike" Bradford of Midland whose term expired).

#### **Appointments for November 10, 2015**

Appointed to the State Independent Living Council for a term to expire October 24, 2016, Colton J. Read of New Braunfels (replacing Saul Herrera of Midland whose term expired).

Appointed to the State Independent Living Council for a term to expire October 24, 2017, Martha Bagley of Austin (replacing Laurie Pryor of Fort Worth who no longer qualifies).

Appointed to the State Independent Living Council for a term to expire October 24, 2018, James M. "Jim" Brocato of Beaumont (Mr. Brocato is being reappointed).

Appointed to the State Independent Living Council for a term to expire October 24, 2018, Richard Couder of El Paso (Mr. Couder is being reappointed).

Appointed to the State Independent Living Council for a term to expire October 24, 2018, Ralph E. Jones, Sr. of Harlingen (replacing John E. Hobgood of Lubbock who is deceased).

Appointed to the State Independent Living Council for a term to expire October 24, 2018, Mack J. Marsh, Jr. of Cedar Park (replacing Randell K. Resneder of Lubbock whose term expired).

Pursuant to HB 2804, 84th Legislature, Regular Session, appointed to the Texas Commission on Next Generation Assessments and Accountability, for a term at the pleasure of the Governor, Andrew B. Kim of New Braunfels.

Pursuant to HB 2804, 84th Legislature, Regular Session, appointed to the Texas Commission on Next Generation Assessments and Accountability, for a term at the pleasure of the Governor, Michael H. "Mike" Morath of Dallas. Mr. Morath will serve as presiding officer of the board.

Pursuant to HB 2804, 84th Legislature, Regular Session, appointed to the Texas Commission on Next Generation Assessments and Accountability, for a term at the pleasure of the Governor, Mary "Theresa" Treviño of Austin.

Pursuant to HB 2804, 84th Legislature, Regular Session, appointed to the Texas Commission on Next Generation Assessments and Accountability, for a term at the pleasure of the Governor, Quinton D. "Quinn" Vance of Dallas.

#### **Appointments for November 13, 2015**

Appointed as Deputy Adjutant General for Air for a term at the pleasure of the Governor, Dawn M. Ferrell of Wichita Falls (replacing Kenneth W. "Ken" Wisian).

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Stephen C. "Steve" Head of The Woodlands.

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Marcus R. "Mark" Griffin of Lubbock.

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Alejandro G. "Alex" Meade, III of Mission.

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Michael W. "Mike" Rollins of Austin.

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Nancy C. Windham of Nacogdoches.

Pursuant to Government Code 481.024, appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Sanjiv Yajnik of Dallas. Mr. Yajnik will serve as presiding officer of the corporation.

Appointed to the Texas Economic Development Corporation as Governor's Designee/Ex-Officio Member, Tracie McDaniel of Austin.

Appointed to the Texas Economic Development Corporation as Executive Director/Ex-Officio Member, Bryan Daniel of Austin.

#### **Appointments for November 16, 2015**

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2017, Thomas A. "Tom" Reiser of Houston (replacing Zebulun "Zeb" Nash of Houston whose term expired).

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2017, Douglas E. "Doug" Walker of Beach City (Mr. Walker is being reappointed).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2016, Neva M. Fairchild of Carrollton (replacing Roger L. Cortez of Georgetown who resigned).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2017, Susan M. "Susie" May of Austin (replacing Brent L. Pitt of Austin whose term expired).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, Lonny Matthew "Matt" Berend of Abilene (pursuant to 29 U.S. Code, Sect. 725).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, James M. "Jim" Brocato of Beaumont (replacing Saul Herrera of Midland whose term expired).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, JoAnne J. Fluke of Luberton (replacing Rana D. Anderson of Snyder whose term expired).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, Casey D. Hertel of Abilene (Mr. Hertel is being reappointed).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, Paul R. Hunt of Austin (replacing John A. Cage of Helotes whose term expired).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, Troyon R. "Troy" Myree of Houston (Mr. Myree is being reappointed).

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2018, Crystal W. Stark of College Station (pursuant to 29 U.S. Code, Sect. 725).

#### **Appointments for November 17, 2015**

Appointed to the Parks and Wildlife Commission for a term to expire February 1, 2019, Anna Benavides Galo of Laredo (replacing Roberto Enrique De Hoyos of Austin).

Appointed to the Parks and Wildlife Commission for a term to expire February 1, 2021, Jeanne W. Latimer of San Antonio (replacing Dan Allen Hughes, Jr. of San Antonio whose term expired).

Appointed to the Parks and Wildlife Commission for a term to expire February 1, 2021, Stanley "Reed" Morian of Houston (Mr. Morian is being reappointed).

Appointed to the Parks and Wildlife Commission for a term to expire February 1, 2021, Kelcy L. Warren of Dallas (replacing Margaret Martin of Boerne whose term expired).

Appointed as the State Refugee Coordinator for Texas for a term at the pleasure of the Governor, Cecile E. Young of Austin.

#### **Appointments for November 23, 2015**

Appointed to Humanities Texas for a term to expire December 31, 2016, Mary Louise Albritton of Fort Worth (replacing Joy Ann Havran of Fort Worth whose term expired).

Appointed to Humanities Texas for a term to expire December 31, 2016, Jennifer D. "Jenni" Hord of Midland (replacing Maceo Crenshaw Dailey, Jr. of El Paso whose term expired).

Appointed to Humanities Texas for a term to expire December 31, 2016, Amy M. Warren of Dallas (replacing Venus F. Strawn of Austin whose term expired).

#### **Appointments for November 30, 2015**

Appointed to the Texas Military Preparedness Commission for a term to expire February 1, 2019, Carol Ann H. Bonds of San Angelo (replacing Charles E. "Charlie" Powell of San Angelo who resigned).

Appointed to the Texas Military Preparedness Commission for a term to expire February 1, 2019, Darrell G. Coleman of Wichita Falls (replacing Thomas A. Whaylen of Wichita Falls who resigned).

Appointed to the State Pension Review Board for a term to expire January 31, 2021, Stephanie V. Leibe of Austin (replacing Wayne R. Roberts of Austin whose term expired).

Appointed to the State Pension Review Board for a term to expire January 31, 2021, Joshua B. "Josh" McGee of Houston (replacing Paul A. Braden of Dallas whose term expired).

Appointed to the State Pension Review Board for a term to expire January 31, 2021, Ernest Richards of Irving (replacing Leslie L. Greco-Pool of Trophy Club whose term expired).

Designating Joshua B. "Josh" McGee of Houston as presiding officer of the Texas Pension Review Board for a term at the pleasure of the Governor. Dr. McGee is replacing Paul A. Braden of Dallas as presiding officer.

Greg Abbott, Governor

TRD-201505154



Proclamation 41-3461

WHEREAS, the resignation of the Honorable Joe Farias, and its acceptance, has caused a vacancy to exist in Texas State House District No. 118, which consists of a part of Bexar County; and

WHEREAS, Article III, Section 13 of the Texas Constitution and Section 203.002 of the Texas Election Code require that a special election be ordered upon such a vacancy; and

WHEREAS, the vacancy occurred on August 10, 2015, and, therefore, pursuant to Section 203.004 of the Texas Election Code, the special election must be held on the first uniform date occurring on or after the 36th day after the date the special election is ordered; and

WHEREAS, Section 3.003 of the Texas Election Code requires the special election to be ordered by proclamation of the governor; and

WHEREAS, Tuesday, November 3, 2015, is the first uniform election date, occurring on or after the 36th day after the date the special election is ordered;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby order a special election to be held in House District No. 118 on Tuesday, November 3, 2015, for the purpose of electing a state representative to serve out the unexpired term of The Honorable Joe Farias.

Candidates who wish to have their names placed on the special election ballot must file their applications with the secretary of state no later than 5:00 p.m. on Wednesday, September 2, 2015, in accordance with Section 201.054(a)(1), of the Texas Election Code.

Early voting by personal appearance shall begin on Monday, October 19, 2015, in accordance with Section 85.001(a) of the Texas Election Code.

A copy of this order shall be mailed immediately to the County Judge of Bexar County, and all appropriate writs will be issued and all proper proceedings will be followed for the purpose that said election may be held to fill the vacancy in District No. 118 and its result proclaimed in accordance with the law.

IN TESTIMONY WHEREOF, I have hereto 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 25th day of August, 2015.

Greg Abbott, Governor

TRD-201505156



# THE ATTORNEY GENERAL

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

An index to the full text of these documents is available from  
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. 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: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Requests for Opinions

**RQ-0075-KP**

**Requestor:**

Ms. Judy McAdams

Victoria County Auditor

115 North Bridge, Room 122

Victoria, Texas 77901

Re: Whether a criminal district attorney may use forfeiture funds to investigate operations of a juvenile detention center (RQ-0075-KP)

**Briefs requested by December 18, 2015**

**RQ-0076-KP**

**Requestor:**

The Honorable Brian Birdwell

Chair, Committee on Nominations

Texas State Senate

Post Office Box 12068

Austin, Texas 78701-2068

Re: Authority of a president or chief executive officer of an institution of higher education to establish certain rules regarding the carrying of handguns on campus (RQ-0076-KP)

**Briefs requested by December 21, 2015**

**RQ-0077-KP**

**Requestor:**

Mr. Ronald Kubecka, President and Chair

Lavaca-Navidad River Authority Board of Directors

Post Office Box 429

Edna, Texas 77957

Re: Whether river authorities may adopt regulations that prohibit the possession of firearms on river authority parklands (RQ-0077-KP)

**Briefs requested by December 28, 2015**

*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-201505162

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: November 24, 2015



Requests for Opinions

**RQ-0078-KP**

**Requestor:**

Ms. Betty Jez

Austin County Auditor

1 East Main Street

Bellville, Texas 77418

Re: What qualifies as a "judicial function" of a county judge such that the judge may claim a state salary supplement under section 26.006 of the Government Code (RQ-0078-KP)

**Briefs requested by December 30, 2015**

**RQ-0079-KP**

**Requestor:**

Ms. Christina Moreno

Bandera County Auditor

Post Office Box 563

Bandera, Texas 78003

Re: Whether article III, section 52 of the Texas Constitution prohibits a county from providing financial assistance to a non-profit organization (RQ-0079-KP)

**Briefs requested by December 30, 2015**

*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-201505237

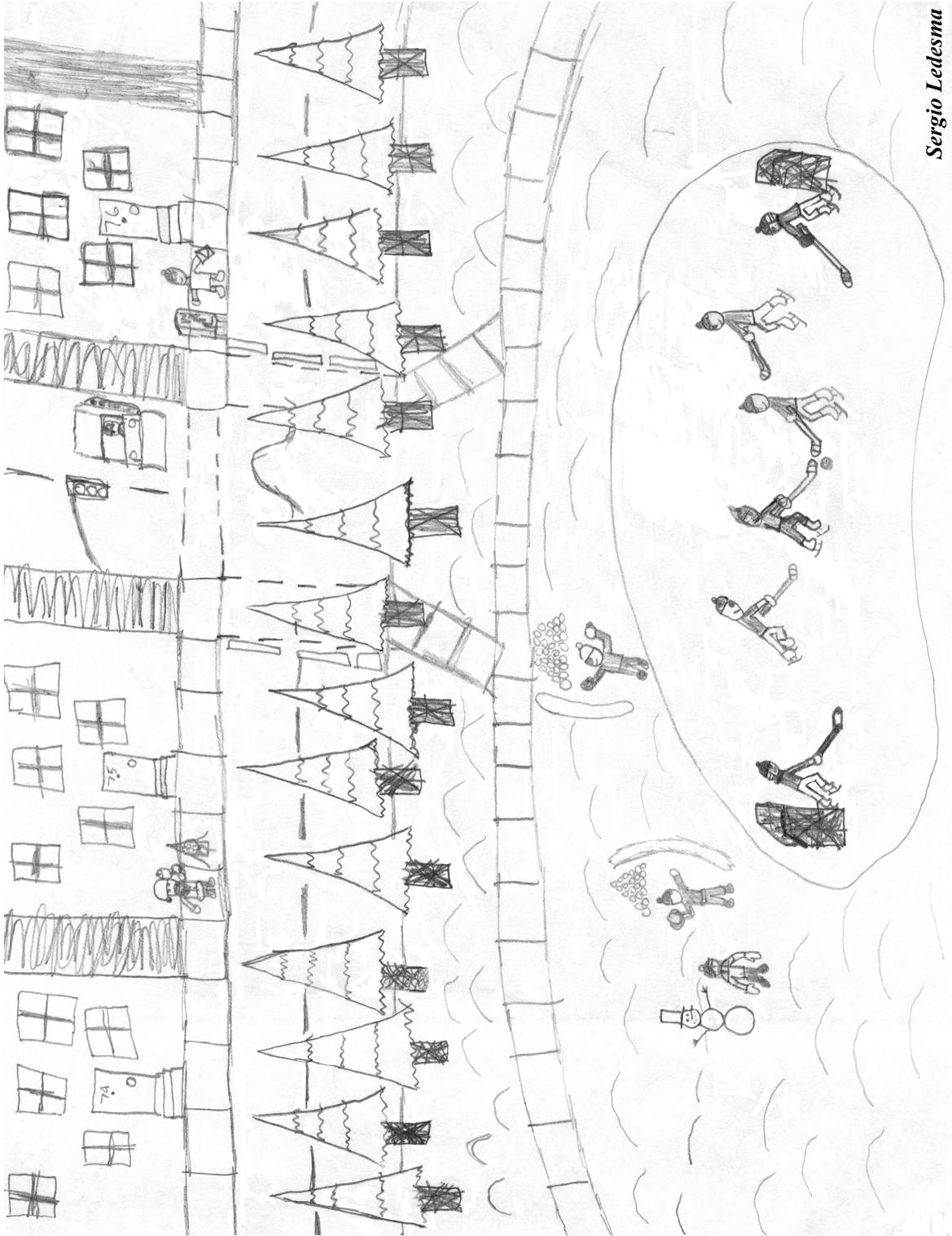
Amanda Crawford

General Counsel

Office of the Attorney General

Filed: December 1, 2015





Sergio Ledesma

# EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

## TITLE 22. EXAMINING BOARDS

### PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

#### CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

##### 22 TAC §153.9

The Texas Appraiser Licensing and Certification Board is renewing the effectiveness of the emergency amendment to §153.9. The emergency rule will expire when the adopted rule takes effect. The text of the emergency amendment was originally published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5559).

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505151  
Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Original effective date: September 1, 2015  
Expiration date: January 1, 2016  
For further information, please call: (512) 936-3652



##### 22 TAC §153.17

The Texas Appraiser Licensing and Certification Board is renewing the effectiveness of the emergency amendment to §153.17. The emergency rule will expire when the adopted rule takes effect. The text of the emergency amendment was originally published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5560).

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505152  
Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Original effective date: September 1, 2015  
Expiration date: January 1, 2016  
For further information, please call: (512) 936-3652



#### CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE SUBCHAPTER C. POST HEARING

##### 22 TAC §157.18

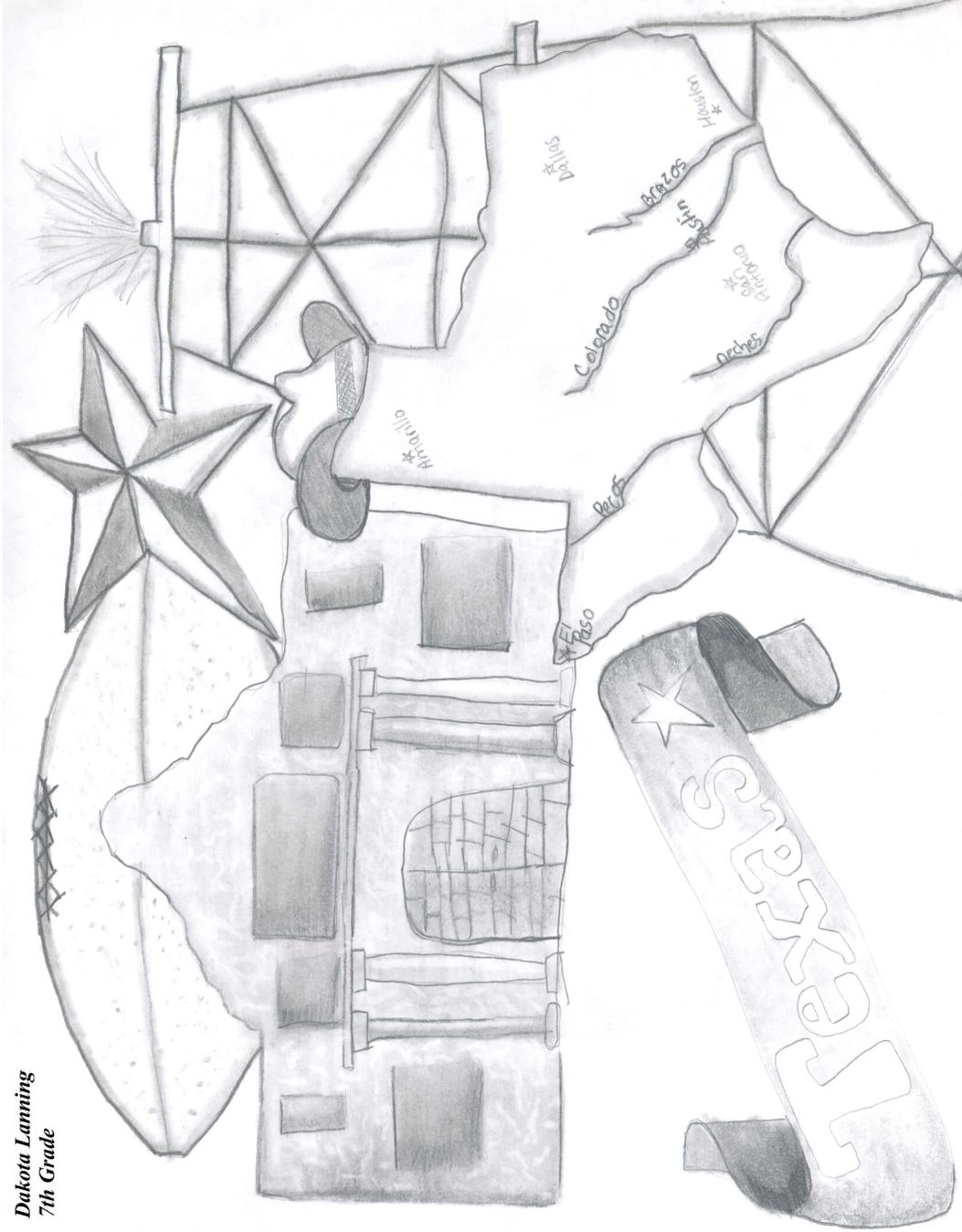
The Texas Appraiser Licensing and Certification Board is renewing the effectiveness of the emergency amendment to §157.18. The emergency rule will expire when the adopted rule takes effect. The text of the emergency amendment was originally published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5561).

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505153  
Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Original effective date: September 1, 2015  
Expiration date: January 1, 2016  
For further information, please call: (512) 936-3652



Dakota Lanning  
7th Grade



# 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 1. ADMINISTRATION

### PART 5. TEXAS FACILITIES COMMISSION

#### CHAPTER 116. PROPERTY MANAGEMENT DIVISION

##### SUBCHAPTER A. STATE OWNED PROPERTY

###### 1 TAC §116.3

Introduction and Background.

The Texas Facilities Commission (the "Commission") proposes an amendment to Chapter 116, §116.3. During its rule review, published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6941), the Commission reviewed and considered Texas Administrative Code, Title 1, Part 5, Chapter 116 for re-adoption, revision, or repeal in accordance with Texas Government Code §2001.039 (West 2008). The Commission considered, among other things, whether the agency rulemaking authority and business necessity associated with the adoption of the rules continued to exist. No comments were received during the proposed rule review. The Commission determined that the chapter should be re-adopted with amendments. Accordingly, the Commission proposes an amendment to §116.3.

Section by Section Summary.

Section 116.3 sets out the procedure for submitting maintenance, repair, and modification service requests. Subsection (a) specifically sets out the procedure for submitting maintenance service requests. In order to reflect current agency processes and procedures, the Commission proposes an amendment to this subsection. The amendment would delete the word "facsimile." The Commission no longer accepts maintenance service requests by facsimile. The amendment is necessary to reflect the current process and procedures of the agency.

Fiscal Note.

Harvey Hilderbran, Executive Director, has determined that for each year of the first five-year period the proposed rule amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendment.

Public Benefit/Cost Note.

Mr. Hilderbran has also determined that for each year of the first five-year period the proposed amendment is in effect the public benefit will be notice of current agency processes and procedures.

Mr. Hilderbran has further determined that there will be no effect on individuals or large, small, and micro-businesses as a result of the proposed amendment. Consequently, an Economic Impact Statement and Regulatory Flexibility Analysis, pursuant to Texas Government Code §2006.002 (West 2008), are not required.

In addition, Mr. Hilderbran has determined that for each year of the first five-year period the proposed amendment is in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under Administrative Procedure Act, Texas Government Code §2001.022 (West 2008).

Request for Comments.

Interested persons may submit written comments on the proposed amendment to General Counsel, Legal Services Division, Texas Facilities Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments may also be sent via email to [rulescomments@tfc.state.tx.us](mailto:rulescomments@tfc.state.tx.us). For comments submitted electronically, please include "Section 116.3 Amendment" in the subject line. Comments must be received no later than thirty (30) days from the date of publication of the proposed amendment in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the proposed amendment. Questions concerning the proposed amendment may be directed to Kay Molina, General Counsel, at (512) 475-2400.

Statutory Authority.

The amended rule is proposed under Texas Government Code §2165.002 and §2165.058 (Vernon 2009).

Cross Reference to Statute.

The statutory provisions affected by the proposed amendment are those set forth in Chapter 2165 of the Texas Government Code.

*§116.3. Maintenance, Repairs, and Modifications.*

(a) Maintenance service requests may be made by telephone[; ~~facsimile~~] or e-mail to the Commission or through the Commission Facilities Service Center website located at <http://portal.tfc.state.tx.us/fcsm/facilityfrontpage.asp>. Requestor shall give his name, telephone number, location, nature of the maintenance service required, and assessment of the priority of the requirement, i.e., emergency, at first opportunity, or include in regular maintenance schedule.

(b) Facilities on the Commission's inventory may not be modified except by or under the control of the Commission.

(c) Requests for modifications of space in state-owned facilities under the Commission's control shall be made through the Commission Facilities Service Center website located at <http://portal.tfc.state.tx.us/fcsm/facilityfrontpage.asp>.

(d) Modifications or improvements to buildings carried on the Commission's inventory that become attached to and considered a part of the building may not be removed by the occupying agency without the Commission's approval.

(e) Equipment that is used specifically for the occupying agency's work process is the agency's responsibility to maintain.

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 November 24, 2015.

TRD-201505184

Kay Molina

General Counsel

Texas Facilities Commission

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 475-2400



## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 3. BOLL WEEVIL ERADICATION PROGRAM

##### SUBCHAPTER K. MAINTENANCE PROGRAM

###### 4 TAC §3.704

The Texas Department of Agriculture (the Department), upon the request and recommendation of the Texas Boll Weevil Eradication Foundation, proposes amendments to §3.704, concerning the West Texas Maintenance Area - Collection of Maintenance Fees. Amendments are proposed to clarify the process for collection of fees on cotton produced in the West Texas Maintenance area.

The proposed amendments will clarify the current process for the collection of maintenance fees. The proposal provides that maintenance fees can only be collected from the first point of sale. This avoids the possibility that a grower may be assessed fees at more than one collection point.

Stuart Strnad, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state government. There will be no fiscal impact for local governments as a result of administering or enforcing the rule amendment, as proposed.

Mr. Strnad has also determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of administering the proposed amendment will be clarification of the rule and the assurance that producers are not assessed fees by multiple collection points. There shall be no additional fees to micro-businesses, small businesses or individuals to comply with the proposed amendments.

Comments on the proposal may be submitted in writing to Stuart Strnad, Coordinator for Agriculture Commodity Boards and Producer Relations, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by email to [Stuart.Strnad@TexasAgriculture.gov](mailto:Stuart.Strnad@TexasAgriculture.gov). Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

The amendments are proposed in accordance with the Texas Agriculture Code (the Code), §74.203, which provides the Department with the authority to adopt rules to impose a maintenance fee on all cotton grown or on all cotton acres in a maintenance area.

The code that is affected by the proposal is Texas Agriculture Code, Chapter 74.

§3.704. *West Texas Maintenance Area - Collection of Maintenance Fees.*

(a) The first [All] central collection points receiving and shipping cotton produced in the West Texas Maintenance Area shall collect the per-bale maintenance fee on all cotton produced in the area, beginning upon receipt of the notifications from the Commissioner and the Foundation, and continuing until such time as the Commissioner gives notice otherwise.

(b) Beginning on the effective date of this subchapter and continuing for each year thereafter, until such time as the Commissioner gives notice otherwise, the first central collection points shall forward all West Texas Maintenance Area maintenance fees to the Foundation, for cotton grown in the year 2015 or later, on the following schedule:

(1) for all cotton that is sold, paid and shipped by February 15, and not previously submitted and reported, submit to the Foundation by March 1;

(2) for all cotton that is sold, paid and shipped by May 15, and not previously submitted and reported, submit to the Foundation by June 1; and

(3) for all cotton that is sold, paid and shipped by September 15, and not previously submitted and reported, submit to the Foundation by October 1.

(c) The first [Each] central collection point shall submit a report with each maintenance fee submission listing all West Texas Maintenance Area cotton received and shipped and the maintenance fees and remitted from such cotton proceeds, on a form promulgated by the Foundation.

(d) - (e) (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 November 30, 2015.

TRD-201505202

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 463-4075



## CHAPTER 30. COMMUNITY DEVELOPMENT

## SUBCHAPTER A. TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The Texas Department of Agriculture (Department) proposes amendments to §§30.1, 30.3, 30.7, 30.21, 30.23, 30.24, 30.26, 30.29, 30.52 - 30.54, 30.58, 30.63, 30.64, 30.81, 30.82, 30.84, 30.101, and 30.102; and new §30.65 and §30.66. The Department also proposes the retitling of Chapter 30, Subchapter A, from "Texas Community Development Program" to "Texas Community Development Block Grant Program" to reflect the accurate name of the program. The proposed amendments and new rules are to clarify existing rules, to clarify the Department's legal and regulatory authority to administer the program and to eliminate obsolete requirements to ensure a process that is more amenable for applicants, and to add two additional programs that have not been implemented under the Texas Community Development Block Grant (TxCDBG) Program, as administered by the Department.

The Department proposes amendments to §30.1 to clarify that, in addition to federal law cited in the existing rule, it administers the TxCDBG program pursuant to §12.038, Texas Agriculture Code, and Chapter 487 of the Texas Government Code; and the rules in this chapter relating to Community Development.

The Department proposes amendments to §30.3 to define two additional programs administered by the Department--the Small and Microenterprise Revolving Fund which is a new program the Department will implement in Program Year 2016, and the Colonias-to-Cities Initiative Program which has been included in the TxCDBG Action Plan for several years but never implemented. New §30.65 is proposed to implement rules relating to the Small and Microenterprise Revolving Fund program, and new §30.66 is proposed to implement rules relating to the Colonias-to-Cities Initiative Program.

The Department proposes to amend §30.7 to clarify prohibited conflicts of interest and §§30.21, 30.23, 30.24, 30.26, and 30.29 to clarify policies and procedures regarding multi-jurisdiction applications, citizen participation process, public hearing requirements, audit requirements, and application review.

The Department proposes amendments to §§30.52 - 30.54 to clarify requirements of the Texas Capital Fund (TCF) Program, to allow multiple awards if projects are located in different communities, and to allow flexibility on certain application thresholds.

The Department proposes to amend §30.58, relating to the Colonia Economically Distressed Areas Program Set-Aside, to delete inaccurate text.

The Department proposes amendments to §30.63 to change the application cycle for the Small Towns Environment Program (STEP) from a biannual cycle to a year-round basis, and to remove an eligibility restriction, and to update scoring criteria. If the proposed changes are adopted, STEP funds will become available to eligible communities on a first come first serve basis.

The Department proposes to amend §30.64 to revise the scoring criteria for Community Enhancement Fund awards.

The Department proposes to amend §30.81 to remove the requirement for specific contract provisions in third party grant administration contracts.

The Department proposes to amend §30.82 to clarify the applicability of this section to third party grant contract administrators by replacing the term "contractor" with "administrator."

The Department proposes to amend §30.84 by adding the phrase "at least" to provide the Department flexibility in imposing corrective actions for egregious violations.

The Department proposes amendments to §30.101 that are non-substantive in nature. The proposed change moves language from subsection (b) to new subsection (c).

The Department proposes to amend §30.102 to revise the re-allocation and use of unobligated TCF and STEP funds so that these funds may be carried over from one program year to the next.

Suzanne Barnard, Director for Community Development Block Programs at the Texas Department of Agriculture, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of the proposal.

Ms. Barnard has also determined that for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of administering the sections will be the implementation of new categories of program funding for eligible communities and projects, clarification of TxCDBG application and eligibility requirements, and access to two additional programs to be administered by the Department. There will be no adverse economic effect on micro-businesses, small businesses or individuals who are required to comply with the sections. Therefore, no regulatory flexibility analysis is necessary.

Written comments on the proposal may be submitted for 30 days following publication of this proposal to Suzanne Barnard, Office of Rural Affairs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 or by email to [Suzanne.Barnard@TexasAgriculture.gov](mailto:Suzanne.Barnard@TexasAgriculture.gov).

## DIVISION 1. GENERAL PROVISIONS

### 4 TAC §§30.1, 30.3, 30.7

The amendments are proposed under Texas Government Code §487.051, which provides the Department authority to administer the state's community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code Chapter 487.

#### §30.1. *Applicable Law.*

(a) Administration of the Texas Community Development Block Grant (TxCDBG) Program is in accordance with federal laws and regulations specified by the Housing and Community Development Act of 1974, as amended (42 USC §§5301 et seq.); ~~and~~ federal Community Development Block Grant Program Regulations ~~[regulations]~~ in 24 CFR Part 570; §12.038, Agriculture Code; Chapter 487, Title 4, Government Code; and this Chapter (relating to Community Development).

(b) - (c) (No change.)

#### §30.3. *Program Overview.*

(a) Fund categories. TxCDBG Program assistance is available through the following seven fund categories.

(1) (No change.)

(2) Texas Capital Fund (TCF) is designed to support rural business development, retention and expansion by providing grants and/or loans for real estate or infrastructure development, or the elimination of deteriorated conditions. TCF is composed of five ~~four~~ programs:

(A) - (D) (No change.)

(E) Small and Microenterprise Revolving Fund (SMRF) is available to communities partnering with a non-profit organization to provide loans to local small businesses.

(3) Colonia Fund is available for projects in severely distressed unincorporated areas which meet the definition of a colonia. The Colonia Fund is divided into five [~~four~~] programs:

(A) - (D) (No change.)

(E) Colonias-to-Cities Initiative Program (CCIP) provides assistance for basic infrastructure considered necessary for a colonia area to be annexed by an adjoining city.

(4) - (7) (No change.)

(b) (No change.)

#### §30.7. Conflict of Interest.

(a) Applicable law.

(1) The conflict of interest and procurement regulations prescribed by HUD in 2 CFR Part 200 [24 CFR Parts 58] and 24 CFR Part 570 apply to all contracts, subcontracts, or subawards entered into as a result of, or in furtherance of, a TxCDBG award or contract.

(2) (No change.)

(3) The conflict of interest restrictions and procurement requirements identified herein shall apply to a benefitting business, utility provider, or other third party entity that is receiving assistance, directly or indirectly, under a TxCDBG contract or award, or that is required to complete some or all work under the TxCDBG contract in order to meet the National Program Objective.

(b) Conflicts prohibited. Recipients of a TxCDBG contract or award shall avoid, neutralize or mitigate actual or potential conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of a Tx-CDBG contract or impact the integrity of the procurement process.

(c) [(b)] Match requirements. A community's cash match may not be obtained from any person or entity that provides contracted professional or construction-related services (other than utility providers) to the community to accomplish the purpose described in the TxCDBG contract, in accordance with 24 CFR Part 570.

(d) [(e)] Administration and engineering services. Administration and engineering services may not be provided to a community by the same firm or consultant.

(e) [(d)] Conflicting laws. In the event of a conflict between federal, state and local law, the more stringent provision shall control.

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 November 30, 2015.

TRD-201505203

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 463-4075



## DIVISION 2. APPLICATION INFORMATION

### 4 TAC §§30.21, 30.23, 30.24, 30.26, 30.29

The amendments are proposed under Texas Government Code §487.051, which provides the Department authority to administer the state's community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code Chapter 487.

#### §30.21. Type and Number of Applications.

(a) The following two types of applications are permitted under the TxCDBG Program:

(1) Single-jurisdiction applications. A community may submit an [~~only one~~] application on its own behalf [~~per TxCDBG fund~~] if the project beneficiaries are limited to persons located within the community's jurisdiction.

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

(2) Multi-jurisdiction applications. An application for proposed activities or project beneficiaries that are located within more than one jurisdiction may only be submitted as a joint application that includes those jurisdictions. [Two or more eligible communities may submit a joint application if the proposed activities or project beneficiaries are located within more than one jurisdiction.]

(A) - (D) (No change.)

(b) (No change.)

#### §30.23. Citizen Participation Process.

(a) (No change.)

(b) Public notice of proposed application.

(1) (No change.)

(2) This requirement may be met by publishing a summary of the proposed application in one or more local newspapers of general circulation at least five (5) days prior to submitting the application to the department, and by making copies of the proposed application available at libraries, government offices, and public places. The published notice or summary must describe the contents and purpose of the proposed application, including:

(A) - (D) (No change.)

(E) the locations and hours where copies of the entire proposed application may be examined, beginning at least five (5) days prior to the application due date.

(c) - (d) (No change.)

#### §30.24. Additional Public Hearing Requirements.

(a) (No change.)

(b) Public hearings must be:

(1) held at times and locations convenient to potential or actual beneficiaries (no earlier than [~~after~~] 5:00 p.m. on a weekday or at a convenient time on a Saturday or Sunday); and

(2) (No change.)

(c) - (d) (No change.)

#### §30.26. Audit Requirement.

(a) Single audits. Communities are required to comply with all federal single audit requirements, including timely submission of

Audit Certification Forms (ACF), regardless of whether the required compliance is based on received funds other than TxCDBG awards.

(b) Single delinquent audit. A community with one delinquent federal single audit may be eligible to submit an application for funding. If the community meets threshold requirements for funding, and has only one federal single audit delinquency, the department will withhold the issuance of a grant award or contract until it receives a satisfactory audit from the community. If the department does not receive the community's delinquent audit within 90 days after the application deadline, the application will be considered withdrawn by the community. The colonia self-help center program is exempt from the threshold requirement described in this subsection.

(c) Multiple delinquent audits. A community with more than one delinquent federal single audit is ineligible to apply for and receive TxCDBG funding. Communities applying for Colonia Self-Help Center funds that have multiple delinquent audits will be reported to TD-HCA for review and recommendation.

(d) Delinquency of five years or more. A community that has been delinquent in meeting federal single audit requirements by failing to submit a required single audit for five years or more is ineligible to receive any TxCDBG funds for a period of five years. After the five-year ineligibility period, the community may re-establish eligibility by following the program eligibility process described in Policy Issuance 12-01 or the TxCDBG Project Implementation Manual.

(e) Pending TxCDBG contracts. Failure of a contractor to meet federal single audit requirements will result in a hold on all existing contract amendments and draw requests until the department has determined that all audit requirements are satisfied.

(f) Application threshold--Demonstration of financial capacity through compliance with the audit requirements in the Texas Local Government Code for the most recent fiscal year that ended at least nine months prior to the application deadline, or other fiscal year as indicated in the application guide. In general, evidence that the community has complied with the Texas Local Government Code audit requirements set out in Chapters 103, 114, and 115, Title 4, Local Government Code, will be accepted as documentation of financial capacity, with the following requirements:

(1) the audit submitted to document financial capacity must include the "opinion" expressed by the person or firm performing the audit, and any adverse opinion will require additional documentation to support the financial capacity of the applicant; and

(2) the audit must be an organizational-wide audit and cannot be limited to certain parts of the organization.

*§30.29. Application Review.*

(a) Upon receipt of an application, the department performs a preliminary review to determine application completeness and eligibility, i.e., whether the application packet is generally complete and includes documentation as required in the application guide, whether the community meets all threshold requirements, and whether all proposed activities are eligible for funding. [Incomplete applications may not be supplemented after the application deadline. For applications that require clarification, the department will notify the community and provide an opportunity to submit additional information. The community must submit the requested information within 10 business days after the date of notification. Applications not corrected within the deadline will be considered withdrawn by the community and will not receive further consideration by the department.]

(1) Incomplete applications may not be supplemented after the application deadline.

(2) For applications that require clarification, the department will notify the community and provide an opportunity to submit additional information. The community must submit the requested information within 10 business days after the date of notification. Applications not corrected within the deadline will be considered withdrawn by the community and will not receive further consideration by the department.

(3) An application that is recommended for funding receives a second review. If at any time in the application review process an application is determined to be incomplete or the information is not clarified, the application will not be considered for funding.

(b) - (d) (No change.)

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

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### DIVISION 3. ADMINISTRATION OF PROGRAM FUNDS

#### 4 TAC §§30.52 - 30.54, 30.58, 30.63 - 30.66

The amendments and new rules are proposed under Texas Government Code §487.051, which provides the Department authority to administer the state's community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code Chapter 487.

*§30.52. Texas Capital Fund--Real Estate and Infrastructure Development Programs.*

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

(c) Application requirements.

(1) - (4) (No change.)

(5) The department will not consider an application if the business responsible for meeting job creation requirements is currently benefitting from a TCF Real Estate or Infrastructure Development contract with the same applicant.

(6) The department will not consider applications for a TCF project where the community and one or more other Texas communities are competing to provide funds for that project.

(7) (No change.)

(d) (No change.)

(e) Job creation/retention requirements. For an activity that creates and/or retains jobs, documentation [Family Income/Size Certification forms] must be submitted for employees to demonstrate that at

least 51% of the jobs are or will be held by low and moderate income persons.

(f) - (g) (No change.)

§30.53. *Texas Capital Fund--Downtown Revitalization Program (DRP).*

(a) (No change.)

(b) Pending DRP contracts. Existing DRP contracts benefitting a community must meet completion thresholds described in the application guide ~~[be successfully closed out]~~ before the community may submit a new application for an award under this fund category. This does not preclude a community from applying for Real Estate or Infrastructure Development Program funding, provided the benefitting business is not in the downtown business district area and the business will meet job creation requirements.

(c) - (d) (No change.)

§30.54. *Texas Capital Fund--Main Street Improvements Program.*

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

(c) Pending Main Street contracts. Existing Main Street Improvements Program contracts benefitting a community must meet completion thresholds described in the application guide ~~[be successfully closed out]~~ before the community may submit a new application for an award under this fund category. This does not preclude a community from applying for Real Estate or Infrastructure Development Program funding, provided the benefitting business is not in the designated main street area and the business will meet job creation requirements.

(d) - (e) (No change.)

§30.58. *Colonia Economically Distressed Areas Program Set-Aside (CEDAP).*

(a) Eligibility.

(1) (No change.)

(2) A community with a pending CEDAP contract that has been open in excess of the original contract period ~~[(generally 48 months)]~~ is ineligible for a new CEDAP award.

(3) (No change.)

(b) - (d) (No change.)

§30.63. *Small Towns Environment Program (STEP) Fund.*

(a) (No change.)

(b) Application cycle. Applications may be submitted to the department at any time during the program year. ~~[Applications are accepted two times a year, contingent on the availability of funds. To the extent feasible, funds will be divided equitably between the two application rounds. After all projects are ranked, the department will make awards only for those projects that can be fully funded with money available to the department under this fund category. The department will not fund part or a portion of a project.]~~

(c) - (d) (No change.)

~~[(e) Ineligibility of certain CD Fund recipients. Communities currently receiving CD Fund grant awards for projects that do not include water, sewer, or housing activities are ineligible for STEP funding.]~~

(e) ~~[(f)]~~ Eligible activities. STEP funds are only eligible for the following activities:

(1) installation of facilities to provide first-time water or sewer service;

(2) installation of water or sewer system improvements;

(3) ancillary repairs related to the installation of water and sewer systems or improvements;

(4) acquisition of real property necessary for the installation or improvement of water and sewer systems (e.g., easements, rights of way, etc.);

(5) sewer or water taps;

(6) water meters;

(7) water or sewer yard service lines for LMI persons;

(8) water or sewer house service connections for LMI persons;

(9) plumbing improvements associated with providing water or sewer service to a LMI household;

(10) water or sewer connection fees for LMI persons;

(11) rental of equipment necessary for installation of water or sewer systems, if preapproved by the department;

(12) reasonable administrative and engineering costs associated with the improvements; and

(13) other costs that have been preapproved by the department.

~~(f)~~ ~~[(g)]~~ Ineligible activities. The following activities are ineligible:

(1) any activity not listed as an eligible activity under this section;

(2) highly complex and specialized installations of water or sewer systems that cannot be completed by volunteers, as determined by the department, in its sole discretion;

(3) water or sewer treatment plants;

(4) temporary solutions, including emergency interconnects not used for ongoing supply or treatment;

(5) backup water supplies not required by TCEQ regulations; and

(6) force account work for STEP construction activities.

~~(g)~~ ~~[(h)]~~ Selection procedures. ~~[Threshold criteria.]~~ The following requirements must be met to qualify for STEP funding:

(1) Sparkplugs. The community must have at least three individuals willing to lead and sustain the effort (referred to as "sparkplugs"). Only one local official may serve as a sparkplug. Each sparkplug should have one or both of the following:

(A) ability to properly document all aspects of the project, including eligible costs, volunteer hours, and compliance with federal and state requirements; and

(B) knowledge or skills necessary to lead the self-help effort.

(2) Readiness. The community must demonstrate readiness to proceed with the project, based on a strong local perception of the problem and willingness to take action to resolve it.

(3) Capacity. The community must demonstrate it has the capacity to complete the project, including having available workers with skills required to solve the problem and operate necessary construction equipment.

(4) Savings percentage. The community must demonstrate at least a 40% reduction or savings in construction costs.

(5) Volunteer labor. All work, except administrative and engineering services, must be performed predominately by community volunteers.

(6) Benefit to LMI persons. The community must demonstrate that at least 51% of the proposed beneficiaries are LMI persons.

{(i) Selection procedures. Applications will be evaluated and scored by the department based on the following selection criteria (specific scoring criteria is available in the application guidelines):}

{(1) project impact;}

{(2) STEP characteristics, merits of the project, and local effort;}

{(3) past participation and performance;}

{(4) percentage of savings off of the retail price; and}

{(5) benefit to LMI persons. The community must demonstrate that at least 51% of the proposed beneficiaries are LMI persons.}

*§30.64. Community Enhancement Fund (CEF).*

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

(c) Selection procedures. Applications will be evaluated by the department based on selection criteria which include [foeus on] the following factors (detailed application and scoring information is available in the application guidelines):

(1) community need;

{(1) the community's LMI percentage;}

{(2) partnerships; }

{(3) multi-purpose facility or public safety equipment;}

(2) [(4)] sustainability, including appropriate partnerships and service providers; and

(3) [(5)] leverage/grant match.

*§30.65. Texas Capital Fund--Small and Microenterprise Revolving Fund (SMRF).*

(a) Program overview. Small and Microenterprise Revolving Fund grants are awarded to eligible communities that form a contractual relationship with an entity that qualifies as a nonprofit development organization under Section 105(a)(15) of the Housing and Community Development Act of 1974, as amended (HCD Act) (42 USC §5301 et seq.). The community awards the grant funds on to the nonprofit which must use those funds to make loans to eligible small or microenterprise businesses for eligible economic development activities. The initial SMRF loan made by the nonprofit to an eligible small or microenterprise business and the project supported by the loan must meet all CDBG statutory and regulatory requirements. If the nonprofit uses loan repayments to support additional lending within the scope of the nonprofit's authorized purposes and legal authority, those repayments are not considered program income and subsequent loans by the nonprofit using SMRF loan repayments do not have to meet CDBG requirements.

(b) Eligibility. In addition to qualifying as a nonprofit development organization under Section 105(a)(15) of the HCD Act, the organization must meet the following requirements:

(1) The organization must be exempt from taxation under 26 USC §501(c) and in full compliance with all laws and regulations applicable to the organization;

(2) The organization must be organized under state or local law to serve or carry out community/economic development activities which address the development needs of communities;

(3) The organization must be independent of local or state government; and

(4) The organization will be responsible for administering the revolving loan fund supported by the SMRF award.

(c) The community receiving a SMRF award is responsible for compliance with all CDBG requirements on the initial use of grant funds including monitoring the nonprofit organization and ensuring loan proceeds support an eligible business and activity.

(d) Application cycle. Applications for the Small and Microenterprise Revolving Fund are accepted annually, during a period specified by the department.

(e) Selection procedures. Applications will be evaluated by the Department based on the following selection criteria (detailed application and scoring information is available in SMRF application guidelines):

(1) Community Need;

(2) Non-Profit Loan Capacity; and

(3) Multi-Jurisdictional applications.

(f) Eligible activities. SMRF funds may be used for economic development activities that support jobs in local small businesses, with twenty-five or fewer employees, or microenterprise businesses with five or fewer employees, of which one or more is the owner.

(g) Match requirement. SMRF grants require matching funds of at least ten percent of the requested grant award.

*§30.66. Colonias-to-Cities Initiative Program (CCIP).*

(a) Eligibility.

(1) CCIP is limited to counties and non-entitlement cities that meet eligibility requirements for participation in the TxCDBG Colonia Fund and TWDB EDAP. Participation in CCIP requires a county and city located in that county to submit a multi-jurisdiction application that includes a resolution from each jurisdiction requesting funding under the CCIP for the benefit of a particular colonia.

(2) A community with a CCIP contract that has not been closed out as required by the original contract timeline is ineligible for a new CCIP award until the existing contract meets scheduled deliverables and timelines.

(3) A county designated as eligible for the TWDB EDAP must adopt and enforce the Model Subdivision Rules (MSR) established pursuant to Section 16.343 of the Texas Water Code. If applicable, the community must demonstrate compliance with MSR requirements.

(b) Application cycle.

(1) Applications may be submitted to the Department at any time during the program year.

(2) Only one CCIP award will be made to an eligible community within a TxCDBG program year and the community may have only one pending CCIP contract during any given program or calendar year.

(c) Selection procedures. Applications will be evaluated based on the following factors (detailed application and evaluation information are available in CCIP application guidelines):

(1) proposed use of TxCDBG funds including the eligibility of the proposed activities;

(2) ability of the community to utilize grant funds and complete the project in a timely manner;

(3) availability of funds from other sources to support the project made the subject of the CCIP application;

(4) the community's past performance with TxCDBG contracts and awards, if applicable;

(5) cost per beneficiary; and

(6) commitment by the city to annex the colonia area within one year of project completion.

(7) If CCIP applications exceed funding available in this category, the Department may use scoring factors established for the Colonia Fund-Construction program as additional criteria in the selection of applications for CCIP awards.

(d) Eligible activities. Eligible CCIP activities are limited to improvements eligible for TxCDBG funding that are necessary or required by local regulations in order for the city to annex the colonia area.

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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## DIVISION 4. AWARDS AND CONTRACT ADMINISTRATION

### 4 TAC §§30.81, 30.82, 30.84

The amendments are proposed under Texas Government Code §487.051, which provides the Department authority to administer the state's community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code Chapter 487.

§30.81. *Grant Administration by a Third Party.*

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

(c) Contractors are required to provide to the department a copy of the professional services agreement or contract between any and all third party administrator(s) and the community. [The agreement must include, at a minimum:]

[(1) names of the parties;]

[(2) effective date and contract term;]

[(3) scope of services, including any restrictions;]

[(4) compensation;]

[(5) contact personnel for all parties;]

[(6) contract amendment and termination procedures;]

[(7) procedures for determining the party responsible for failure to meet contract requirements and disallowed costs resulting in contract non-compliance; and]

[(8) a provision stating that failure to follow federal, state and local procurement procedures will result in the disallowance of administrative costs.]

§30.82. *Disqualification of an Administrator.*

(a) Third-party administrators. In the event a TxCDBG contract results in at least one unresolved finding that results in required repayment by the contractor to the department, the following actions will be taken:

(1) (No change.)

(2) after the second finding related to the same administrator [~~contractor~~], administrative costs will be disallowed, funds paid for administration will not be considered toward match requirements, and the third party contract administrator will be ineligible to administer a TxCDBG grant for a period of three years from the date of the finding.

(b) (No change.)

§30.84. *Corrective Action.*

(a) (No change.)

(b) Failure to meet contract requirements. If the department finds that a contractor did not provide the level of benefits specified in its contract, the following actions may be taken, including but not limited to:

(1) holding the contractor ineligible to apply for or receive TxCDBG funds for a period of at least two program years or until any issue of restitution is resolved, whichever is longer; and

(2) (No change.)

(c) - (e) (No change.)

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## DIVISION 5. REALLOCATION OF PROGRAM FUNDS

### 4 TAC §30.101, §30.102

The amendments are proposed under Texas Government Code §487.051, which provides the Department authority to administer the state's community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code Chapter 487.

*§30.101. Deobligated Funds.*

(a) (No change.)

(b) The allocation shall be based on the pro-rata share of the percentages allocated to each TxCDBG fund category as specified in the current TxCDBG Action Plan.

(c) Allocations to the CD Fund will be distributed to each of the 24 planning regions based upon the methodology used in calculating the annual regional allocation. Allocations to regions that either:

(1) have no eligible applications; or

(2) cannot fully fund the next highest ranking applications, will be made available to other regions with eligible applications or to the DR Fund.

*§30.102. Unobligated Funds.*

For the use of funds recaptured as a result of the withdrawal of awards, the department follows the following procedures, depending on the fund category in which the award is withdrawn.

(1) (No change.)

(2) TCF. Funds from the withdrawal of a Main Street or Downtown Revitalization award shall be offered to the next highest ranked application that was not recommended to receive an award due to depletion of the program's allocation. Funds from the withdrawal of a Real Estate and Infrastructure award shall remain in those program allocations to fund other applications. Any unallocated TCF funds may be made [are then] subject to the procedures used to allocate deobligated funds or may be carried forward in the same program to the following program year.

(3) - (5) (No change.)

(6) STEP Fund. Funds from the withdrawal of a STEP award shall remain in that program allocation to fund other applications. [will be made available in the next round of STEP competition following the withdrawal date in the same program year. If the withdrawn award was made in the last of the two competitions in a program year, the funds would go to the next highest scoring application in the same STEP competition.] If there are no unfunded STEP applications, then the funds would be available for other TxCDBG fund categories. Any unallocated STEP funds are subject to the procedures used to allocate deobligated funds.

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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## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

## CHAPTER 150. COMMISSIONER'S RULES CONCERNING EDUCATOR APPRAISAL SUBCHAPTER AA. TEACHER APPRAISAL

The Texas Education Agency (TEA) proposes the repeal of §§150.1001-150.1007, 150.1009, and 150.1010, and new §§150.1001-150.1008, concerning teacher appraisal. Sections 150.1001-150.1007, 150.1009, and 150.1010 reflect the state-recommended appraisal system for teachers. The proposed repeal and new rules would reflect changes to the state-recommended teacher appraisal system by replacing the current state-recommended teacher appraisal system, the Professional Development Appraisal System (PDAS), effective July 1, 2016, with a new state-recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS).

The rules in 19 TAC Chapter 150, Subchapter AA, capture the commissioner's current state-recommended appraisal system for teachers, the PDAS, which has been in place since 1997.

Since the fall of 2013, the TEA has worked with stakeholders, including teachers, principals, district administrators, higher education representatives, and regional education service centers, to build and refine a new state-recommended teacher appraisal system that can be utilized more effectively for educator development. The new system, the T-TESS, was piloted in approximately 57 districts during the 2014-2015 school year and refined throughout the year based on educator feedback. During the 2015-2016 school year, the T-TESS is being piloted in 232 districts, which have adopted the system as a locally developed appraisal option.

The T-TESS will replace the PDAS as the state-recommended teacher appraisal system beginning July 1, 2016. The proposed rule actions would repeal the rules for the PDAS and replace them with the proposed new rules for the T-TESS. Besides describing and detailing the process for the T-TESS, the proposed new rules would also clarify statutory language in the Texas Education Code, §21.351(a)(2), that requires the use of the performance of teachers' students as a measure of student growth at the individual teacher level. The measurement of student growth is a required component of both the state-recommended teacher appraisal system and any locally developed teacher appraisal system beginning with the 2017-2018 school year.

The proposed rule actions would have no new procedural or reporting implications. The proposed rule actions would have no new locally maintained paperwork requirements.

FISCAL NOTE. Ryan Franklin, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed repeal and new sections are in effect there will be no additional costs for state or local government as a result of enforcing or administering the proposed repeal and new sections.

PUBLIC BENEFIT/COST NOTE. Mr. Franklin has determined that for each year of the first five years the proposed repeal and new sections are in effect the public benefit anticipated as a result of enforcing the repeal and new sections would be to allow public school districts to access an appraisal process that can improve instruction and student performance. There is no anticipated economic cost to persons who are required to comply with the proposed repeal and new sections.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICROBUSINESSES. There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. The public comment period on the proposal begins December 11, 2015, and ends January 11, 2016. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to [rules@tea.texas.gov](mailto:rules@tea.texas.gov) or faxed to (512) 463-5337. 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 December 11, 2015.

### 19 TAC §§150.1001 - 150.1007, 150.1009, 150.1010

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

STATUTORY AUTHORITY. The repeal is proposed under the Texas Education Code (TEC), §21.351, which requires the commissioner of education to adopt a state-recommended appraisal process for teachers. In addition, TEC, §21.352, details the local role for school districts as it relates to teacher appraisal, including locally adopted appraisal processes and appraisal timelines and frequency.

CROSS REFERENCE TO STATUTE. The repeal implements the TEC, §21.351.

§150.1001. *General Provisions.*

§150.1002. *Assessment of Teacher Performance.*

§150.1003. *Appraisals, Data Sources, and Conferences.*

§150.1004. *Teacher in Need of Assistance.*

§150.1005. *Teacher Response and Appeals.*

§150.1006. *Appraiser Qualifications.*

§150.1007. *Teacher Orientation.*

§150.1009. *Alternatives to the Commissioner's Recommended Appraisal System.*

§150.1010. *District Submissions to Regional Education Service Center.*

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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Texas Education Agency

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### 19 TAC §§150.1001 - 150.1008

STATUTORY AUTHORITY. The new sections are proposed under the Texas Education Code (TEC), §21.351, which requires the commissioner of education to adopt a state-recommended appraisal process for teachers. In addition, TEC, §21.352, details the local role for school districts as it relates to teacher appraisal, including locally adopted appraisal processes and appraisal timelines and frequency.

CROSS REFERENCE TO STATUTE. The new sections implement the TEC, §21.351.

§150.1001. *General Provisions.*

(a) All school districts have two choices in selecting a method to appraise teachers: a teacher appraisal system recommended by the commissioner of education or a local teacher appraisal system.

(b) The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with the Texas Education Code (TEC), §21.351.

(c) The superintendent of each school district, with the approval of the school district board of trustees, may select the T-TESS. Each school district or campus wanting to select or develop an alternative teacher appraisal system must follow the TEC, §21.352, and §150.1007 of this title (relating to Alternatives to the Commissioner's Recommended Appraisal System).

(d) The commissioner may designate a regional education service center to serve as the T-TESS certification provider for the state. The designated regional education service center may collect appropriate fees under the TEC, §8.053, from school districts and open-enrollment charter schools for training and certification.

(e) Sections 150.1002 through 150.1006 of this title apply only to the T-TESS and not to local teacher appraisal systems.

§150.1002. *Assessment of Teacher Performance.*

(a) Each teacher shall be appraised on the following domains and dimensions of the Texas Teacher Evaluation and Support System (T-TESS) rubric that is aligned to the Texas Teacher Standards in Chapter 149 of this title (relating to Commissioner's Rules Concerning Educator Standards).

(1) Domain I. Planning, which includes the following dimensions:

(A) standards and alignment;

(B) data and assessment;

(C) knowledge of students; and

(D) activities.

(2) Domain II. Instruction, which includes the following dimensions:

(A) achieving expectations;

(B) content knowledge and expertise;

(C) communication;

(D) differentiation; and

(E) monitor and adjust.

(3) Domain III. Learning Environment, which includes the following dimensions:

- (A) classroom environment, routines, and procedures;
- (B) managing student behavior; and
- (C) classroom culture.

(4) Domain IV. Professional Practices and Responsibilities, which includes the following dimensions:

- (A) professional demeanor and ethics;
- (B) goal setting;
- (C) professional development; and
- (D) school community involvement.

(b) The evaluation of each of the dimensions identified in subsection (a) of this section shall consider all data generated in the appraisal process. The data for the appraisal of each dimension shall be gathered from pre-conferences, observations, post-conferences, end-of-year conferences, the Goal-Setting and Professional Development Plan process, and other documented sources.

(c) Each teacher shall be evaluated on the 16 dimensions in Domains I-IV identified in subsection (a) of this section using the following categories:

- (1) distinguished;
- (2) accomplished;
- (3) proficient;
- (4) developing; and
- (5) improvement needed.

(d) Beginning with the 2017-2018 school year, each teacher appraisal shall include the academic growth of the teacher's students at the individual teacher level as measured by one or more of the following student growth measures:

- (1) student learning objectives;
- (2) student portfolios;
- (3) pre- and post-test results on district-level assessments;

or

- (4) value-added data based on student state assessment results.

(e) If calculating a single overall summative appraisal score for teachers, the measure of student growth, as described in subsection (d) of this section, shall count for at least 20% of a teacher's summative score.

(f) Each teacher shall be evaluated on student growth using one of the terms from the following categories:

- (1) distinguished or well-above expectations;
- (2) accomplished or above expectations;
- (3) proficient or at expectations;
- (4) developing or below expectations; or
- (5) improvement needed or well-below expectations.

*§150.1003. Appraisals, Data Sources, and Conferences.*

(a) Each teacher must be appraised each school year, except as provided by subsection (l) of this section. Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified.

(b) The annual teacher appraisal, or full appraisal, shall include:

(1) a completed and appraiser-approved Goal-Setting and Professional Development Plan that shall be:

(A) submitted to the teacher's appraiser within the first six weeks from the day of completion of the Texas Teacher Evaluation and Support System (T-TESS) orientation, as described in §150.1006 of this title (relating to Teacher Orientation), for teachers in their first year of appraisal under the T-TESS; or

(B) initially drafted in conjunction with the teacher's end-of-year conference from the previous year, revised as needed based on changes to the context of the teacher's assignment during the current school year, and submitted to the teacher's appraiser within the first six weeks of instruction; and

(C) maintained throughout the course of the school year by the teacher to track progress in the attainment of goals and participation in professional development activities detailed in the approved plan;

(D) shared with the teacher's appraiser prior to the end-of-year conference; and

(E) used after the end-of-year conference in the determination of ratings for the goal setting and professional development dimensions of the T-TESS rubric;

(2) for a teacher in the first year of appraisal under the T-TESS, a Goal-Setting and Professional Development Plan conference prior to the teacher submitting the plan to the teacher's appraiser;

(3) after a teacher's first year of appraisal under the T-TESS within the district, an observation pre-conference conducted prior to announced observations;

(4) at least one classroom observation of a minimum of 45 minutes, as described in subsection (g) of this section, with additional walk-throughs and observations conducted at the discretion of the certified appraiser and in accordance with the Texas Education Code, §21.352(c-1);

(5) an observation post-conference that:

(A) shall be conducted within 10 working days after the completion of an observation;

(B) is diagnostic and prescriptive in nature;

(C) includes a written report of the rating of each dimension observed that is presented to the teacher only after a discussion of the areas for reinforcement and areas for refinement; and

(D) can allow for, at the discretion of the appraiser, a revision to an area for reinforcement or refinement based on the post-conference discussion with the teacher;

(6) cumulative data from written documentation collected regarding job-related teacher performance in addition to formal classroom observations;

(7) an end-of-year conference that:

(A) reviews the appraisal data collected throughout the current school year and previous school years, if available;

(B) examines and discusses the evidence related to the teacher's performance on the four dimensions of Domain IV of the T-TESS rubric, as described in §150.1002(a)(4) of this title (relating to Assessment of Teacher Performance);

(C) examines and discusses evidence related to student growth measures, as described in §150.1002(d)-(f) of this title, when available; and

(D) identifies potential goals and professional development activities for the teacher for the next school year; and

(8) a written summative annual appraisal report to be provided to the teacher within 10 working days of the conclusion of the end-of-year conference.

(c) A teacher may be given advance notice of the date or time of an observation, but advance notice is not required.

(d) Each school district shall establish a calendar for the appraisal of teachers and provide that calendar to teachers within three weeks from the first day of instruction. The appraisal period for each teacher must include all of the days of a teacher's contract. Observations during the appraisal period must be conducted during the required days of instruction for students during one school year. The appraisal calendar shall:

(1) exclude observations in the three weeks following the day of completion of the T-TESS orientation in the school years when an orientation is required, as described in §150.1006 of this title; and

(2) indicate a period for end-of-year conferences that ends no later than 15 working days before the last day of instruction for students.

(e) During the appraisal period, the certified appraiser shall evaluate and document teacher performance specifically related to the domain criteria, as identified in §150.1002(a) of this title, and the student growth criteria in §150.1002(d) of this title.

(f) The certified appraiser is responsible for documentation of the cumulative data identified in subsection (b)(6) of this section. Any third-party information from a source other than the certified appraiser that the certified appraiser wishes to include as cumulative data shall be verified and documented by the certified appraiser. Any documentation that will influence the teacher's summative annual appraisal report must be shared in writing with the teacher within 10 working days of the certified appraiser's knowledge of the occurrence. The principal shall also be notified in writing of the cumulative data when the certified appraiser is not the teacher's principal.

(g) By mutual consent of the teacher and the certified appraiser, the required minimum of 45 minutes of observation may be conducted in shorter time segments. The time segments must aggregate to at least 45 minutes.

(h) A written summative annual appraisal report shall be shared with the teacher no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period.

(i) An end-of-year conference shall be held within a time frame specified on the school district calendar, no later than 15 working days before the last day of instruction for students. The end-of-year conference shall focus on the data and evidence gathered throughout the appraisal year; the teacher's efforts as they pertain to Domain IV, as identified in §150.1002(a) of this title; the results of student growth processes and measures when available, as identified in §150.1002(d) of this title; and the potential goals and professional development plans, as identified in subsection (b) of this section, for the following year. The written summative annual appraisal report shall be shared with the teacher within 10 working days following the conclusion of the end-of-year conference but no later than 15 working days before the last day of instruction.

(j) In cases where the certified appraiser is not an administrator on the teacher's campus, as defined in §150.1005(b) of this title (relating to Appraiser Qualifications), either the principal, assistant principal, or another supervisory staff member designated as an administrator on the campus must participate in the end-of-year conference.

(k) Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a teacher. If the documentation affects the teacher's evaluation in any dimension, another summative report shall be developed to inform the teacher of the change(s).

(l) Except as otherwise provided by this subsection, a full appraisal must be done at least once during each school year. A teacher may receive a full appraisal less frequently if the teacher agrees in writing and the teacher's most recent full appraisal resulted in the teacher receiving summative ratings of at least proficient on nine of the sixteen dimensions identified in §150.1002(a) of this title and did not identify any area of deficiency, defined as a rating of Improvement Needed or its equivalent, on any of the sixteen dimensions identified in §150.1002(a) of this title or the student growth criteria identified in §150.1002(d) of this title. A teacher who receives a full appraisal less than annually must receive a full appraisal at least once during each period of five school years.

(1) District policy may stipulate:

(A) whether the option to receive a full appraisal less frequently than annually is to be made available to teachers;

(B) whether the option to receive a full appraisal less frequently than annually is to be adopted districtwide or is to be campus specific;

(C) if the appraisal accompanying a teacher new to a district or campus meets the option as specified in this subsection, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and

(D) whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented in accordance with subsections (b)(6) and (f) of this section.

(2) A school district may choose annually to review the written agreement to have less frequent full appraisals with the teacher. However, at the conclusion of the school year, the district may modify appraisal options through board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous year(s).

(3) In a year in which a teacher does not receive a full appraisal due to meeting the requirements identified in this subsection, a teacher shall participate in the Goal-Setting and Professional Development Plan process, as identified in subsection (b)(1) of this section; student growth measurement, as identified in §150.1002(d) of this title; and a modified end-of-year conference that addresses the progress on the Goal-Setting and Professional Development Plan, the outcome of student growth measures, and the following year's Goal-Setting and Professional Development plan.

#### §150.1004. Teacher Response and Appeals.

(a) A teacher may submit a written response or rebuttal at the following times:

(1) for Domains I, II, and III, as identified in §150.1002(a) of this title (relating to Assessment of Teacher Performance), after receiving a written observation summary or any other written documentation related to the ratings of those three domains; or

(2) for Domain IV, as identified in §150.1002(a) of this title, and for student growth, as identified in §150.1002(d) of this title, after receiving a written summative annual appraisal report.

(b) Any written response or rebuttal must be submitted within 10 working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation associated with the teacher's appraisal. A teacher may not submit a written response or rebuttal to a written summative annual appraisal report for the ratings in Domains I, II, and III, as identified in §150.1002(a) of this title, if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to submit a written response or rebuttal.

(c) A teacher may request a second appraisal by another certified appraiser at the following times:

(1) for Domains I, II, and III, as identified in §150.1002(a) of this title, after receiving a written observation summary with which the teacher disagrees; or

(2) for Domain IV, as identified in §150.1002(a) of this title, and for student growth as identified in §150.1002(d) of this title, after receiving a written summative annual appraisal report with which the teacher disagrees.

(d) The second appraisal must be requested within 10 working days of receiving a written observation summary or a written summative annual appraisal report. A teacher may not request a second appraisal by another certified appraiser in response to a written summative annual appraisal report for the ratings of dimensions in Domains I, II, and III, as identified in §150.1002(a) of this title, if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to request a second appraisal.

(e) A teacher may be given advance notice of the date or time of a second appraisal, but advance notice is not required.

(f) The second appraiser shall appraise the teacher in all domains. The second appraiser shall make observations and walk-throughs as necessary to evaluate the dimensions in Domains I-III. Cumulative data may also be used by the second appraiser to evaluate other dimensions.

(g) Each school district shall adopt written procedures for determining the selection of second appraisers. These procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed.

#### §150.1005. Appraiser Qualifications.

(a) The teacher appraisal process requires at least one certified appraiser.

(b) Under the Texas Teacher Evaluation and Support System (T-TESS), a campus administrator includes a principal, an assistant principal, an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification, or supervisory staff whose job description includes the appraisal of teachers and who is not a classroom teacher. Only in the event of the circumstances identified in subsection (d) of this section may an individual other than a campus administrator act as a certified appraiser.

(c) Before conducting an appraisal, an appraiser must be certified by having satisfactorily completed the state-approved T-TESS appraiser training and having passed the T-TESS certification examination, and must have received Instructional Leadership Training (ILT), Instructional Leadership Development (ILD), or Advancing Educational Leadership (AEL) certification. Appraisers without ILT,

ILD, or AEL certification before January 1, 2016, may not take ILT or ILD to satisfy this requirement. Periodic recertification and training shall be required.

(d) An individual other than a campus administrator may act as a certified appraiser if:

(1) the individual has been certified by completing the training required under subsection (c) of this section prior to conducting appraisals; and

(2) in the case where the certified appraiser is a classroom teacher, the certified appraiser:

(A) conducts appraisals at the same school campus at which the certified appraiser teaches if the certified appraiser is the chair of a department or grade level whose job description includes classroom observation responsibilities; or

(B) does not conduct appraisals of classroom teachers who teach at the same campus as the certified appraiser if the certified appraiser is not a department or grade-level chair.

#### §150.1006. Teacher Orientation.

(a) A school district shall ensure that a teacher is provided with an orientation of the Texas Teacher Evaluation and Support System (T-TESS) no later than the final day of the first three weeks of school and at least two weeks before the first observation when:

(1) the teacher is new to the district;

(2) the teacher has never been appraised under the T-TESS;

or  
(3) district policy regarding teacher appraisal has changed since the last time the teacher was provided with an orientation to the T-TESS.

(b) The teacher orientation shall include all state and local appraisal policies and the local appraisal calendar. In addition to the orientation, campuses may hold other sessions sufficient in length allowing teachers to actively participate in a discussion of the T-TESS specifics and to have their questions answered.

#### §150.1007. Alternatives to the Commissioner's Recommended Appraisal System.

(a) District option. A school district that does not choose to use the commissioner's recommended Texas Teacher Evaluation and Support System must develop its own teacher appraisal system supported by locally adopted policy and procedures and by the processes outlined in the Texas Education Code (TEC), §21.352.

(1) The school district-level planning and decision-making committee shall:

(A) develop an appraisal process;

(B) develop evaluation criteria, including discipline management and performance of the teacher's students; and

(C) consult with the campus planning and decision-making committee on each campus in the school district.

(2) The appraisal process shall include:

(A) at least one appraisal each year;

(B) a conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and

(C) criteria based on observable, job-related behavior, including:

(i) the teacher's implementation of discipline management procedures; and

(ii) performance of the teacher's students, defined as student growth, as identified in §150.1002(d) of this title (relating to Assessment of Teacher Performance).

(3) The school district-level planning and decision-making committee shall submit the appraisal process and criteria to the superintendent, who shall submit the appraisal process and criteria to the school district board of trustees with a recommendation to accept or reject. The school district board of trustees may accept or reject an appraisal process and performance criteria, with comments, but may not modify the process or criteria.

(b) Campus option. A campus within a school district may choose to develop a local system as provided in this subsection.

(1) The campus planning and decision-making committee shall:

(A) develop an appraisal process;

(B) develop evaluation criteria, including discipline management and performance of the teacher's students; and

(C) submit the process and criteria to the district-level planning and decision-making committee.

(2) The appraisal process shall include:

(A) at least one appraisal each year;

(B) a conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and

(C) criteria based on observable, job-related behavior, including:

(i) the teacher's implementation of discipline management procedures; and

(ii) performance of the teacher's students, defined as student growth, as identified in §150.1002(d) of this title.

(3) Upon submission of the appraisal process and criteria to the school district-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the superintendent.

(4) The superintendent shall submit the recommended campus appraisal process and criteria, the school district-level planning and decision-making committee's recommendation, and the superintendent's recommendation to the school district board of trustees. The school district board of trustees may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

§150.1008. District Submissions to Regional Education Service Center.

(a) The superintendent shall notify the executive director of its regional education service center in writing of the district's choice of appraisal system when using an alternative to the commissioner's recommended appraisal system and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

(b) Each school district shall submit annually to its regional education service center a summary of the campus-level evaluation scores from the Texas Teacher Evaluation and Support System, or the

district's locally adopted appraisal system, in a manner prescribed by the commissioner of education.

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 November 30, 2015.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: January 10, 2016

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



## **TITLE 22. EXAMINING BOARDS**

### **PART 5. STATE BOARD OF DENTAL EXAMINERS**

#### **CHAPTER 107. DENTAL BOARD PROCEDURES**

##### **SUBCHAPTER A. PROCEDURES GOVERNING GRIEVANCES, HEARINGS, AND APPEALS**

###### **22 TAC §107.26**

The State Board of Dental Examiners (Board) proposes amendments to §107.26, concerning the failure to attend a hearing and default. The amendments explain the Board process of informal disposition of a case on a default basis.

Kelly Parker, Executive Director, has determined that for the first five-year period the proposed rule is in effect, there will not be any fiscal implications for state or local government as a result of enforcing or administering the amendments to the rule.

Kelly Parker has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of administering this section will be to clarify the procedures when a Respondent does not appear at a hearing. Ms. Parker has determined that for the first five-year period the proposed rule is in effect, costs to persons or small businesses will be minimal. There is no foreseeable impact on employment in any regional area where the rule is enforced or administered.

Comments on the proposed amendments may be submitted to Simone Salloum, Assistant General Counsel, 333 Guadalupe, Suite 3-800, Austin, Texas 78732, Fax (512) 463-7452, rulecomments@tsbde.texas.gov no later than 30 days from the date that the proposed rule is published in the *Texas Register*.

These amendments are proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are affected by this proposed amendment.

§107.26. *Failure to Attend Hearing and Default.*

(a) If a party who does not have the burden of proof fails to appear at a contested case hearing at the State Office of Administrative Hearings (SOAH), the administrative law judge shall announce the default, recess the hearing, and issue a [default] proposal for decision; rather than continuing or dismissing the case and requiring the board to dispose of the case on a default basis as an informal disposition]. Pursuant to 1 TAC §155.501(f), the defaulting party may file a motion with SOAH to set aside the default and reopen the record, prior to the judge's issuance of the proposal for decision or dispositive order.

(b) If the administrative law judge does not issue a default proposal for decision and instead, issues an order dismissing the case from the SOAH docket and returning the case to the agency for informal disposition on a default basis in accordance with §2001.056 of the Texas Government Code, the board may issue a final order deeming that Respondent has:

(1) admitted all the allegations in the notice of hearing and formal complaint;

(2) waived the opportunity to show compliance with the law;

(3) waived the opportunity for a hearing on the allegations in the notice of hearing and formal complaint; and

(4) waived objection to the recommended sanction in the notice of hearing and formal complaint.

(c) [(b)] If a party who does have the burden of proof fails to appear at a contested case hearing at SOAH [the State Office of Administrative Hearings], the administrative law judge shall dismiss the case for want of prosecution, any relevant application will be withdrawn, and the board may not consider a subsequent petition from the party until the first anniversary of the date of dismissal of the case.

(d) The party seeking affirmative relief bears the burden of proof at a contested case hearing. An unlicensed individual contesting the denial of an application or the imposition of a cease and desist order shall bear the burden of proof at a contested case hearing, irrespective of which party files the notice of hearing with SOAH.

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 November 24, 2015.

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Nycia Deal

General Counsel

State Board of Dental Examiners

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For further information, please call: (512) 475-0977



## PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

### CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

#### 22 TAC §153.18

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.18, Appraiser Continuing Education (ACE). The proposed amendments add additional opportunities for appraiser license holders to obtain continuing education credits consistent with criteria established by the Appraiser Qualifications Board and statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be increased opportunities for license holders to interact with the Board and receive continuing education credit.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.18. *Appraiser Continuing Education (ACE)*.

(a) The purpose of ACE is to ensure that license holders participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(b) To renew a license, a license holder must successfully complete the equivalent of at least 28 classroom hours of ACE courses approved by the Board, including the 7-hour National USPAP Update course during the two-year period before a license expires. The courses must comply with the requirements set out in subsection (d) of this section.

(c) The Board will base its review and approval of ACE courses upon the appraiser qualifications criteria of the AQB.

(d) The following types of courses may be accepted for ACE:

(1) A course that meets the requirements for licensing also may be accepted for ACE if:

(A) The course is devoted to one or more of the appraisal related topics of the appraiser qualifications criteria of the AQB for continuing education;

(B) the course was not repeated within a three year period; and

(C) the course is at least two hours in length.

(2) The Board will accept as ACE any continuing education course that has been approved by the AQB course approval process or by another state appraiser licensing and certification board.

(A) Course providers may obtain prior approval of ACE courses by filing forms approved by the Board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board.

(B) Approval of a course based on AQB approval expires on the date the AQB approval expires and is automatically revoked upon revocation of the AQB approval.

(C) Approval of a course based on another state licensing and certification board shall expire on the earlier of the expiration date in the other state, if applicable, or two years from Board approval and is automatically revoked upon revocation of the other state board's approval.

(3) Distance education courses may be accepted as ACE if:

(A) The course is:

(i) Approved by the Board;

(ii) Presented by an accredited college or university that offers distance education programs in other disciplines; or

(iii) Approved by the AQB under its course approval process; and

(B) The student successfully completes a written examination proctored by an official approved by the presenting college, university, or sponsoring organization consistent with the requirements of the course accreditation; and

(C) A minimum number of hours equal to the hours of course credit have elapsed between the time of course enrollment and completion.

(e) To satisfy the USPAP ACE requirement, a course must:

(1) be the 7-hour National USPAP Update Course or its equivalent, as determined by the AQB;

(2) use the current edition of the USPAP;

(3) provide each student with his or her own permanent copy of the current USPAP; and

(4) be taught by at least one instructor who is an AQB-certified USPAP instructor and also licensed as a certified general or certified residential appraiser.

(f) Providers of USPAP ACE courses may include up to one additional hour of supplemental Texas specific information. This may include topics such as the Act, Board Rules, processes and procedures, enforcement issues, or other topics deemed appropriate by the Board.

(g) Up to one half of a license holder's ACE requirements may be satisfied through participation other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching an ACE course, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the Board to be equivalent to obtaining ACE.

(h) The following types of courses or activities may not be counted toward ACE requirements:

(1) Teaching the same ACE course more than once per license renewal cycle;

(2) "In house" education or training; or

(3) Appraisal experience.

(i) ACE credit for attending a Board meeting.

(1) The Board may award a minimum of two hours and up to a maximum of 4 hours of ACE credit to a current license holder for attending the Board meeting held in February of an even numbered year.

(2) The hours of ACE credit to be awarded will depend on the actual length of the Board meeting.

(3) ACE credit will only be awarded in whole hour increments. For example, if the Board meeting is 2 and one half hours long, only 2 hours of ACE credit will be awarded.

(4) To be eligible for ACE credit for attending a Board meeting, a license holder must:

(A) Attend the meeting in person;

(B) Attend the entire meeting, excluding breaks;

(C) Provide photo identification; and

(D) Sign in and out on the class attendance roster for the meeting.

(5) No ACE credit will be awarded to a license holder for partial attendance.

(j) [(+)] ACE credit for attending presentations by current Board members or staff. As [Unless] authorized by law, [neither] current members of the Board and [nor those] Board staff may [engaged in the approval of courses or educational qualifications of applicants, certificate holders or licensees will be eligible to] teach or guest lecture as part of an approved ACE course. To obtain ACE credit for attending a presentation by a current Board member or Board staff, the course provider must submit the applicable form and satisfy the requirements for ACE course approval in this section.

(k) [(+)] If the Board determines that an ACE course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the Board's disciplinary provisions for licenses.

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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Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3652



## 22 TAC §153.22

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes new §153.22, Voluntary Appraiser Trainee Experience Reviews. The proposed rule establishes a voluntary program through which an appraiser trainee may receive feed-

back about their appraisal work product from the Board before submitting an application for licensure.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed rule. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed rule. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Ms. Worman also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of implementing the section as proposed will be better communication and feedback for appraiser trainees and their supervisory appraisers who take advantage of the voluntary reviews.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

This rule is proposed under Texas Occupations Code, §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by this proposed rule is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed rule.

§153.22. Voluntary Appraiser Trainee Experience Reviews.

(a) Before applying for a license, an appraiser trainee may request the Board to review the appraiser trainee's work product.

(b) An appraiser trainee may submit an application to the Board for review of the appraiser trainee's work product after:

- (1) accumulating 500 hours of appraisal experience;
- (2) accumulating 1,000 hours of appraisal experience; or
- (3) both.

(c) Work product submitted for review must fall within one of the approved categories of experience credit described in §153.15(e) and meet the definition of real estate appraisal experience in §153.1.

(d) To begin the review process, an appraiser trainee must submit:

- (1) a completed, Board-approved application requesting the Board to review the appraiser trainee's work product;
- (2) payment of the \$75 fee; and
- (3) a completed appraisal report and corresponding work file from a time period during which the appraiser trainee had legal authority to perform the work.

(e) The application for review of an appraiser trainee's work product is not complete until the appraiser trainee submits all required documentation and pays the applicable fee.

(f) If an appraiser trainee provides inadequate documentation, the Board will contact the appraiser trainee in writing, identify any deficiencies and provide the appraiser trainee twenty days to cure the noted deficiencies. If the appraiser trainee fails to cure the deficiencies

timely, the Board will terminate the appraiser trainee's application for work product review.

(g) The Board will provide the appraiser trainee with a written report identifying deficiencies in the appraiser trainee's work product after the application for review is complete.

(h) A review conducted under this provision:

(1) is for educational purposes only;

(2) does not constitute Board approval of the appraiser trainee's experience;

(3) does not preclude the Board from denying a license application submitted by the appraiser trainee in the future; and

(4) will not result in a complaint against the appraiser trainee unless review of the appraiser trainee's work product reveals:

(A) knowing or intentional misrepresentation, fraud or criminal conduct; or

(B) serious deficiencies that constitute grossly negligent acts or omissions.

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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Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3652



**22 TAC §153.27**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.27, License by Reciprocity. The proposed amendments streamline the Board's process for verifying an applicant's licensure in another state and will lower the cost and simplify the application process for applicants who apply for a license under this section.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be increased efficiency for processing applications, as well as a simpler process and lower costs for applicants who apply for a license under this section.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or

emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.27. *License by Reciprocity.*

(a) A person who is licensed as an appraiser under the laws of a state whose appraiser program has not been disapproved by the ASC may apply for a Texas license at that same level by completing and submitting to the Board the application for or license by reciprocity and paying the appropriate fee to the Board.

(b) The Board shall verify [~~seek verification from an applicant's state of current licensure~~] that the applicant's license is valid and in good standing by checking the National Appraiser Registry. A reciprocal license may not be issued without the verification required by this subsection.

(c) Renewal of a license granted through reciprocity shall be in the same manner, and with the same requirements, term, and fees, as for the same classification of license as provided in §153.17 of this title (relating to Renewal or Extension of License).

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 November 30, 2015.

TRD-201505194

Kristen Worman  
General Counsel

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 936-3652



## CHAPTER 159. RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

### 22 TAC §159.155

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §159.155, Periodic Review of Appraisals. The amendments specify that the scope of work for appraisal reviews conducted under this section must be sufficient to ensure that the methods, assumptions, data sources, and conclusions in the appraisal under review are reasonable and appropriate.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the

proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the amendments as proposed are in effect the public benefit anticipated as a result of enforcing the amendments as proposed will be a requirement that aligns this rule with federal law and the Uniform Standards of Professional Appraisal Practice.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the TALCB to adopt rules necessary to administer the provisions of Chapter 1104, Texas Occupations Code.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendments.

§159.155. *Periodic Review of Appraisals.*

(a) A license holder must review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of USPAP of:

(1) one of the first five appraisals performed for the license holder by each appraiser, prior to making a sixth assignment; and

(2) a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.

(b) Appraisals performed pursuant to subsection (a)(1) of this section will be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by the AMC Act, to be registered with the Board.

~~[(d) In addition to satisfying the requirements of §1104.153 of the AMC Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.]~~

~~[(e)] A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.~~

~~[(f) An appraiser conducting a review under §1104.155 of the AMC Act and this rule must ensure compliance with the USPAP and with §1104.154 of the AMC Act.]~~

~~[(g)] In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP, the review's Scope should be sufficient to ensure that methods, assumptions, data sources, and conclusions are reasonable and appropriate. [a license holder performing a review must adhere to the following minimum scope of work:]~~

~~[(1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the signifi-~~

cant characteristics of the comparables and the essential elements of the transactions including:}]

[(A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;}]

[(B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;}]

[(C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and}]

[(D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review;}]

[(2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements;}]

[(3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;}]

[(4) identify the client, any intended users and the effective date of the appraisal review;}]

[(5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the AMC Act and this rule, including ensuring that the appraisal under review complies with the USPAP edition in effect at the time of the appraisal;}]

[(6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the AMC Act, this rule and USPAP edition in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;}]

[(7) identify the appraisal under review, including:}]

[(A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review;}]

[(B) the report date and effective date of the appraisal under review;}]

[(C) the effective date of the opinions or conclusions in the appraisal under review;}]

[(D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and}]

[(E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;}]

[(8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and}]

[(9) contain a certification which complies with USPAP Standards Rule 3-6.}]

(f) [(h)] While not required by §1104.155 of the AMC Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.

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 November 30, 2015.

TRD-201505199

Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 936-3652



## TITLE 28. INSURANCE

### PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

#### CHAPTER 104. GENERAL PROVISIONS-- RULEMAKING

##### 28 TAC §104.1

The Texas Department of Insurance, Division of Workers' Compensation (division) proposes amendments to 28 TAC §104.1, concerning contents of rulemaking petitions, to implement House Bill (HB) 763, 84th Legislature, Regular Session (2015). HB 763 amended Government Code §2001.021 by defining an interested person, for purposes of §2001.021, as a resident of Texas, a business entity located in Texas, a Texas governmental subdivision, or a public or private organization located in Texas that is not a state agency. If a state agency requires a signed petition, HB 763 also amended Government Code §2001.021 to require 51 percent of the total number of signatures be from Texas residents.

Section 104.1 addresses Contents of Rule-Making Petitions. The division amended §104.1(a) by deleting "any person" and adding "an interested person under Government Code, §2001.021(d)." The amendment is necessary to implement HB 763 and align the division's rules regarding contents of rulemaking petitions with statutory changes provided in Government Code §2001.021. The division amended §104.1(a) by deleting "these rules" and adding "the Texas Administrative Code, Title 28, Part 2." The non-substantive amendment is necessary to specify the rules that may be petitioned to the division for change and to ensure the section conforms to current agency style. The division also made a non-substantive correction to punctuation in §104.1(a) by deleting the comma separating the words "letter" and "that."

The division amended §104.1(a)(7) by deleting "the petitioner's signature." This amendment lessens the burden to the public for submitting rulemaking petitions in accordance with the right

to do so described in Government Code §2001.021(a). Section 104.1(a)(7) was also amended to add "a statement that the petitioner is an interested person under Government Code, §2001.021(d)." The amendment is necessary to implement HB 763 by asking the petitioner to confirm they are a resident of Texas, a business entity located in Texas, a Texas governmental subdivision, or a public or private organization located in Texas that is not a state agency. The amendment helps to ensure the requirements set out under Government Code, §2001.021(d) are met.

The division amended §104.1(c) by deleting "executive director of the commission" and adding "commissioner." The division amended §104.1(c) by deleting the phrase "[c]opies of the petition will be forwarded to each commissioner." These amendments are necessary to reflect the current organizational structure of the division. The division also amended §104.1(c) by deleting "or" and adding "or by email to rulecomments@tdi.texas.gov" to specify the email address interested persons must use if submitting a rulemaking petition by electronic means. This amendment makes it easier for interested persons to submit rulemaking petitions and encourages public participation in the rulemaking process.

The division amended §104.1(d) to reflect a change in the agency's name by deleting "commission" and adding "division".

The division amended the Chapter 104 heading, the §104.1 title, §104.1(a), and §104.1(d) to delete the term "rule-making" and add the term "rulemaking" for consistency with current agency style.

Dirk Johnson, TDI-DWC General Counsel, has determined that for each year of the first five years the amendments are in effect, there will be no fiscal impact to state or local governments that provide workers' compensation coverage as a result of enforcing or administering the amendments. There will be no measurable effect on local employment or the local economy as a result of the proposed amendments. Government Code §2001.024(4), concerning content of notice, requires an explanation of any additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule. Any economic costs to those state and local governments that provide workers' compensation coverage are discussed below.

Mr. Johnson has also determined that, for each of the first five years amended §104.1 is in effect, the public benefits anticipated as a result of the proposed amendments include aligning §104.1 with the current statute and providing more guidance on the requirements for submitting a rulemaking petition to the division.

#### ANTICIPATED COSTS TO COMPLY WITH THE PROPOSAL.

Mr. Johnson anticipates that, for each of the first five years amended §104.1 is in effect, there will be no costs to persons required to comply with the proposed amended section because the proposal only aligns the division's rules with the amendments to Government Code §2001.021 found in HB 763. Costs to persons who must comply with the proposed section result from the enactment of HB 763 and not from the adoption, enforcement, or administration of the proposed section.

Government Code §2006.002(c) provides that if a proposed rule may have an economic impact on small businesses, state agencies must prepare as part of the rulemaking process an economic impact statement that assesses the potential impact of the proposed rule on small businesses and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule.

In accordance with Government Code §2006.002(c), the division has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses because the rulemaking petition process is voluntary. In addition, the proposed rule is necessary to implement statutory requirements. Therefore, in accordance with Government Code §2006.002(c), a regulatory flexibility analysis is not required.

The Division 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 and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on Monday, January 11, 2016. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to Rulecomments@tdi.texas.gov or by mail to Maria Jimenez, Texas Department of Insurance, Division of Workers' Compensation, Office of Workers' Compensation Counsel, MS-4D, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645. If a hearing is held, the division will consider written comments and public testimony presented at the hearing.

The amendments are proposed under the authority of Labor Code §402.061, concerning adoption of rules; Labor Code §402.00111, concerning the relationship between commissioner of insurance and commissioner of workers' compensation; separation of authority; rulemaking; Government Code §2001.021, concerning petitions for adoption of rules; and Labor Code §401.021, concerning Application of Other Acts.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary for the implementation and administration of the Texas Workers' Compensation Act.

Labor Code §402.00111 provides that the commissioner of Workers' Compensation shall exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Government Code §2001.021(b) provides that a state agency shall prescribe the form for a petition by rule and the procedure for its submission, consideration, and disposition.

Labor Code §401.021 states, in part, that a proceeding, hearing, judicial review, or enforcement of a Commissioner order, decision, or rule is governed by Government Code Chapter 2001, Subchapter B.

#### §104.1. *Contents of Rulemaking [Rule-Making] Petitions.*

(a) Changes or additions to the Texas Administrative Code, Title 28, Part 2 [these rules] may be petitioned by an interested person under Government Code, §2001.021(d). Rulemaking [~~any person. Rule-making~~] petitions shall be in the form of a letter[~~]~~ that contains the following:

- (1) a brief statement summarizing the proposed section;
- (2) the text of the proposed section, in the exact form proposed for adoption;
- (3) a statement setting forth the statutory reference that authorizes the proposed rule;
- (4) a suggested effective date;
- (5) any other matter which may be required by law;

(6) the petitioner's name, mailing address, and telephone number; and

(7) a statement that the petitioner is an interested person under Government Code, §2001.021(d). [the petitioner's signature.]

(b) The petitioner may also include a cost-benefit analysis, estimating the public benefit expected as a result of adoption of the proposed section, and the probable economic cost to persons required to comply with the proposed section. This provision is optional.

(c) The petition shall be filed with the commissioner [executive director of the commission] by personal delivery, [or] certified mail, or by email to [rulecomments@tdi.texas.gov](mailto:rulecomments@tdi.texas.gov). [Copies of the petition will be forwarded to each commissioner.]

(d) Within 60 days after the petition is submitted, the division [commission] shall either initiate rulemaking [rule-making] procedures, or shall deny the petition and provide the petitioner with reasons for denial in writing.

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 November 24, 2015.

TRD-201505163

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 804-4707



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 13. TEXAS COMMISSION ON FIRE PROTECTION

#### CHAPTER 421. STANDARDS FOR CERTIFICATION

##### 37 TAC §421.5, §421.17

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 421, Standards for Certification, concerning §421.5, Definitions, and §421.17, Requirement to Maintain Certification.

The purpose of the proposed amendments is to address requirements contained in Senate Bill 1307, passed during the 84th legislative session, requiring the waiving of certain fees for military personnel and spouses as well as extending the time in which military service members can renew certification without penalty. The definitions are being proposed to clarify who qualifies for the above benefits.

Tim Rutland, Executive Director, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no fiscal impact on state or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public bene-

fit from the passage is clear and concise rules regarding who qualifies for the benefits. There will be no effect on micro businesses, small businesses or persons required to comply with the amended section as proposed; therefore, no regulatory flexibility analysis is required.

Comments regarding the proposed amendment may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; and §419.026, which allows the commission to set certain fees for each certification.

The proposed amendment implements Texas Government Code, Chapter 419, §419.008 and §419.026.

##### §421.5. Definitions.

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

(1) Admission to employment--An entry level full-time employee of a local government entity in one of the categories of fire protection personnel.

(2) Appointment--The designation or assignment of a person to a discipline regulated by the commission. The types of appointments are:

(A) permanent appointment--the designation or assignment of certified fire protection personnel or certified part time fire protection employees to a particular discipline (See Texas Government Code, Chapter 419, §419.032); and

(B) probationary or temporary appointment--the designation or assignment of an individual to a particular discipline, except for head of a fire department, for which the individual has passed the commission's certification and has met the medical requirement of §423.1(c) of this title (relating to Minimum Standards for Structure Fire Protection Personnel), if applicable, but has not yet been certified. (See Texas Government Code, Chapter, §419.032.)

(3) Approved training--Any training used for a higher level of certification must be approved by the commission and assigned to either the A-List or the B-List. The training submission must be in a manner specified by the commission and contain all information requested by the commission. The commission will not grant credit twice for the same subject content or course. Inclusion on the A-List or B-List does not preclude the course approval process as stated elsewhere in the Standards Manual.

(4) Assigned/work--A fire protection personnel or a part-time fire protection employee shall be considered "assigned/working" in a position, any time the individual is receiving compensation and performing the duties that are regulated by the commission and has been permanently appointed, as defined in this section, to the particular discipline.

(5) Assistant fire chief--The officer occupying the first position subordinate to the head of a fire department.

(6) Auxiliary fire fighter--A volunteer fire fighter.

(7) Benefits--Benefits shall include, but are not limited to, inclusion in group insurance plans (such as health, life, and disability)

or pension plans, stipends, free water usage, and reimbursed travel expenses (such as meals, mileage, and lodging).

(8) Chief Training Officer--The individual, by whatever title he or she may be called, who coordinates the activities of a certified training facility.

(9) Class hour--Defined as not less than 50 minutes of instruction, also defined as a contact hour; a standard for certification of fire protection personnel.

(10) Code--The official legislation creating the commission.

(11) College credits--Credits earned for studies satisfactorily completed at an institution of higher education accredited by an agency recognized by the U.S. Secretary of Education and including National Fire Academy (NFA) open learning program colleges, or courses recommended for college credit by the American Council on Education (ACE) or delivered through the National Emergency Training Center (both EMI and NFA) programs. A course of study satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide that is primarily related to Fire Service, Emergency Medicine, Emergency Management, or Public Administration is defined as applicable for Fire Science college credit, and is acceptable for higher levels of certification. A criminal justice course related to fire and or arson investigation that is satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide may be used to qualify for Master Arson Investigator certification.

(12) Commission--Texas Commission on Fire Protection.

(13) Commission-recognized training--A curriculum or training program which carries written approval from the commission, or credit hours that appear on an official transcript from an accredited college or university, or any fire service training received from a nationally recognized source, i.e., the National Fire Academy.

(14) Compensation--Compensation is to include wages, salaries, and "per call" payments (for attending drills, meetings or answering emergencies).

(15) Expired--Any certification that has not been renewed on or before the end of the certification period.

(16) Federal fire fighter--A person as defined in Texas Government Code, Chapter 419, §419.084(h).

(17) Fire chief--The head of a fire department.

(18) Fire department--A department of a local government that is staffed by one or more fire protection personnel or part-time fire protection employees.

(19) Fire protection personnel--Any person who is a permanent full-time employee of a fire department or governmental entity and who is appointed duties in one of the following categories/disciplines: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft rescue fire fighting, fire training, fire education, fire administration and others employed in related positions necessarily or customarily appertaining thereto.

(20) Fire Code Inspection--Also called Fire Safety Inspection as referenced in Texas Government Code, Chapter 419, §419.909. An inspection performed for the purpose of determining and enforcing compliance with an adopted fire code.

(21) Fire suppression duties--Engaging in the controlling or extinguishment of a fire of any type or performing activities which are required for and directly related to the control and extinguishment

of fires or standing by on the employer's premises or apparatus or nearby in a state of readiness to perform these duties.

(22) Full-time--An officer or employee is considered full-time if the employee works an average of 40 hours a week or averages 40 hours per week or more during a work cycle in a calendar year. For the purposes of this definition paid leave will be considered time worked.

(23) Government entity--The local authority having jurisdiction as employer of full-time fire protection personnel in a state agency, incorporated city, village, town or county, education institution or political subdivision.

(24) High school--A school accredited as a high school by the Texas Education Agency or equivalent accreditation agency from another jurisdiction.

(25) Immediately dangerous to life or health (IDLH)--An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

(26) Incipient stage fire--A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

(27) Instructor:

(A) Lead Instructor--Oversees the presentation of an entire course and assures that course objectives are met in accordance with the applicable curriculum or course material. The lead instructor should have sufficient experience in presenting all units of the course so as to be capable of last-minute substitution for other instructors.

(B) Instructor (also Unit Instructor for wildland courses)--Responsible for the successful presentation of one or more areas of instruction within a course, and should be experienced in the lesson content they are presenting.

(C) Guest Instructor--An individual who may or may not hold Instructor certification but whose special knowledge, skill, and expertise in a particular subject area may enhance the effectiveness of the training in a course. Guest instructors shall teach under the endorsement of the lead instructor.

(28) Interior structural fire fighting--The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. (See 29 CFR §1910.155.)

(29) Military active duty (or active duty)--Current full-time military service in the armed forces of the United States, or full-time military service as a member of the Texas military forces or a similar service of another state.

(30) Military service member--A person who is on active duty.

(31) Military spouse--A person who is married to a military service member.

(32) Military veteran--A person who has served on active duty and who was discharged or released from active duty.

(33) [(29)] Municipality--Any incorporated city, village, or town of this state and any county or political subdivision or district in this state. Municipal pertains to a municipality as defined in this section.

(34) [(30)] National Fire Academy semester credit hours--The number of hours credited for attendance of National Fire Academy courses is determined as recommended in the most recent edition of the "National Guide to Educational Credit for Training Programs," American Council on Education (ACE).

(35) [(31)] National Fire Protection Association (NFPA)--An organization established to provide and advocate consensus codes and standards, research, training, and education for fire protection.

(36) [(32)] National Wildfire Coordinating Group (NWCG)--An operational group designed to establish, implement, maintain, and communicate policy, standards, guidelines, and qualifications for wildland fire program management among participating agencies.

(37) [(33)] Non-self-serving affidavit--A sworn document executed by someone other than the individual seeking certification.

(38) [(34)] Participating volunteer fire fighter--An individual who voluntarily seeks certification and regulation by the commission under the Texas Government Code, Chapter 419, Subchapter D.

(39) [(35)] Participating volunteer fire service organization--A fire department that voluntarily seeks regulation by the commission under the Texas Government Code, Chapter 419, Subchapter D.

(40) [(36)] Part-time fire protection employee--An individual who is appointed as a part-time fire protection employee and who receives compensation, including benefits and reimbursement for expenses. A part-time fire protection employee is not full-time as defined in this section.

(41) [(37)] Personal alert safety system (PASS)--Devices that are certified as being compliant with NFPA 1982 and that automatically activates an alarm signal (which can also be manually activated) to alert and assist others in locating a fire fighter or emergency services person who is in danger.

(42) [(38)] Political subdivision--A political subdivision of the State of Texas that includes, but is not limited to the following:

- (A) city;
- (B) county;
- (C) school district;
- (D) junior college district;
- (E) levee improvement district;
- (F) drainage district;
- (G) irrigation district;
- (H) water improvement district;
- (I) water control and improvement district;
- (J) water control and preservation district;
- (K) freshwater supply district;
- (L) navigation district;
- (M) conservation and reclamation district;
- (N) soil conservation district;
- (O) communication district;
- (P) public health district;
- (Q) river authority;

- (R) municipal utility district;
- (S) transit authority;
- (T) hospital district;
- (U) emergency services district;
- (V) rural fire prevention district; and
- (W) any other governmental entity that:

(i) embraces a geographical area with a defined boundary;

(ii) exists for the purpose of discharging functions of the government; and

(iii) possesses authority for subordinate self-government through officers selected by it.

(43) [(39)] Pre-fire Planning--Also called a Pre-fire Survey. A walk-through performed by fire fighters for the purpose of gaining familiarity with a building, its contents, and its occupancy.

(44) [(40)] Reciprocity for IFSAC seals and TEEEX Pro Board certificates--Valid documentation of accreditation from the International Fire Service Accreditation Congress and the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service used for commission certification may only be used for obtaining an initial certification.

(45) [(41)] Recognition of training--A document issued by the commission stating that an individual has completed the training requirements of a specific phase level of the Basic Fire Suppression Curriculum.

(46) [(42)] School--Any school, college, university, academy, or local training program which offers fire service training and included within its meaning the combination of course curriculum, instructors, and facilities.

(47) [(43)] Structural fire protection personnel--Any person who is a permanent full-time employee of a government entity who engages in fire fighting activities involving structures and may perform other emergency activities typically associated with fire fighting activities such as rescue, emergency medical response, confined space rescue, hazardous materials response, and wildland fire fighting.

(48) [(44)] Trainee--An individual who is participating in a commission approved training program.

(49) [(45)] Volunteer fire protection personnel--Any person who has met the requirements for membership in a volunteer fire service organization, who is assigned duties in one of the following categories: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft rescue fire fighting, fire training, fire education, fire administration and others in related positions necessarily or customarily appertaining thereto.

(50) [(46)] Volunteer fire service organization--A volunteer fire department or organization not under mandatory regulation by the commission.

(51) [(47)] Years of experience--For purposes of higher levels of certification or fire service instructor certification:

(A) Except as provided in subparagraph (B) of this paragraph, years of experience is defined as full years of full-time, part-time or volunteer fire service while holding:

(i) a commission certification as a full-time, or part-time employee of a government entity, a member in a volunteer fire

service organization, and/or an employee of a regulated non-governmental fire department; or

(ii) a State Firemen's and Fire Marshals' Association advanced fire fighter certification and have successfully completed, as a minimum, the requirements for an Emergency Care Attendant (ECA) as specified by the Department of State Health Services (DSHS), or its successor agency, or its equivalent; or

(iii) an equivalent certification as a full-time fire protection personnel of a governmental entity from another jurisdiction, including the military, or while a member in a volunteer fire service organization from another jurisdiction, and have, as a minimum, the requirements for an ECA as specified by the DSHS, or its successor agency, or its equivalent; or

(iv) for fire service instructor eligibility only, a State Firemen's and Fire Marshals' Association Level II Instructor Certification, received prior to June 1, 2008 or Instructor I received on or after June 1, 2008 or an equivalent instructor certification from the DSHS or the Texas Commission on Law Enforcement. Documentation of at least three years of experience as a volunteer in the fire service shall be in the form of a non self-serving sworn affidavit.

(B) For fire service personnel certified as required in subparagraph (A) of this paragraph on or before October 31, 1998, years of experience includes the time from the date of employment or membership to date of certification not to exceed one year.

*§421.17. Requirement to Maintain Certification.*

(a) All full-time or part-time employees of a fire department or local government [~~who are~~] assigned duties identified as fire protection personnel duties must maintain certification by the commission in the discipline(s) to which they are assigned for the duration of their assignment.

(b) In order to maintain the certification required by this section, the certificate(s) of the employees must be renewed annually by complying with §437.5 of this title (relating to Renewal Fees) and Chapter 441 of this title (relating to Continuing Education) of the commission standards manual.

(c) Except for subsection (d) of this section, an [A#] individual whose certificate has been expired for one year or longer may not renew the certificate [that was] previously held. To obtain a new certification, an individual must meet the requirements in Chapter 439 of this title (relating to Examinations for Certification).

(d) A military service member whose certificate has been expired for three years or longer may not renew the certificate previously held. To obtain a new certification, the person must meet the requirements in Chapter 439 of this title (relating to Examinations for Certification). In order to qualify for this provision, the individual must have been a military service member at the time the certificate expired and continued in that status for the duration of the three year period.

(e) [~~(d)~~] The commission will provide proof of current certification to individuals whose certification has been renewed.

(f) [~~(e)~~] All certificate holders are subject to the requirements of §57.491 of the Texas Education Code regarding license renewal and default on student loans.

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 November 30, 2015.

TRD-201505188

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 936-3812



## CHAPTER 437. FEES

### 37 TAC §§437.3, 437.5, 437.13

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 437, Fees, concerning §437.3, Certification Application Processing Fees, §437.5, Renewal Fees, and §437.13, Processing Fees for Test Application.

The purpose of the proposed amendments is to address requirements contained in Senate Bill 807 of the 84th Legislature, requiring the waiving of certain fees for military personnel and spouses as well as extending the time in which military service members can renew certification without penalty.

Tim Rutland, Executive Director, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no fiscal impact on state or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is clear and concise rules regarding who qualifies for the benefits. There will be no effect on micro businesses, small businesses or persons required to comply with the amended sections as proposed; therefore, no regulatory flexibility analysis is required.

Comments regarding the proposed amendments may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; and §419.026, which allows the commission to set certain fees for each certification and examination given to fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.026.

#### *§437.3. Certification Application Processing Fees.*

(a) A non-refundable application processing fee of \$85 is required for each certificate issued by the commission. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application processing fee to file a new application.

(b) The regulated employing entity shall be responsible for all certification application processing fees required as a condition of appointment.

(c) Nothing in this section shall prohibit an individual from paying a certification application processing fee for any certificate which he or she is qualified to hold, providing the certificate is not

required as a condition of appointment (see subsection (b) of this section concerning certification fees).

(d) A facility that provides training for any discipline for which the commission has established a curriculum must be certified by the commission. The training facility will be charged a separate certification application processing fee for each discipline or level of discipline for which application is made.

(e) The certification application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.

(f) The certification application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.

#### §437.5. *Renewal Fees.*

(a) A non-refundable annual renewal fee of \$85 shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate, the commission may collect only one renewal fee of \$85, which will renew all certificates held by the individual or certified training facility.

(b) A regulated employing entity shall pay the renewal fee for each individual who is required to possess certification as a condition of employment.

(c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.

(d) If a person wishes to renew a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.

(e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.

(f) Certification renewal information will be sent to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal information will be sent to certified training facilities at least 60 days prior to February 1 of each calendar year.

(g) If renewal payment is submitted by mail, all certification renewal fees must be submitted with the renewal invoice to the commission.

(h) All certification renewal fees must be paid on or before the last day of the certification period (see subsection (i) of this section) to avoid additional fee(s).

(i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October

31. The certification period of certified training facilities is February 1 to January 31.

(j) All certification renewal fees received from one to 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$42.50 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.

(k) All certification renewal fees received more than 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$85 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.

(l) In addition to any non-refundable late fee(s) assessed for certification renewal, the commission may hold an informal conference to determine if any further action(s) is to be taken.

(m) An individual or entity may petition the commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action.

(1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

(2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.

(n) An individual, who is a military service member, or [upon] returning from activation to military service, [whose certification has expired,] must notify the commission in writing if the individual wishes to renew an expired certification. Provided other qualifications for renewal are met, the [The] individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$85.

#### §437.13. *Processing Fees for Test Application.*

(a) A non-refundable application processing fee of \$85 shall be charged for each examination.

(b) Fees will be paid in advance with the application or the certified training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax.

(1) Any payment postmarked from 61 to 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee of one half the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.

(2) Any payment postmarked more than 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee in an amount equal to the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.

(c) The test application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties.

Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

(d) The test application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

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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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## CHAPTER 441. CONTINUING EDUCATION

### 37 TAC §441.5

The Texas Commission on Fire Protection (the commission) proposes an amendment to Chapter 441, Continuing Education, concerning §441.5, Requirements.

The purpose of the proposed amendment is to address requirements contained in Senate Bill 1307, passed during the 84th legislative session, requiring the waiving of certain fees for military personnel and spouses as well as extending the time in which military service members can renew certification without penalty.

Tim Rutland, Executive Director, has determined that for each year of the first five-year period the proposed amendment is in effect, there will be no fiscal impact on state or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendment is in effect, the public benefit from the passage is clear and concise rules regarding who qualifies for the benefits. There will be no effect on micro businesses, small businesses or persons required to comply with the amended sections as proposed; therefore, no regulatory flexibility analysis is required.

Comments regarding the proposed amendment may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendment is proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; and §419.026, which allows the commission to set certain fees for each certification.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.026.

### §441.5. Requirements.

(a) Continuing education shall be required in order to renew certification.

(b) The continuing education requirement for renewal shall consist of a minimum of 18 hours of training to be conducted during the certification period. All documentation of training used to satisfy the continuing education requirements must be maintained for a period of three years from the date of the training. Continuing education records shall be maintained by the department in accordance with the Texas State Library and Archives Commission, State and Local Records Management Division, Records Schedule, Local Schedule (GR 1050-28), whichever is greater.

(c) Level 1 training must be conducted by a certified instructor. Interactive computer-based continuing education training that is supervised and verified by a certified instructor is acceptable.

(d) The continuing education program of a regulated entity must be administered and maintained in accordance with commission rule by a certified instructor.

(e) No more than four hours per year in any one subject of Level 1 training may be counted toward the continuing education requirement for a particular certification.

(f) There shall be no "hour per subject limit" placed on Level 2 courses, except that emergency medical courses shall be limited to four hours per year.

(g) The head of a fire department may select subject matter for continuing education appropriate for a particular discipline.

(h) The head of a fire department must certify whether or not the individuals whose certificates are being renewed have complied with the continuing education requirements of this chapter on the certification renewal document. Unless exempted from the continuing education requirements, an individual who fails to comply with the continuing education requirements in this chapter shall be notified by the commission of the failure to comply.

(i) After notification from the commission of a failure to comply with continuing education requirements, an individual who holds a certificate is prohibited from performing any duties authorized by a required certificate until such time as the deficiency has been resolved and written documentation is furnished by the department head for approval by the commission. Continuing education hours obtained to resolve a deficiency may not be applied to the continuing education requirements for the current certification period.

(j) Any person who is a member of a paid or volunteer fire department who is on extended leave for a cumulative period of six months or longer due to a documented illness, injury, or activation to military service may be exempted from the continuing education requirement for the applicable renewal period(s). Such exemptions shall be reported by the head of the department to the commission at renewal time, and a copy kept with the department continuing education records for three years.

(k) Any individual who is not a member of a paid or volunteer fire department who is unable to perform work, substantially similar in nature as would be performed by fire protection personnel appointed to that discipline, may be exempted from the continuing education requirement for the applicable renewal period(s). Commission staff shall determine the exemption using documentation provided by the individual and the individual's treating physician of the illness or injury that cumulatively lasts six months or longer, [which is provided by the in-

dividual and the individual's treating physician] or by documentation of military service or activation to military service.

(l) In order to renew certification for any discipline which has a continuing education requirement stated in this chapter, an individual holder of a certificate not employed by a regulated entity must comply with the continuing education requirements for that discipline. Only 20 total hours of continuing education for each certification period in Level 1 or Level 2 subjects relating to the certification being renewed shall be required to renew all certificates the individual holds, except as provided in §441.17 of this title (relating to Continuing Education for Hazardous Materials Technician).

(m) An individual certificate holder, not employed by a regulated entity, shall submit documentation of continuing education training upon notification by the commission. An example of documentation of continuing education training may include, but not be limited to a Certificate of Completion, a college or training facility transcript, a fire department training roster, etc. Commission staff will review and may approve or disapprove such documentation of training in accordance with applicable commission rules and/or procedures. The training for a resident of Texas at the time the continuing education training is conducted shall be administered by a commission instructor, commission certified training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The training for a nonresident of Texas, shall be delivered by a state fire academy, a fire department training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The individual must submit training documentation to the commission for evaluation of the equivalency of the training required by this chapter. The individual certificate holder is responsible for maintaining all of his/her training records for a period of three years from the date of the training.

(n) If an individual has completed a commission approved academy in the 12 months prior to his or her certification expiration date, a copy of that certificate of completion will be acceptable documentation of continuing education for that certification renewal period.

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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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES**

#### **CHAPTER 1. STATE AUTHORITY RESPONSIBILITIES**

##### **SUBCHAPTER A. ADVISORY COMMITTEES**

## **40 TAC §§1.1 - 1.4, 1.8, 1.20, 1.21**

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Department of Aging and Disability Services or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

The Texas Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), the repeal of Subchapter A, Advisory Committees, consisting of §§1.1, 1.2, 1.3, 1.4, 1.8, 1.20, and 1.21, in Chapter 1, State Authority Responsibilities.

### **BACKGROUND AND PURPOSE**

The purpose of the repeal is, along with proposed new Chapter 89, to implement §531.012 of the Texas Government Code, as amended by Senate Bill 200 of the 84th Legislature, Regular Session, 2015. Section 531.012 requires the executive commissioner of the Texas Health and Human Services Commission to establish and maintain advisory committees to solicit input from the public to address key issues of concern across the health and human services system. Section 531.012 also requires the executive commissioner to adopt rules to govern advisory committees in compliance with Texas Government Code, Chapter 2110, and to address topics specified in §531.012. The proposed repeal deletes rules about an advisory committee that has been abolished.

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

The proposed repeal of §§1.1, 1.2, 1.3, 1.4, 1.8, 1.20, and 1.21 deletes rules about an advisory committee of the former Texas Department of Mental Health and Mental Retardation that has been abolished.

### **FISCAL NOTE**

David Cook, DADS Chief Financial Officer, has determined that, for the first five years after the repeal, there are no foreseeable implications relating to costs or revenues of state or local governments.

### **SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS**

DADS has determined that the proposed repeal will have no adverse economic effect on small businesses or micro-businesses because there are no costs imposed on small businesses or micro-businesses by the repeal.

### **PUBLIC BENEFIT AND COSTS**

Kristi Jordan, Deputy Commissioner, has determined that, for each year of the first five years after the repeal, the public benefit expected as a result of repealing the subchapter is to delete rules governing an advisory committee that has been abolished.

Ms. Jordan anticipates that there will not be an economic cost to persons who are affected by the repeal. The repeal will not affect a local economy.

### **TAKINGS IMPACT ASSESSMENT**

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

### **PUBLIC COMMENT**

Questions about the content of this proposal may be directed to Corliss Powell at (512) 438-2430 in DADS Center for Policy and

Innovation. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-15R16, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030 or street address 701 West 51st St., Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to [rulescomments@dads.state.tx.us](mailto:rulescomments@dads.state.tx.us). To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 15R16" in the subject line.

#### STATUTORY AUTHORITY

The repeals are proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.012, which authorizes the executive commissioner to establish and maintain advisory committees.

The repeals implement Texas Government Code, §531.0055 and §531.012, and Texas Human Resources Code, §161.021.

§1.1. *Purpose.*

§1.2. *Application.*

§1.3. *Definitions.*

§1.4. *Advisory Committee Requirements.*

§1.8. *Mental Retardation Planning and Advisory Council.*

§1.20. *References.*

§1.21. *Distribution.*

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 November 24, 2015.

TRD-201505167

Lawrence Hornsby

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 438-2430



## CHAPTER 18. NURSING FACILITY ADMINISTRATORS

### SUBCHAPTER A. GENERAL INFORMATION

The Texas Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), an amendment to §18.2, and the repeal of §18.3, in Subchapter A, General Information, in Chapter 18, Nursing Facility Administrators.

## BACKGROUND AND PURPOSE

The purpose of the amendment and repeal is, along with Chapter 89, to implement §531.012 of the Texas Government Code, as amended by Senate Bill 200 of the 84th Legislature, Regular Session, 2015. Section 531.012 requires the executive commissioner of the Texas Health and Human Services Commission to establish and maintain advisory committees to solicit input from the public to address key issues of concern across the health and human services system. Section 531.012 also requires the executive commissioner to adopt rules to govern advisory committees in compliance with Texas Government Code, Chapter 2110, and to address topics specified in §531.012. The proposal amends the definition of "Nursing Facility Administrators Advisory Committee" (NFAAC) to reference proposed new §89.6, and repeals §18.3, which describes the NFAAC.

## SECTION-BY-SECTION SUMMARY

The proposed amendment of §18.2 refers to proposed new §89.6 in the definition of NFAAC.

The proposed repeal of §18.3 deletes the rule describing the NFAAC because proposed new §89.6 describes the NFAAC.

## FISCAL NOTE

David Cook, DADS Chief Financial Officer, has determined that, for the first five years the proposed rules are in effect, enforcing or administering the amendment and repeal does not have foreseeable implications relating to costs or revenues of state or local governments.

## SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed rules will not have an adverse economic effect on small businesses or micro-businesses because there are no costs imposed on small businesses or micro-businesses by the proposed amendment or repeal.

## PUBLIC BENEFIT AND COSTS

Kristi Jordan, Deputy Commissioner, has determined that, for each year of the first five years the amendment and repeal are in effect, the public will benefit from a clarification that "NFAAC" refers to the advisory committee described in proposed new 40 TAC §89.6, and from the repeal of a rule that duplicates information in proposed new §89.6.

Ms. Jordan anticipates that there will not be an economic cost to persons who are required to comply with the amendment and repeal. The amendment and repeal will not affect a local economy.

## TAKINGS IMPACT ASSESSMENT

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

## PUBLIC COMMENT

Questions about the content of this proposal may be directed to Corliss Powell at (512) 438-2430 in DADS Center for Policy and Innovation. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-15R16, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030 or street address 701 West 51st St., Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to

*rulescomments@dads.state.tx.us*. To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 15R16" in the subject line.

#### 40 TAC §18.2

##### STATUTORY AUTHORITY

The amendment is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.012, which authorizes the executive commissioner to establish and maintain advisory committees.

The amendment implements Texas Government Code, §531.0055 and §531.012, and Texas Human Resources Code, §161.021.

##### §18.2. Definitions.

The words and terms in this chapter have the following meanings, unless the context clearly indicates otherwise:

(1) Abuse--Any act, failure to act, or incitement to act done willfully, knowingly, or recklessly through words or physical action that causes or could cause mental or physical injury or harm or death to a nursing facility resident. Abuse includes verbal, sexual, mental, psychological, or physical abuse; corporal punishment; involuntary seclusion; or any other actions within this definition.

(2) Administrative law judge (ALJ)--A State Office of Administrative Hearings (SOAH) attorney who conducts formal hearings for the Department of Aging and Disability Services.

(3) Administrator--A licensed nursing facility administrator.

(4) Administrator-in-training (AIT)--A person undergoing a minimum 1,000-hour internship under a DADS-approved certified preceptor.

(5) Administrator of Record--The individual who is listed as the facility's licensed nursing facility administrator with the DADS' Licensing and Credentialing Section.

(6) Applicant--A person applying for a Texas nursing facility administrator license.

(7) Application--The notarized DADS application for licensure as a nursing facility administrator, as well as all required forms, fees, and supporting documentation.

(8) Complaint--An allegation that a licensed nursing facility administrator violated one or more of the licensure rules or statutory requirements.

(9) DADS--The Department of Aging and Disability Services.

(10) Deficiency--Violation of a federal participation requirement in a nursing facility.

(11) Domains of the NAB--The five categories for education and continuing education of the National Association of Long Term Care Administrator Boards, which are resident care and quality of life; human resources; finance; physical environment and atmosphere; and leadership and management.

(12) Equivalent--A level of achievement that is equal in amount and quality to completion of an educational or training program.

(13) Formal hearing--A hearing held by SOAH to adjudicate a sanction taken by DADS against a licensed nursing facility administrator.

(14) Good standing--The licensure status of a nursing facility administrator who is in compliance with the rules in this chapter and, if applicable, the terms of any sanction imposed by DADS.

(15) Informal review--The opportunity for a licensee to dispute the allegations made by DADS. The informal review includes the opportunity to show compliance.

(16) Internship--The 1,000-hour training period in a nursing facility for an AIT.

(17) License--A nursing facility administrator license or provisional license.

(18) Licensee--A person licensed by DADS as a nursing facility administrator.

(19) Misappropriation of resident property--The deliberate misplacement, exploitation, or wrongful temporary or permanent use of a nursing facility resident's belongings or money without the resident's consent.

(20) NAB--The National Association of Long Term Care Administrator Boards, which is composed of state boards or agencies responsible for the licensure of nursing facility administrators.

(21) NAB examination--The national examination developed by NAB that applicants must pass in combination with the state licensure examination to be issued a license to practice nursing facility administration in Texas.

(22) NCERS--The National Continuing Education Review Service, which is the part of NAB that approves and monitors continuing education activities for nursing facility administrators.

(23) Neglect--A deprivation of life's necessities of food, water, or shelter; or a failure of an individual to provide services, treatment, or care to a nursing facility resident that causes or could cause mental or physical injury, harm, or death to the nursing facility resident.

(24) Nursing facility--An institution or facility licensed by DADS as a nursing home, nursing facility, or skilled nursing facility.

(25) Nursing facility administrator--A person who is licensed to engage in the practice of nursing facility administration, regardless of whether the person has ownership interest in the facility.

(26) NFAAC--Nursing Facility Administrators Advisory Committee. ~~[(NFAAC)]~~The advisory committee described in §89.6 of this title (Nursing Facility Administrators Advisory Committee) [nine-member governor-appointed advisory committee that makes recommendations to DADS about the practice and regulation of nursing facility administration].

(27) Opportunity to show compliance--An informal meeting between DADS and a licensee that allows the licensee an opportunity to show compliance with the requirements of law for the retention of the license. The opportunity to show compliance is part of an informal review.

(28) Preceptor--A licensed nursing facility administrator certified by DADS to provide supervision to an AIT.

(29) PES--Professional examination services. The testing agency that administers the NAB and state examinations to applicants seeking licensure as nursing facility administrators.

(30) Referral--A recommendation made by Regulatory Services Division staff to investigate an administrator's compliance with licensure requirements when deficiencies or substandard quality of care deficiencies are found in a nursing facility, as required by Title 42 Code of Federal Regulations.

(31) Regulatory Services Division--The division of DADS responsible for long term care regulation, including determining nursing facility compliance with licensure and certification requirements and licensing nursing facility administrators.

(32) Sanctions--Any adverse licensure actions DADS imposes against a licensee, including letter of reprimand, suspension, revocation, denial of license, and monetary penalties.

(33) Self-study course--A NAB-approved education course that an individual pursues independently to meet continuing education requirements for license renewal.

(34) State examination--The state licensure examination that applicants must pass, in combination with the NAB examination, to be issued a license to practice nursing facility administration in Texas. This examination covers the nursing facility requirements found in Chapter 19 of this title (relating to Nursing Facility Requirements for Licensure and Medicaid Certification).

(35) State of Texas Administrator-In-Training Internship Manual--The DADS program guide used by an AIT and preceptor during the AIT's internship for nursing facility administrator licensure.

(36) Substandard quality of care--Any deficiency in Resident Behavior and Facility Practices, Quality of Life, or Quality of Care that is immediate jeopardy to nursing facility resident health or safety; or a pattern of widespread actual harm that is not immediate jeopardy; or a widespread potential for more than minimal harm that is not immediate jeopardy, with no actual harm.

(37) Survey--A resident-focused complaint/incident investigation or annual licensure or certification inspection of a nursing facility by DADS.

(38) Traditional business hours--Monday through Friday from 8:00 a.m. until 5:00 p.m.

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 November 24, 2015.

TRD-201505168  
Lawrence Hornsby  
General Counsel  
Department of Aging and Disability Services  
Earliest possible date of adoption: January 10, 2016  
For further information, please call: (512) 438-2430

◆ ◆ ◆  
**40 TAC §18.3**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Department of Aging and Disability Services or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

**STATUTORY AUTHORITY**

The repeal is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.012, which authorizes the executive commissioner to establish and maintain advisory committees.

The repeal implements Texas Government Code, §531.0055 and §531.012, and Texas Human Resources Code, §161.021.

§18.3. *Nursing Facility Administrators Advisory Committee.*

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 November 24, 2015.

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Lawrence Hornsby  
General Counsel  
Department of Aging and Disability Services  
Earliest possible date of adoption: January 10, 2016  
For further information, please call: (512) 438-2430

◆ ◆ ◆  
**CHAPTER 79. LEGAL SERVICES**  
**SUBCHAPTER E. ADVISORY COMMITTEES**

**40 TAC §§79.401 - 79.404, 79.406**

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Department of Aging and Disability Services or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

The Texas Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), the repeal of Subchapter E, Advisory Committees, consisting of §§79.401, 79.402, 79.403, 79.404, and 79.406, in Chapter 79, Legal Services.

**BACKGROUND AND PURPOSE**

The purpose of the repeal is, along with proposed new Chapter 89, to implement §531.012 of the Texas Government Code, as amended by Senate Bill 200 of the 84th Legislature, Regular Session, 2015. Section 531.012 requires the executive commissioner of the Texas Health and Human Services Commission to establish and maintain advisory committees to solicit input from the public to address key issues of concern across the health

and human services system. Section 531.012 also requires the executive commissioner to adopt rules to govern advisory committees in compliance with Texas Government Code, Chapter 2110, and to address topics specified in §531.012.

The proposed repeal deletes rules about advisory committees that have been abolished and the NFAAC. The NFAAC is described in proposed new §89.6.

#### SECTION-BY-SECTION SUMMARY

The proposed repeal of §§79.401, 79.402, 79.403, 79.404, and 79.406 deletes rules about advisory committees of the former Texas Department of Human Services that have been abolished and the NFAAC. The NFAAC is described in proposed new §89.6.

#### FISCAL NOTE

David Cook, DADS Chief Financial Officer, has determined that, for the first five years after the repeal, there are no foreseeable implications relating to costs or revenues of state or local governments.

#### SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed repeal will have no adverse economic effect on small businesses or micro-businesses because there are no costs imposed on small businesses or micro-businesses by the repeal.

#### PUBLIC BENEFIT AND COSTS

Kristi Jordan, Deputy Commissioner, has determined that, for each year of the first five years after the repeal, the public benefit expected as a result of repealing the subchapter is to delete rules that describe abolished advisory committees and duplicate information in other rules.

Ms. Jordan anticipates that there will not be an economic cost to persons who are affected by the repeal. The repeal will not affect a local economy.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENT

Questions about the content of this proposal may be directed to Corliss Powell at (512) 438-2430 in DADS Center for Policy and Innovation. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-15R16, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030 or street address 701 West 51st St., Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to [rulescomments@dads.state.tx.us](mailto:rulescomments@dads.state.tx.us). To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 15R16" in the subject line.

#### STATUTORY AUTHORITY

The repeals are proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.012, which authorizes the executive commissioner to establish and maintain advisory committees.

The repeals implement Texas Government Code, §531.0055 and §531.012, and Texas Human Resources Code, §161.021.

§79.401. *Definitions.*

§79.402. *Advisory Committees.*

§79.403. *Mandated Advisory Committees.*

§79.404. *Committees Established by the Board.*

§79.406. *Regional Advisory Councils.*

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 November 24, 2015.

TRD-201505170

Lawrence Hornsby

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 438-2430



## CHAPTER 89. ADVISORY COMMITTEES

### 40 TAC §§89.1 - 89.7

The Texas Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), new §§89.1 - 89.7, in Chapter 89, Advisory Committees.

#### BACKGROUND AND PURPOSE

The purpose of the proposed new Chapter 89 is to implement §531.012 of the Texas Government Code, as amended by Senate Bill 200 of the 84th Legislature, Regular Session, 2015. Section 531.012 requires the executive commissioner of the Texas Health and Human Services Commission to establish and maintain advisory committees to solicit input from the public to address key issues of concern across the health and human services system. Section 531.012 also requires the executive commissioner to adopt rules to govern advisory committees in compliance with Texas Government Code, Chapter 2110, and to address topics specified in §531.012. The proposed new rules govern the advisory committees established to consider issues related to the Department of Aging and Disability Services.

The proposed new rules describe the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolition date of the Aging and Disability Resource Center Advisory Committee (ADRCAC), Aging Texas Well

Advisory Committee (ATWAC), Foster Grandparent Program Advisory Councils (FGPACs), Nursing Facility Administrators Advisory Committee (NFAAC), and the Texas Respite Advisory Committee (TRAC).

#### SECTION-BY-SECTION SUMMARY

Proposed new §89.1 adds definitions for "commissioner," "DADS," "executive commissioner," and "governor," which are terms used in Chapter 89.

Proposed new §89.2 explains the legal authorization for the advisory committee rules and includes general provisions regarding the operation of advisory committees.

Proposed new §89.3 sets out the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolishment date of the ADRCAC.

Proposed new §89.4 sets out the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolishment date of the ATWAC.

Proposed new §89.5 sets out the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolishment date of the FGPACs.

Proposed new §89.6 sets out the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolishment date of the NFAAC.

Proposed new §89.7 sets out the purpose, tasks, membership composition, quorum requirements, reporting requirements, and abolishment date of the TRAC.

#### FISCAL NOTE

David Cook, DADS Chief Financial Officer, has determined that, for the first five years the proposed rules are in effect, enforcing or administering the new chapter does not have foreseeable implications relating to costs or revenues of state or local governments.

#### SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed rules will not have an adverse economic effect on small businesses or micro-businesses because there are no costs imposed on small businesses or micro-businesses by the proposed rules.

#### PUBLIC BENEFIT AND COSTS

Kristi Jordan, Deputy Commissioner, has determined that, for each year of the first five years the new chapter is in effect, the public benefit expected as a result of administering the new chapter will be the consolidation of rules relating to advisory committees, and clear communication to the public about the purpose and operation of the advisory committees.

Ms. Jordan anticipates that there will not be an economic cost to persons who are required to comply with the new chapter. The new chapter will not affect a local economy.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENT

Questions about the content of this proposal may be directed to Corliss Powell at (512) 438-2430 in DADS Center for Policy and Innovation. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-15R16, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030 or street address 701 West 51st St., Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to [rulescomments@dads.state.tx.us](mailto:rulescomments@dads.state.tx.us). To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 15R16" in the subject line.

#### STATUTORY AUTHORITY

The new sections are proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.012, which authorizes the executive commissioner to establish and maintain advisory committees.

The new sections implement Texas Government Code, §531.0055 and §531.012, and Texas Human Resources Code, §161.021.

#### §89.1. Definitions.

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

- (1) Commissioner--The Commissioner of the Department of Aging and Disability Services.
- (2) DADS--The Department of Aging and Disability Services.
- (3) Executive commissioner--The Executive Commissioner of the Texas Health and Human Services Commission.
- (4) Governor--The Governor of the State of Texas.

#### §89.2. Authorization and General Provisions.

(a) The executive commissioner is authorized under Texas Government Code §531.012 to establish and maintain advisory committees to consider issues and solicit input from the public to address key issues of concern across the health and human services system. This chapter describes the advisory committees established by the executive commissioner to assist DADS in accomplishing its mission.

(b) The members of an advisory committee described in this chapter may meet in-person or by teleconference to transact committee business.

(c) An advisory committee described in this chapter is subject to Texas Government Code, Chapter 551, as if it were a governmental body.

#### §89.3. Aging and Disability Resource Center Advisory Committee.

(a) United States Code, Title 42, §3012(b)(8) and (c)(1) directs the Administration on Aging to implement aging and disability resource centers (ADRCs) in states and encourage volunteer groups to participate and be involved in supportive service and civic engagement programs to the maximum extent feasible. The Aging and Disability Resource Center Advisory Committee (ADRCAC) assists DADS in developing and implementing an ADRC program. The ADRCAC advises DADS on ADRC program and policy development, including designing and operating ADRCs, obtaining stakeholder input, and achieving the goals and vision of the ADRC program.

(b) The tasks of the ADRCAC include:

(1) supporting DADS to develop and implement the mission, vision and values statements to support the ADRC and the "no wrong door" system of access to long-term services and supports;

(2) assisting DADS to identify ADRC target populations and establish meaningful goals and objectives for those populations;

(3) assisting DADS to develop and implement a service delivery model supported by appropriate administrative and management information systems and information technology resources;

(4) assisting DADS to position ADRCs to take advantage of current and future initiatives; and

(5) supporting the Texas health and human services system to use ADRCs as a point of access to long-term services and supports.

(c) The ADRCAC is composed of no more than 15 members. A quorum of 5 members is required to convene and transact committee business. Members represent populations served by the ADRC program, including individuals who have a disability or a chronic condition requiring long-term services and supports, organizations that provide services to individuals served by the ADRC program, and governmental and non-governmental agencies affected by the program.

(d) The ADRCAC meets quarterly and submits a written report of its activities to the commissioner or designee every odd numbered year.

(e) The ADRCAC is abolished on March 1, 2026.

#### §89.4. Aging Texas Well Advisory Committee.

(a) Executive Order RP-42 created the Aging Texas Well Advisory Committee (ATWAC) and established the purpose and responsibilities of ATWAC. The ATWAC advises and makes recommendations to DADS consistent with Executive Order RP-42.

(b) The tasks of the ATWAC include:

(1) identifying and discussing aging policy issues;

(2) assessing state government readiness to address issues facing older Texans;

(3) promoting increased local community preparedness for aging Texans; and

(4) assisting DADS by providing recommendations, including recommendations for changes to the Aging Texas Well Plan.

(c) The composition of the membership of the ATWAC, and the number of members required to convene a meeting and transact committee business are set forth in the ATWAC by-laws.

(d) The ATWAC meets quarterly and submits reports of committee meetings to the commissioner or designee. The frequency and type of reports are set forth in the ATWAC by-laws.

(f) The ATWAC is abolished on March 1, 2026.

#### §89.5. Foster Grandparent Program Advisory Councils.

(a) The Domestic Volunteer Service Act of 1973 (United States Code, Title 42 §§4950 et seq.) and Code of Federal Regulations, Title 45, §2552.24 require the creation of advisory councils to secure community participation in the local operation of the Foster Grandparent Program (the Program). DADS operates the Program in eight geographically defined service areas where foster grandparents are recruited, enrolled, and assigned. An independent Foster Grandparent Program Advisory Council (FGPAC) is located in each service area.

(b) The tasks of an FGPAC include:

(1) assisting the Program to recruit volunteers and volunteer stations where foster grandparents are assigned;

(2) assisting the Program to meet its administrative and program responsibilities, including fund-raising, publicity, and volunteer recognition events;

(3) assisting with annual appraisals or surveys of the Program; and

(4) assisting the Program to recruit FGPAC members.

(c) An FGPAC is composed of no more than 15 members. A quorum of the majority of the members is required to convene a meeting and transact business.

(d) The membership of an FGPAC must be diverse and reflect the demographics of the geographically defined service area in which foster grandparents are assigned. Members must be knowledgeable of the human and social needs of the service area, competent in the fields of community service, volunteerism, and children's issues, and must be able to assist the FGPAC in completing the tasks described in subsection (b) of this section.

(e) An FGPAC meets no less than semi-annually and submits minutes of the meetings to the commissioner or designee.

(f) The FGPACs are abolished on March 1, 2026.

#### §89.6. Nursing Facility Administrators Advisory Committee.

(a) Texas Health and Safety Code §242.303 established the Nursing Facility Administrators Advisory Committee (NFAAC). The NFAAC advises DADS on the licensing of nursing facility administrators.

(b) The tasks of the NFAAC include:

(1) advising DADS on nursing facility administration licensing issues, including the content of nursing facility administrator license applications and examinations;

(2) reviewing and recommending rules and minimum standards of conduct for the practice of nursing facility administration; and

(3) reviewing all complaints against nursing facility administrators and making recommendations to DADS regarding disciplinary actions.

(c) The NFAAC has 9 members appointed by the governor consisting of:

(1) three licensed nursing facility administrators, one of whom represents a not-for-profit nursing facility;

(2) one physician with experience in geriatrics who is not employed by a nursing facility;

(3) one registered nurse with experience in geriatrics who is not employed by a nursing facility;

(4) one social worker with experience in geriatrics who is not employed by a nursing facility; and

(5) three public members with experience with persons who are chronically ill or disabled.

(d) A quorum of 5 members is required to convene a meeting and transact committee business.

(e) Members of the NFAAC serve for staggered terms of six years, with the terms of three members expiring on February 1 of each odd-numbered year. Vacancies on the NFAAC are filled in the same manner in which the position was originally filled by a person who meets the qualifications necessary for the vacated position.

(f) The NFAAC meets quarterly and submits minutes of the quarterly meetings to the commissioner or designee.

(g) The NFAAC is abolished on March 1, 2026.

§89.7. Texas Respite Advisory Committee.

(a) The Lifespan Respite Care Act (United States Code, Title 42, §300ii) authorizes a state agency to collaborate with a public or private statewide coalition to address the respite needs of family caregivers of adults or children with special needs. Texas Human Resources Code §161.076 directs DADS to coordinate public awareness outreach efforts regarding the role of informal long-term care caregivers. Texas Human Resources Code, Chapter 161, Subchapter F, creates the Lifespan Respite Services Program operated by DADS. The Texas Respite Advisory Committee (TRAC) assists DADS to develop strategies to reduce barriers to accessing respite services; improve the quality of respite services; and provide training, education, and support to family caregivers.

(b) The tasks of the TRAC include:

(1) assisting DADS to identify barriers and best practices for providing and coordinating respite services in Texas;

(2) responding to requests from DADS for information about the respite needs of caregivers;

(3) advising DADS about effective methods for expanding the availability of affordable respite services in Texas through the use of funds available from respite care programs;

(4) cooperating and sharing resources and knowledge among community stakeholders to facilitate barrier free access for primary caregivers; and

(5) educating the public on the need for community-based options for primary caregivers.

(c) The TRAC is composed of no more than 24 members. A quorum of 7 members is required to convene and transact committee business. Members must represent family caregivers, primary caregivers, respite care advocacy organizations, faith-based organizations, and members of public interested in the issue of respite care.

(d) The TRAC meets quarterly and submits quarterly reports of committee meetings to the commissioner or designee.

(e) The TRAC is abolished on March 1, 2026.

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 November 24, 2015.

TRD-201505171

Lawrence Hornsby

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: January 10, 2016

For further information, please call: (512) 438-2430



# WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

## TITLE 22. EXAMINING BOARDS

### PART 9. TEXAS MEDICAL BOARD

#### CHAPTER 190. DISCIPLINARY GUIDELINES

##### SUBCHAPTER B. VIOLATION GUIDELINES

###### 22 TAC §190.8

The Texas Medical Board withdraws the proposed amendments to §190.8 which appeared in the July 17, 2015, issue of the *Texas Register* (40 TexReg 4527).

Filed with the Office of the Secretary of State on November 25, 2015.

TRD-201505186

Mari Robinson, J.D.

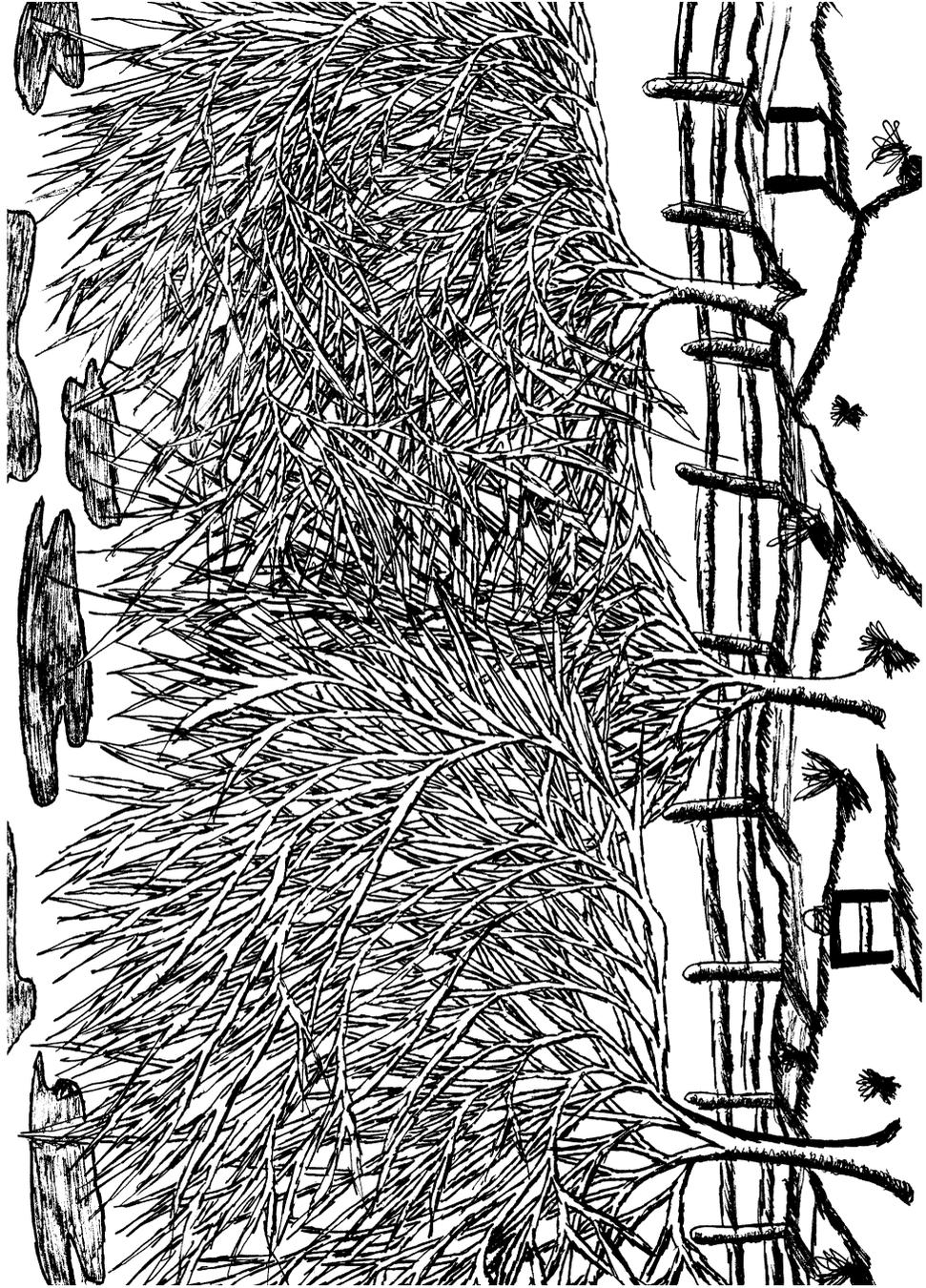
Executive Director

Texas Medical Board

Effective date: November 25, 2015

For further information, please call: (512) 305-7016





# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

### PART 4. OFFICE OF THE SECRETARY OF STATE

#### CHAPTER 81. ELECTIONS

##### SUBCHAPTER A. VOTER REGISTRATION

###### 1 TAC §81.6

The Office of the Secretary of State, Elections Division, repeals 1 TAC §81.6, concerning notification to high school deputy registrars. The repeal is adopted without changes to the proposal as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7169).

Section 81.6 was obsolete because it was superseded by 1 TAC §81.7 and Section 4 of HB 127 (74th Regular Session).

The Secretary of State did not receive any comments on the proposed repeal.

The repeal is adopted under the Texas Election Code, §31.003, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws. The repeal is also adopted under the Texas Election Code, §13.046(d) and (h), which permit the Office of the Texas Secretary of State to prescribe rules and procedures to implement §13.046 of the Texas Election Code.

No other code or statute is affected by the adoption.

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

Filed with the Office of the Secretary of State on November 30, 2015.

TRD-201505208

Lindsey Wolf

General Counsel

Office of the Secretary of State

Effective date: December 20, 2015

Proposal publication date: October 16, 2015

For further information, please call: (512) 463-5650



## PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 355. REIMBURSEMENT RATES

#### SUBCHAPTER M. MISCELLANEOUS PROGRAMS

##### DIVISION 6. PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

###### 1 TAC §355.9080

The Texas Health and Human Services Commission (HHSC) adopts new §355.9080, concerning Reimbursement Methodology for Prescribed Pediatric Extended Care Centers, without changes to the proposed text as published in the September 11, 2015, issue of the *Texas Register* (40 TexReg 6004). The rule will not be republished.

###### BACKGROUND AND JUSTIFICATION

HHSC, under its authority and responsibility to administer and implement rates, is adopting new §355.9080 to establish a reimbursement methodology for Prescribed Pediatric Extended Care Centers (PPECCs). A PPECC provides non-residential, facility-based care as an alternative to private-duty nursing (PDN) for individuals under the age of 21 with complex medical needs. Senate Bill 492, 83rd Legislature, Regular Session, 2013, enacted Health and Safety Code Chapter 248A to establish PPECCs in Texas and provide for their licensing; enacted Texas Human Resources Code §32.024(jj) to require HHSC to establish PPECCs as a separate Medicaid provider type; and, in an uncodified portion, limited the HHSC-established reimbursement rate to no more than 70 percent of the average hourly PDN rate. See Act of May 22, 2013, 83d Leg., R.S., ch. 1168, §§1, 6, 8(c), 2013 Tex. Gen. Laws 2898.

###### COMMENTS

The 30-day comment period ended October 12, 2015. During this period, HHSC did not receive any comments regarding the proposed new rule.

###### STATUTORY AUTHORITY

This new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021; Texas Government Code §531.021(a), which provides HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Human Resources Code §32.024(jj), which requires HHSC to allow PPECCs to enroll as Medicaid providers.

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

Filed with the Office of the Secretary of State on November 23, 2015.

TRD-201505124  
Karen Ray  
Chief Counsel  
Texas Health and Human Services Commission  
Effective date: January 1, 2016  
Proposal publication date: September 11, 2015  
For further information, please call: (512) 424-6900



## CHAPTER 379. FAMILY VIOLENCE PROGRAM

The Texas Health and Human Service Commission (HHSC) adopts amendments to §379.610, concerning 24-Hour-a-Day Shelter Services to Family Violence Victims less than 18 Years Old; §379.611, concerning Nonresidential Services for a Family Violence Victim who is Less than 18 Years Old; §379.1308, concerning Nonresidential Services for a Family Violence Victim Who is Less than 18 Years Old; and §379.2009, concerning Services for a Family Violence Victim Who is Less than 18 Years Old, without changes to the proposed text as published in the July 3, 2015, issue of the *Texas Register* (40 TexReg 4277). The rules will not be republished.

### Background and Justification

The amended rules, §§379.610, 379.611, 379.1308 and 379.2009, clarify the circumstances under which shelter centers, special non-residential projects, and nonresidential centers may provide services to persons under the age of 18, including unaccompanied minors. Under Texas Family Code §32.201 and §32.202 an "emergency shelter facility" may provide emergency shelter or care to a minor and the minor's child or children, if any. With S.B. 353, 83rd Legislature, Regular Session, 2013, the Legislature clarified that a shelter center participating in the Family Violence Program could provide emergency shelter or care to a minor, even if the shelter center does not have a license to operate a childcare facility. In response, the Department of Family and Protective Services (DFPS) amended Texas Administrative Code, Title 40, Part 19, Chapter 745, Subchapter C, Division 2, §745.129 (relating to Exemptions from Regulations) to reflect these changes effective March 1, 2014. The HHSC Family Violence Program is making these rule changes to align with the DFPS rules and to clarify requirements for Family Violence Program contractors.

### Comments

The 30-day comment period ended August 2, 2015. During this period, HHSC did not receive any comments regarding the amended rules.

## SUBCHAPTER B. SHELTER CENTERS DIVISION 6. PROGRAM ADMINISTRATION

### 1 TAC §379.610, §379.611

#### Statutory Authority

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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

Filed with the Office of the Secretary of State on November 23, 2015.

TRD-201505121  
Karen Ray  
Chief Counsel  
Texas Health and Human Service Commission  
Effective date: December 16, 2015  
Proposal publication date: July 3, 2015  
For further information, please call: (512) 424-6900



## SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECTS DIVISION 6. PROGRAM ADMINISTRATION

### 1 TAC §379.1308

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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

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Karen Ray  
Chief Counsel  
Texas Health and Human Services Commission  
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For further information, please call: (512) 424-6900



## SUBCHAPTER D. NONRESIDENTIAL CENTERS DIVISION 6. PROGRAM ADMINISTRATION

### 1 TAC §379.2009

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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## TITLE 22. EXAMINING BOARDS

### PART 5. STATE BOARD OF DENTAL EXAMINERS

#### CHAPTER 101. DENTAL LICENSURE

##### 22 TAC §101.6

The Texas State Board of Dental Examiners adopts the repeal of §101.6, relating to dental licensure for military service members, military veterans, and military spouses. The repeal of this rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5666).

The repeal of §101.6 is necessary because the Board reorganized the structure of the rule and determined that it was best to adopt new §101.6.

The Board received no written comments regarding the repeal.

The repeal of §101.6 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

No other statutes, articles, or codes are affected by the repeal of this rule.

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

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TRD-201505159

Nycia Deal

General Counsel

State Board of Dental Examiners

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Proposal publication date: September 4, 2015

For further information, please call: (512) 475-0977



##### 22 TAC §101.6

The Texas State Board of Dental Examiners adopts new §101.6, relating to dental licensing for military service members, military veterans, and military spouses. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5667).

New §101.6 includes requirements from Senate Bills 1307 and 807 (84th Leg.) related to occupational licensing for military service members, military veterans, and military spouses. Instead of proposing amendments to former rule §101.6, Board Staff reorganized the structure of the rule and determined that it was best to propose §101.6 as a new rule.

The Board received no written comments regarding this new rule.

New §101.6 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

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

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

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Nycia Deal

General Counsel

State Board of Dental Examiners

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For further information, please call: (512) 475-0977



#### CHAPTER 102. FEES

##### 22 TAC §102.1

The Texas State Board of Dental Examiners adopts amendments to §102.1, relating to the fee schedule. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5668).

Amendments to §102.1 were adopted to conform the fee schedule to existing statutory fee requirements and reflect fee reductions that the agency was able to absorb.

The Board received no written comments regarding this amendment.

Amendments to §102.1 are adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

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

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

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## CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

### 22 TAC §114.5

The Texas State Board of Dental Examiners adopts amendments to §114.5, relating to the coronal polishing certificates issued to dental assistants. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5668).

Amendments to §114.5 provide that applicants may complete coronal polishing education at dental schools and dental hygiene schools accredited by CODA in addition to dental assisting programs, as required by House Bill 2849 (84th Leg.).

The Board received no written comments regarding this amendment.

Amendments to §114.5 are adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

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

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

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Nycia Deal  
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## PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

### CHAPTER 131. ORGANIZATION AND ADMINISTRATION

The Texas Board of Professional Engineers (Board) adopts new §131.37, concerning State Contract Guidelines, and an amendment to §131.85, concerning Board Rules Procedures, without changes to the proposed text as published in the September 18,

2015, issue of the *Texas Register* (40 TexReg 6280). The rules will not be republished.

Adopted new §131.37 is required to implement changes to Chapter 2261 of the Texas Government Code made by SB 20 in the 84th Texas Legislative session related to managing contracts with state agencies.

The adopted amendment to §131.85 is required to implement changes to Chapter 2001 of the Texas Government Code made by HB 763 in the 84th Texas Legislative session related to rule-making procedures for state agencies. The change clarifies the procedure for accepting petitions for rulemaking.

The Board received no comments regarding adoption of the rules.

### SUBCHAPTER B. ORGANIZATION OF THE BOARD STAFF

#### 22 TAC §131.37

The new rule is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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

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Texas Board of Professional Engineers  
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Proposal publication date: September 18, 2015  
For further information, please call: (512) 440-7723



### SUBCHAPTER F. ADMINISTRATION

#### 22 TAC §131.85

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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

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TRD-201505174

Lance Kinney, P.E.  
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Texas Board of Professional Engineers  
Effective date: December 14, 2015  
Proposal publication date: September 18, 2015  
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## CHAPTER 133. LICENSING

The Texas Board of Professional Engineers (Board) adopts amendments to §133.21, concerning Application for Standard License; §133.23, concerning Applications from Former Standard License Holders; §133.25, concerning Application from Engineering Educators; §133.81, concerning Receipt and Processing of Applications by the Board; §133.87, concerning Final Action on Applications; and §133.97, concerning Issuance of License, without changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6282). The rules will not be republished.

The adopted amendments to §§133.21, 133.23, 133.25, and 133.81 are required to implement changes to Chapter 55 of the Texas Government Code made by SB 807 and SB 1307 in the 84th Texas Legislative session related to licensing and renewal requirements for active duty military, qualifying military spouses and military veterans.

The adopted amendments to §§133.81, 133.87, and 133.97 are required to implement changes to the Texas Engineering Practice Act made by HB 7 in the 84th Texas Legislative session related to the Professional Fee. The change repeals the \$200 Professional Fee which has been collected at the time of issuance and renewal of a license.

The Board received no comments regarding adoption of §§133.21, 133.23, 133.25 and 133.81. The Board received two comments in support of the Professional Fee Repeal changes in §§133.81, 133.97 and 133.97.

### SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

#### 22 TAC §§133.21, 133.23, 133.25

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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

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## SUBCHAPTER H. REVIEW PROCESS OF APPLICATIONS AND LICENSE ISSUANCE

#### 22 TAC §§133.81, 133.87, 133.97

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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

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Lance Kinney, P.E.  
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## CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

### SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE

#### 22 TAC §§137.7, 137.9, 137.11, 137.13, 137.19

The Texas Board of Professional Engineers (Board) adopts amendments to §137.7, concerning License Expiration and Renewal; §137.9, concerning Renewal for Expired License; §137.11, concerning Expiration and Licensed in Another Jurisdiction; §137.13, concerning Inactive Status; and §137.19, concerning Engineers Qualified to be Texas Windstorm Inspectors, without changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6284). The rules will not be republished.

The adopted amendment to §137.9 is required to implement changes to Chapter 55 of the Texas Government Code made by SB 807 and SB 1307 in the 84th Texas Legislative session related to licensing and renewal requirements for active duty military, qualifying military spouses and military veterans.

The adopted amendments to §§137.7, 137.9, 137.11 and 137.13 are required to implement changes to the Texas Engineering Practice Act made by HB 7 in the 84th Texas Legislative session related to the Professional Fee. The change repeals the

\$200 Professional Fee which has been collected at the time of issuance and renewal of a license.

The adopted amendment to §137.19 is required to implement changes to the Texas Engineering Practice Act made by HB 2439 in the 84th Texas Legislative session related to the Texas Windstorm Insurance Program implemented by the Texas Department of Insurance. The change repeals Subchapter N of the Act, but the implementation date of the program sunset was extended until the end of 2016.

The Board received no comments regarding §137.9 and §137.19. The Board received two comments in support of the Professional Fee Repeal changes in §§137.7, 137.9, 137.11 and 137.13.

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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

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Texas Board of Professional Engineers  
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## PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

### CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

#### 22 TAC §153.1

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.1, Definitions, without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6494). The amendments clarify the definition of "Appraiser Trainee" and add definitions of "Certified General Appraiser," "Certified Residential Appraiser," "Licensed Residential Appraiser," "Supervisory Appraiser," and "Trade Association" to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to provide clarity for license holders and to align the rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the 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.

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Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
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For further information, please call: (512) 936-3652



#### 22 TAC §153.5

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.5, Fees, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5669). The amendments change terminology in the rule to be consistent with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and add a provision for the Board to collect fees for providing certified copies.

The reasoned justification for the amendments is to provide clarity for license holders, allow for the Board to recover its operational costs, and align this rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the 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.

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General Counsel  
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For further information, please call: (512) 936-3652



## 22 TAC §153.9

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.9, Applications, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5670). The amendments implement changes for processing license applications from military members, veterans, or spouses of military members and provide for a two-year waiting period before reapplying after an application is denied.

The reasoned justification for the amendments is to provide clarity for license holders and to align the rule with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the 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.

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Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
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For further information, please call: (512) 936-3652



## 22 TAC §153.16

The Texas Appraiser Licensing and Certification Board (TALCB) adopts new 22 TAC §153.16, License Reinstatement, with changes as to the proposed rule text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5672). This new rule allows persons who previously held a license issued by the Board to reinstate an expired license as authorized by the Appraiser Qualifications Board (AQB).

No comments were received on the new rule as proposed. However, staff recommends changes to subsections (d)(1)(A) and (d)(2)(B)(i) as published, for consistency and to provide better clarity for license holders.

The reasoned justification for the new rule is to align the Board's rules with qualification criteria established by the AQB and to encourage and provide previous license holders with a mechanism to re-enter the appraisal profession.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The new rule is adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by the new rule is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the new rule.

### §153.16. License Reinstatement.

(a) This section applies only to a person who:

(1) previously held an appraiser license issued by the Board that has expired; and

(2) seeks to obtain the same level of appraiser license previously held by the person before its expiration.

(b) A person described in subsection (a) may apply to reinstate the person's former license by:

(1) submitting an application for reinstatement on a form approved by the Board;

(2) paying the applicable fee;

(3) satisfying the Board as to the person's honesty, trustworthiness and integrity; and

(4) satisfying the experience requirements in this section.

(c) Applicants for reinstatement under this section must demonstrate completion of 14 hours of appraiser continuing education for each year since the last renewal of the person's previous license.

(d) Applicants for reinstatement must demonstrate that their appraisal experience complies with USPAP as follows:

(1) Persons who have work files/license expired less than 5 years. A person described in subsection (a) who has appraisal work files and whose previous license has been expired less than five years may apply to reinstate the person's previous license by submitting an experience log as follows:

(A) For reinstatement as a licensed residential appraiser, a minimum of 10 residential appraisal reports representing at least 200 hours of residential real estate appraisal experience.

(B) For reinstatement as a certified residential real estate appraiser, a minimum of 10 residential appraisal reports representing at least 250 hours of residential real estate appraisal experience.

(C) For reinstatement as a certified general appraiser, a minimum of 10 non-residential appraisal reports representing at least 300 hours of non-residential real estate appraisal experience.

(2) Persons who do not have work files/license expired more than 5 years.

(A) A person described in subsection (a) who does not have appraisal work files or whose previous license has been expired

for more than five years may apply for a license as an appraiser trainee for the purpose of acquiring the appraisal experience required under this subsection.

(B) An appraiser trainee licensed under this section may apply for reinstatement at the same level of appraiser license that the applicant previously held, after the applicant completes the required number of appraisal reports or hours of real estate appraisal experience as follows:

(i) For reinstatement as a licensed residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 200 hours of residential real estate appraisal experience, whichever is more.

(ii) For reinstatement as a certified residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 250 hours of residential real estate appraisal experience, whichever is more.

(iii) For reinstatement as a certified general appraiser, the applicant must complete a minimum of 10 non-residential appraisal reports or 300 hours of non-residential real estate appraisal experience, whichever is more.

(C) Upon completion of the required number of appraisal reports or hours of real estate appraisal experience, the applicant must submit an experience log.

(e) Consistent with §153.15, the Board will evaluate each applicant's real estate appraisal experience for compliance with USPAP based on the submitted experience log.

(f) For those persons described in subsection (a) the Board may waive the following requirements:

- (1) Proof of qualifying education;
- (2) College education or degree requirement; and
- (3) Examination.

(g) Consistent with this chapter, upon review of the applicant's real estate appraisal experience, the Board may:

- (1) Reinstatement the applicant's previous appraiser license;
- (2) Reinstatement the applicant's previous appraiser license, contingent upon completion of additional education, experience or mentorship; or
- (3) Deny the application.

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

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Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
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For further information, please call: (512) 936-3652



## 22 TAC §153.17

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.17, Renewal or Extension of License, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5673).

The amendments change terminology in the rule and extend the license renewal period for persons serving on active duty in the military to be consistent with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to provide additional time for persons serving on active duty in the military to renew their appraiser license and to align the rule with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the 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.

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General Counsel  
Texas Appraiser Licensing and Certification Board  
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For further information, please call: (512) 936-3652



## 22 TAC §153.20

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License, with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5674). The amendments implement changes regarding compliance with an agreed order of the Board and the statute of limitations for investigating a complaint to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed. However, the subsection numbering for this section has been changed to correct an error.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

*§153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License.*

(a) The Board may suspend or revoke a license or deny issuing a license to an applicant at any time the Board determines that the applicant or license holder:

- (1) disregards or violates a provision of the Act or the Board rules;
- (2) is convicted of a felony;
- (3) fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;
- (4) fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;
- (5) fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;
- (6) fails to comply with the USPAP edition in effect at the time of the appraiser service;
- (7) acts or holds himself or herself or any other person out as a person licensed under the Act when not so licensed;
- (8) accepts payment for appraiser services but fails to deliver the agreed service in the agreed upon manner;
- (9) refuses to refund payment received for appraiser services when he or she has failed to deliver the appraiser service in the agreed upon manner;
- (10) accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;
- (11) offers to perform appraiser services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;
- (12) makes a material misrepresentation or omission of material fact;

(13) has had a license as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime under Texas law;

(14) procures, or attempts to procure, a license by making false, misleading, or fraudulent representation;

(15) fails to actively, personally, and diligently supervise an appraiser trainee or any person not licensed under the Act who assists the license holder in performing real estate appraiser services;

(16) has had a final civil judgment entered against him or her on any one of the following grounds:

(A) fraud;

(B) intentional or knowing misrepresentation;

(C) grossly negligent misrepresentation in the performance of appraiser services;

(17) fails to make good on a payment issued to the Board within thirty days after the Board has mailed a request for payment by certified mail to the license holder's last known business address as reflected by the Board's records;

(18) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(19) acts or holds himself or any other person out as a person licensed under this or another state's Act when not so licensed;

(20) misuses or misrepresents the type of classification or category of license number;

(21) engages in any other act relating to the business of appraising that the Board, in its discretion, believes warrants a suspension or revocation;

(22) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to perform licensed appraisal services;

(23) fails to comply with an agreed order or a final order of the Board;

(24) fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said individual's address of record, or within the time period allowed if granted a written extension by the Board; or

(25) after conducting reasonable due diligence, knowingly accepts an assignment from an appraisal management company that is not exempt from registration under the Act which:

(A) has not registered with the Board; or

(B) is registered with the Board but has not placed the appraiser on its panel of appraisers maintained with the Board; or

(26) fails to approve, sign, and deliver to their appraiser trainee the appraisal experience log and affidavit required by §153.15(f)(1) and §153.17(c)(1) of this title for all experience actually and lawfully acquired by the trainee while under the appraiser's sponsorship.

(b) The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisals or appraisal practice;

(2) the number of appraiser trainees or authority to sponsor appraiser trainees;

(3) requirements for additional education;

(4) monetary administrative penalties; and

(5) requirements for reporting real property appraisal activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a license must comply with all requirements that would apply if the license had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the Act or other laws of this State.

(f) The Board may not investigate a complaint submitted to the Board more than four years after the date on which the alleged violation occurred.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there shall be no undercover or covert investigations conducted by authority of the Act.

(h) A license may be revoked or suspended by the Attorney General or other court of competent jurisdiction for failure to pay child support under the provisions of Chapter 232 of the Texas Family Code.

(i) If the Board determines that issuance of a probationary license is appropriate, the order entered by the Board with regard to the application must set forth the terms and conditions for the probationary license. Terms and conditions for a probationary license may include any of the following:

(1) that the probationary license holder comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;

(2) that the probationary license holder fully cooperate with the enforcement division of the Board in the investigation of any complaint filed against the license holder or any other complaint in which the license holder may have relevant information;

(3) that the probationary license holder attend a prescribed number of classroom hours in specific areas of study during the probationary period;

(4) that the probationary license holder limit appraisal practice as prescribed in the order;

(5) that the probationary license holder work under the direct supervision of a certified general or certified residential appraiser who will review and sign each appraisal report completed;

(6) that the probationary license holder report regularly to the Board on any matter which is the basis of the probationary license; or

(7) that the probationary license holder comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the Board after due consideration of the circumstances involved in the particular application.

(j) Unless the order granting a probationary license specifies otherwise, a probationary license holder may renew the license after the probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

(k) If a probationary license expires prior to the completion of a probationary term and the probationary license holder files a late

renewal application, any remaining probationary period shall be reinstated effective as of the day following the renewal of the probationary license.

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

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Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3652



## 22 TAC §153.21

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.21, Appraiser Trainees and Supervisory Appraisers, with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5676). The amendments implement changes to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed. However, the paragraph numbering for this section has been changed to provide greater clarity for license holders.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

§153.21. *Appraiser Trainees and Supervisory Appraisers.*

(a) Supervision of appraiser trainees required.

(1) An appraiser trainee may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a supervisory appraiser.

(2) An appraiser trainee may be supervised by more than one supervisory appraiser.

(3) Supervisory appraisers may supervise no more than three appraiser trainees at one time.

(4) A supervisory appraiser may be added during the term of an appraiser trainee's license if:

(A) The supervisory appraiser and appraiser trainee have provided proof to the Board of completion of an approved Appraiser Trainee/Supervisory Appraiser course;

(B) an application to supervise has been received and approved by the Board; and

(C) the applicable fee has been paid.

(5) A licensed appraiser trainee who signs an appraisal report must include his or her license number and the word "Trainee" as part of the appraiser trainee's signature in the report.

(b) Eligibility requirements for appraiser trainee supervision.

(1) To be eligible to supervise an appraiser trainee, a certified appraiser must:

(A) be in good standing and not subject to any disciplinary action within the last three years that affected the certified appraiser's eligibility to engage in appraisal practice;

(B) complete an approved Appraiser Trainee/Supervisory Appraiser course; and

(C) submit proof of course completion to the Board.

(2) Before supervising an appraiser trainee, the supervisory appraiser must notify the appraiser trainee in writing of any disciplinary action taken against the supervisory appraiser within the last three years that did not affect the supervisory appraiser's eligibility to engage in appraisal practice.

(3) An application to supervise must be received and approved by the Board before supervision begins.

(c) Maintaining eligibility to supervise appraiser trainees.

(1) A supervisory appraiser who wishes to continue to supervise appraiser trainees upon renewal of his/her license must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the supervisory appraiser's current license and provide proof of completion to the Board.

(2) If a supervisory appraiser has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license the supervisory appraiser will no longer be eligible to supervise appraiser trainees; and the Board will take the following actions:

(A) the supervisory appraiser's license will be renewed on active status; and

(B) the license of any appraiser trainees supervised solely by that supervisory appraiser will be placed on inactive status.

(3) A certified appraiser may restore eligibility to supervise appraiser trainees by:

(A) completing the course required by this section; and

(B) submitting proof of course completion to the Board.

(4) The supervisory appraiser's supervision of previously supervised appraiser trainees may be reinstated by:

(A) submitting the required form to the Board; and

(B) payment of any applicable fees.

(d) Maintaining eligibility to act as an appraiser trainee.

(1) An appraiser trainee must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the appraiser trainee's current license and provide proof of completion to the Board.

(2) If an appraiser trainee has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license:

(A) the Board will renew the appraiser trainee's license on inactive status;

(B) the appraiser trainee will no longer be eligible to perform appraisals or appraisal services; and

(C) the appraiser trainee's relationship with any supervisory appraiser will be terminated.

(3) An appraiser trainee may return the appraiser trainee's license to active status by:

(A) completing the course required by this section;

(B) submitting proof of course completion to the Board;

(C) submitting an application to return to active status, including an application to add a supervisory appraiser; and

(D) paying any applicable fees.

(e) Duties of the supervisory appraiser.

(1) Supervisory appraisers are responsible to the public and to the Board for the conduct of the appraiser trainee under the Act.

(2) The supervisory appraiser assumes all the duties, responsibilities, and obligations of a supervisory appraiser as specified in these rules and must diligently supervise the appraiser trainee. Diligent supervision includes, but is not limited to, the following:

(A) direct supervision and training as necessary;

(B) ongoing training and supervision as necessary after the supervisory appraiser determines that the appraiser trainee no longer requires direct supervision;

(C) communication with and accessibility to the appraiser trainee; and

(D) review and quality control of the appraiser trainee's work.

(3) Supervisory appraisers must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees with access to any appraisals and work files completed under the supervisory appraiser.

(4) After notice and hearing, the Board may reprimand a supervisory appraiser or may suspend or revoke a supervisory appraiser's license based on conduct by the appraiser trainee constituting a violation of the Act or Board rules.

(f) Termination of supervision.

(1) Supervision may be terminated by the supervisory appraiser or the appraiser trainee.

(2) If supervision is terminated, the terminating party must:

(A) immediately notify the Board on a form approved by the Board; and

(B) notify the non-terminating party in writing no later than the 10th day after the date of termination; and

(C) pay any applicable fees no later than the 10th day after the date of termination.

(3) If an appraiser trainee is no longer under the supervision of a supervisory appraiser:

(A) the appraiser trainee may no longer perform the duties of an appraiser trainee; and

(B) is not eligible to perform those duties until:

(i) an application to supervise the trainee has been filed;

(ii) any applicable fees have been paid; and

(iii) the Board has approved the application.

(g) Course approval.

(1) To obtain Board approval of an Appraiser Trainee/Supervisory Appraiser course, a course provider must:

(A) submit form ATS-0, Appraiser Trainee/Supervisory Appraiser Course Approval, adopted herein by reference; and

(B) satisfy the Board that all required content set out in form ATS-0 is adequately covered.

(2) Approval of an Appraiser Trainee/Supervisory Appraiser course shall expire two years from the date of Board approval.

(3) An Appraiser Trainee/Supervisory Appraiser course may be delivered through:

(A) classroom delivery method; or

(B) distance education delivery method. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(h) ACE credit.

(1) Supervisory appraisers who complete the Appraiser Trainee/Supervisory Appraiser course may receive ACE credit for the course.

(2) Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/Supervisory Appraiser course.

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

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Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3652



## CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE

### SUBCHAPTER A. GENERAL PROVISIONS

#### 22 TAC §157.7, §157.8

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.7, Denial of a License, and §157.8, Adverse Action Against a License Holder or Registrant, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5678). The amendments reorganize these rules for better understanding and clarity.

The reasoned justification for the amendments is to provide clarity for license holders.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the 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.

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## SUBCHAPTER B. CONTESTED CASE HEARINGS

#### 22 TAC §157.9, §157.12

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.9, Notice of Hearings, and §157.12, Failure to Attend Hearing; Default Judgment, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5679). The amendments implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the 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.

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## SUBCHAPTER C. POST HEARING

### 22 TAC §§157.17, 157.18, 157.20

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.17, Final Decisions and Orders, and §157.18, Motions for Rehearing; Finality of Decisions, and §157.20, Judicial Review, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5680). The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, and Chapter 2001, Texas Government Code, adopted by the 84th Legislature and clarify the action to be taken by the Board when a motion for rehearing does not include specific grounds for rehearing.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the 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.

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Kristen Worman  
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### 22 TAC §157.19

The Texas Appraiser Licensing and Certification Board (TALCB) adopts the repeal of 22 TAC §157.19, Prerequisite to Judicial Review, without changes to the proposal as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5682). The language in this rule is being moved to §157.18, Motions for Rehearing.

The reasoned justification for the repeal is to provide clarity for license holders by moving the language in this section to a more relevant section within the Board's rules.

No comments were received on the repeal as proposed.

The repeal is adopted under the Texas Occupations Code, §1103.151, Rules Relating to Certificates and Licenses, and §1104.051, Rules.

The statutes affected by this repeal are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code, or article is affected by the repeal.

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

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Kristen Worman  
General Counsel  
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For further information, please call: (512) 936-3652



## SUBCHAPTER D. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

### 22 TAC §157.25, §157.26

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.25, Temporary Suspension, and a new §157.26, Unlicensed Activity, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5683). The amendments and new rule implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments and new rule are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments and the new rule are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments and the new rule.

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

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Kristen Worman  
General Counsel

Texas Appraiser Licensing and Certification Board

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## SUBCHAPTER E. ALTERNATIVE DISPUTE RESOLUTION

### 22 TAC §157.31

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.31, Investigative Conference, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5684).

The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and clarify the requirements for receiving a copy of an investigative report.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the 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.

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Kristen Worman  
General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3652



## PART 9. TEXAS MEDICAL BOARD

## CHAPTER 190. DISCIPLINARY GUIDELINES SUBCHAPTER C. SANCTION GUIDELINES

### 22 TAC §190.14

The Texas Medical Board adopts an amendment to §190.14, concerning Disciplinary Sanction Guidelines, with non-substantive changes to the proposed text as published in the July 17, 2015, issue of the *Texas Register* (40 TexReg 4527). The text of the rule will be republished.

The Board sought stakeholder input through Stakeholder Groups, which made comments on the suggested changes to the rules at a meeting held on August 10, 2015. At the meeting, one commenter pointed out that the category for "Crime: Misdemeanor deferred adjudication or conviction not involving moral turpitude that is not connected with physician's practice of medicine and not an offense under Chapter 22 or 25 of the Penal Code" is not a category of violation subject to discipline under the Medical Practice Act. The Board agrees and §190.14 is adopted with non-substantive changes.

The amendment revises the graphic table in §190.14(9) to update the range and scope of sanctions for certain violations of the Medical Practice Act.

#### SUMMARY OF WRITTEN COMMENTS RECEIVED

The Board received public written comments from the Texas Medical Association (TMA). No one appeared to testify at the public hearing held on August 28, 2015, regarding §190.14.

#### TMA Comment:

TMA asserted that the proposed high sanction of \$7,000 per violation for the category of "Standard of care - one patient, more than one prior SOC or care-related violation" exceeds the amount allowed under the Medical Practice Act. TMA further opposed a proposed increase to the administrative penalty amount of \$3,000 to \$5,000, for the low sanction range for categories of "Standard of care, one patient, more than one prior SOC or care-related violation" and "Standard of care - more than one patient, prior SOC or care-related violations." TMA stated that because \$5,000 is the maximum statutory amount permitted for each violation found, it should be reflected in the range of high sanctions, but not in the standard low sanction range. Finally, TMA recommended adding the phrase "for \$50,000 in a 5-year period" to a citation referenced for §190.8(5) of this title (relating to Violation Guidelines) under the category of "Standard of care - one patient, more than one prior SOC or care-related violation" to improve consistency with citations made to the same rule shown for other violation categories.

#### TMB Board Response:

The Board agrees in part. The proposed language amending the high category sanction to \$7,000 per violation for the category of "Standard of care - one patient, more than one prior SOC or care-related violation" was in error and §190.14 is adopted with non-substantive changes, reflecting the correction to the category "Standard of care - one patient, more than one prior SOC or care-related violation", so that the penalty reflected for the category's lower range is \$3,000, and \$5,000 for the higher range. The phrase "for \$50,000 in a 5-year period" is further added to the statutory/rule citation column relating to same category of violation and referencing §190.8(5).

The Board disagrees, however, that imposing the maximum sanction of \$5,000 per violation allowed under the low range of

sanctions for the category of "Standard of care - more than one patient, prior SOC or care-related violations" would be inconsistent with or disproportionate to the amount(s) allowed under other violation categories. The category of violation "Standard of care -more than one patient, prior SOC or care-related violations" is more aggravated in nature, as it indicates a pattern of standard of care violations related to more than one patient, and previous disciplinary or remedial history involving standard of care issues. Further, the low range sanction providing for a penalty of \$5,000 is consistent with the high range of sanctions for the same category, which contemplates "suspension or revocation." Therefore, the Board declines to adopt the amendments with the requested change to the category of "Standard of care - more than one patient, prior SOC or care-related violations."

The amendment is adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure. The amendment is also adopted under the authority of Texas Occupations Code Annotated, Chapter 164.

*§190.14. Disciplinary Sanction Guidelines.*

These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Medical Practice Act. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.

(1) The standard sanctions outlined in paragraph (9) of this section provide a range from "Low Sanction" to "High Sanction" based upon any aggravating or mitigating factors that are found to apply in a particular case. The board may impose more restrictive sanctions when there are multiple violations of the Act. The board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §190.15 of this chapter (relating to Aggravating and Mitigating Factors) that are found to apply in a particular case.

(2) The minimum sanctions outlined in paragraph (9) of this section are applicable to first time violators. In accordance with §164.001(g)(2) of the Act, the board shall consider revoking the person's license if the person is a repeat offender.

(3) The sanctions outlined in paragraph (9) of this section are based on the conclusion stated in §164.001(j) of the Act that a violation related directly to patient care is more serious than one that involves only an administrative violation. An administrative violation may be handled informally in accordance with §187.14(7) of this title (relating to Informal Resolutions of Violations). Administrative violations may be more or less serious, depending on the nature of the violation. Administrative violations that are considered by the board to be more serious are designated as being an "aggravated administrative violation."

(4) The maximum sanction in all cases is revocation of the licensee's license, which may be accompanied by an administrative penalty of up to \$5,000 per violation. In accordance with §165.003 of the Act, each day the violation continues is a separate violation.

(5) Each statutory violation constitutes a separate offense, even if arising out of a single act.

(6) If the licensee acknowledges a violation and agrees to comply with terms and conditions of remedial action through an agreed order, the standard sanctions may be reduced.

(7) Any panel action that falls outside the guideline range shall be reviewed and voted on individually by the board at a regular meeting.

(8) For any violation of the Act that is not specifically mentioned in this rule, the board shall apply a sanction that generally follows the spirit and scheme of the sanctions outlined in this rule.

(9) The following standard sanctions shall apply to violations of the Act:

Figure: 22 TAC §190.14(9)

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

Filed with the Office of the Secretary of State on November 25, 2015.

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Mari Robinson, J.D.

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



## TITLE 28. INSURANCE

### PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

#### CHAPTER 110. REQUIRED NOTICES OF COVERAGE

##### SUBCHAPTER B. EMPLOYER NOTICES

###### 28 TAC §110.108, §110.110

The Texas Department of Insurance, Division of Workers' Compensation (division) adopts amendments to §110.108, concerning employer notice regarding work-related exposure to communicable disease/HIV: posting requirements; payment for tests; and §110.110, concerning reporting requirements for building or construction projects for governmental entities. Section 110.108 and §110.110 are adopted without changes to the proposed text published in the August 7, 2015, issue of the *Texas Register* (40 TexReg 5044). There was not a request for public hearing submitted to the division.

In accordance with Government Code §2001.033, the division's reasoned justification for the sections is set out in this order, which includes the preamble. The following paragraphs include a detailed section by section description and reasoned justification for all amendments to §110.108 and §110.110.

The non-substantive amendments to §110.108 and §110.110 are necessary to provide employees with the updated division phone number to report possible exposure to communicable diseases or HIV under §110.108; or to inquire about, verify,

or report the lack of coverage at construction project sites under §110.110. Amended §110.108 achieves the goals of Health and Safety Code §81.050(j), concerning mandatory testing of persons suspected of exposing certain other persons to reportable diseases, including HIV infection; Health and Safety Code §85.116, concerning testing and counseling for state employees exposed to HIV infection on the job; and Government Code §607.002, concerning reimbursement of medical expenses for public safety employees exposed to contagious diseases. The amendments provide updated contact information for the division to employees seeking guidance on exposure to a communicable disease and eligibility for benefits. Amended §110.110 achieves the goals of Labor Code §406.005, concerning employer notice to employees; administrative violation, by providing the division's updated contact information to employees inquiring about the requirements of the workers' compensation system and their employer's coverage.

Section 110.108 addresses Employee Notice Regarding Work-Related Exposure to Communicable Disease/HIV: Posting Requirements; Payment for Tests. The division amended Figure: 28 TAC §110.108(d), regarding employer notice, to update the telephone number employees use to contact the division. Amended Figure: 28 TAC §110.108(d) also reflects the change in agency name from "Texas Workers' Compensation Commission" to "Division of Workers' Compensation" and "Texas Department of Health" to "Texas Department of State Health Services." The amendments are necessary to ensure the required notice in §110.108 contains the updated phone number for the division and reflects the current agency names for the division and the Texas Department of State Health Services.

Section 110.110 addresses Reporting Requirements for Building or Construction Projects for Governmental Entities. The division amended §110.110 to reflect a change in the agency's name. The division amended §110.110(a)(1), (c)(6), Figure: 28 TAC §110.110(c)(7), and Figure: 28 TAC §110.110(d)(7), by deleting "commission" and adding "division." In §110.110(a)(5), Figure: 28 TAC §110.110(c)(7), and Figure: 28 TAC §110.110(d)(7), the division deleted "Texas Workers' Compensation Commission" and added "Division of Workers' Compensation."

The division amended Figure: 28 TAC §110.110(d)(7), regarding required workers' compensation coverage, by updating the telephone number that employees use to contact the division. Figure: 28 TAC §110.110(d)(7) was also amended to add the phrase "or access the division's website at [www.tdi.texas.gov/wc/indexwc.html](http://www.tdi.texas.gov/wc/indexwc.html)." An injured employee can access the division's website in addition to calling the provided telephone number to receive information on the legal requirements for coverage, to verify whether the employee's employer has the required coverage, or to report an employer's failure to provide coverage.

The division made non-substantive amendments in §110.110(a)(1), (a)(5), and Figure: 28 TAC §110.110(c)(7) to conform to current agency style. The division deleted the form names "TWCC-81, TWCC-82, TWCC-83, or TWCC-84" and added the form names "DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form-84."

The division amended §110.110(b), Figure: 28 TAC §110.110(c)(7), and (e)(3) to conform to current agency style by deleting the phrase "commission's Division of Self Insurance Regulation" and adding the word "division." The division amended §110.110(c)(7) to replace "Figure 1" with "figure" to conform to current agency style.

The division did not receive any comments on the proposed amendments to §110.108 and §110.110.

The amendments are adopted under Labor Code §402.061, concerning adoption of rules; §402.00111, concerning the relationship between commissioner of insurance and commissioner of workers' compensation; separation of authority; rulemaking; §406.005, concerning employer notice to employees; administrative violation; and §406.009, concerning collecting and maintaining information; monitoring and enforcing compliance.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary for the implementation and administration of the Texas Workers' Compensation Act. Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §406.005 provides that an employer shall post a notice of whether the employer has workers' compensation insurance coverage, and vests the commissioner with the power to adopt rules relating to the form and content of the notice.

Labor Code §406.009 requires the division to collect and maintain information, to monitor compliance, and to adopt rules as necessary to enforce Subchapter A of Chapter 406.

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

Filed with the Office of the Secretary of State on November 24, 2015.

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Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

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Proposal publication date: August 7, 2015

For further information, please call: (512) 804-4707

## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter A: §219.1, Purpose and Scope; and §219.2, Definitions; Subchapter B: §219.10, Purpose and Scope; §219.11, General Oversize/Overweight Permit Requirements and Procedures; §219.12, Single-Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D; §219.13, Time Permits; and §219.14, Manufactured Housing, and Industrialized Housing and Building Permits; Subchapter C: §219.31, Timber Permits; Subchapter D: §219.41, General Requirements; §219.42, Single-Trip Mileage Permits; §219.43, Quarterly Hubometer Permits; and §219.45, Permits for Vehicles Transporting Liquid Products Related to Oil Well Production; Subchapter E: §219.61, General Requirements

for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles; §219.62, Single-Trip Mileage Permits; and §219.63, Quarterly Hubometer Permits; Subchapter G: §219.102, Records; and Subchapter H: §219.121, Administrative Penalties; and §219.125, Settlement Agreements. The amendments to §§219.11, 219.13, and 219.62 are adopted with changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6317) and will be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS

In §219.2(36), the department replaced the term "nondivisible load" with the term "nondivisible load or vehicle." The department also replaced the definition with the definition from 23 C.F.R. §658.5 for the term "nondivisible load or vehicle." Texas must comply with certain federal size and weight laws and regulations to receive federal highway funding.

Amendments are made throughout Chapter 219 to use the term "nondivisible load" or "nondivisible vehicle" where the defined term applies. Other amendments replace the terms "nondivisible" and "non-divisible" with other language when the definition of the term "nondivisible load or vehicle" does not apply. Amendments to §219.12(b)(6) and §219.13(e)(4) make it clear that the permit may not be used for containers, including trailers and intermodal containers, loaded with divisible cargo, unless the permit is a single-trip permit issued for a load under §219.12(c).

An amendment to §219.11(d)(1)(E) clarifies that a permitted vehicle or combination of vehicles may not exceed the manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit. Transportation Code, §621.101(a)(4) states that a vehicle or combination of vehicles may not be operated over or on a public highway or at a port-of-entry between Texas and the United Mexican States if the vehicle or combination of vehicles has tires that carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit. The amendment to §219.11(d)(1)(E) is necessary because the department has received calls from people who mistakenly believe that any permit authorizes the permitted vehicle or combination of vehicles to exceed the manufacturer's rated tire carrying capacity, even when the permit does not expressly authorize it.

Amendments to §219.11(d)(2)(G) clarify the weight requirements for trunnion axles, add additional requirements, make it clear that there is an authorized weight per axle, and delete the unnecessary graphic because the requirements are stated in §219.11(d)(2)(G). These amendments assist law enforcement by providing clear requirements.

Amendments to §219.11(e)(3) clarify that the permit authorizes the permitted vehicle to move oversize and overweight hauling equipment to pick up a permitted load, as well as on the return trip after dropping off the permitted load. The permit also authorizes the permitted vehicle to transport a load on the way to pick up a permitted load and after dropping off a permitted load, as long as the load does not exceed legal size and weight limits and as long as the transport complies with the permit. Similar amendments clarify the movement of overwidth trailers in §219.13(c)(3).

An adopted amendment deletes language from §219.11(e)(4)(A) and §219.13(e)(5)(D) regarding the requirement to keep the permit in the permitted vehicle because this issue is addressed in the amendments to §219.102(b), which applies to all permits. An

amendment deletes the remainder of §219.11(e)(4) because the department's requirements to retain records are contained in the department's records retention schedule. Also, some of the language in §219.11(e)(4) was incorrect.

An amendment modifies the language in §219.11(h)(1) and §219.13(e)(2)(D) because it is sometimes necessary for a route to include a designated lane, rather than the outside traffic lane, due to overhead structures of varying heights.

An amendment to §219.11(k)(4)(A) clarifies the purpose of the height pole.

An amendment to §219.11(k)(5) deletes the unnecessary example regarding escort requirements.

An amendment to §219.11(l)(4) clarifies that counties also impose curfew restrictions; however, only the curfew restrictions listed on the permit apply to the permit.

An amendment to §219.12(b)(6) deletes the exemption from the vehicle supervision fee under Transportation Code, §623.078 for single and multiple box culverts because the statute does not authorize this exemption.

An amendment to §219.12(b)(7)(C) deletes the unnecessary requirement for applicants to provide the department with a copy of the signed contract for the proposed shipment. The adopted amendment replaces this requirement with a form that provides the department with the necessary information.

An amendment to §219.12(c)(2) increases the maximum width from nine feet to 10 feet because pipe boxes are now built slightly wider than nine feet.

An amendment to §219.12(d)(5) and (6) deletes language that is outdated. The department will permit based on the size and weight, rather than the type of load, under this subsection. There is no reason to treat storage tanks and houses differently in this subsection.

An amendment to §219.13(d)(2)(B) deletes language regarding an exception because the department does not issue this permit if there is more than 25 feet front overhang or more than 30 feet rear overhang. If a vehicle and load exceed one of these limits, a single-trip permit with a route inspection is required.

Adopted §219.13(e)(8) implements the new annual overlength permit authorized by Senate Bill 562, 84th Legislature, Regular Session, 2015. Senate Bill 562 amended Transportation Code, §623.071 and §623.076, authorizing the department to issue a permit to a person to operate over a state highway or road a vehicle or combination of vehicles with a maximum length not to exceed 110 feet and a maximum height not to exceed 14 feet. Section 219.13(e)(8) establishes the requirements, restrictions, and procedures regarding this new permit.

Amendments to §219.102 update the requirements regarding evidence of the permit. The amendments expressly authorize an operator to provide a department inspector or a peace officer with an electronic copy of certain permits on a wireless communication device. Industry requested this amendment because it is not always easy for the driver to obtain a hard copy of the permit to carry in the vehicle, especially when the driver is operating in a rural part of Texas.

An amendment to §219.121(b)(2) duplicates the definition of the word "knowingly" that is used in §218.71 because Transportation Code, §643.251 governs administrative penalties for Chapters 218 and 219.

Amendments to §219.125 allow more flexibility regarding settlement agreements.

Amendments throughout Chapter 219 reflect the role of the Texas Department of Transportation (TxDOT) regarding permits. These amendments are necessary to describe the procedure and practice requirements regarding certain permits.

Amendments in more than one section are adopted because a route must be inspected for the movement of both the vehicle and load to make sure both the vehicle and load can safely negotiate the route.

Amendments are adopted to make the rules consistent with current practice, current terminology, other department rules, and current statutes. For example, amendments add the application requirements to obtain certain permits, and amendments delete certain language because permit applications are no longer accepted at cash collection offices. Amendments also correct cross-references.

Amendments delete language that repeats language found in other parts of Chapter 219 and in statute. Also, the department reorganized portions of Chapter 219 for clarity. Further, the department restructured portions of Chapter 219 due to deletions and additions.

#### COMMENTS AND RESPONSES

The department received written comments from the Texas Trucking Association (TXTA), TxDOT, and Larry Cernosek with Cernosek Wrecker/Deer Park Paint & Body.

#### COMMENT

TXTA supports the department's proposed amendments to Chapter 219 and respectfully urges the Board of the Texas Department of Motor Vehicles (board) to adopt the proposed amendments.

#### COMMENT

TxDOT requested changes to the proposed language in §219.11 to make it clear that non-TxDOT engineers merely provide an analysis, rather than an approval, because TxDOT provides the approval. TxDOT also requested changes to the proposed language in §219.11 to make it clear that TxDOT determines whether a permitted vehicle or combination of vehicles is authorized to exceed the manufacturer's rated tire carrying capacity. TxDOT further requested changes to the proposed deletion of language in §219.11(h)(1) and §219.13(e)(2)(D) because over-width loads must travel in the outside traffic lane on multi-lane highways when the width of the load exceeds 12 feet, unless stated otherwise on the permit. The permit holder is not allowed to pick the lane in which they will travel.

#### RESPONSE

The department made the changes requested by TxDOT and republished §219.11 and §219.13.

#### COMMENT

Larry Cernosek with Cernosek Wrecker/Deer Park Paint & Body stated he did not see the overweight and overlength exemptions in Chapter 219 for tow trucks hauling vehicles from the scene of an accident or after a breakdown.

#### RESPONSE

Because the exemptions are included in Transportation Code, §§621.205(b), 622.902(6), and 622.954, there is no need to repeat the exemptions in Chapter 219.

The department also made changes to the rules as published in the September 18, 2015, issue of the *Texas Register* as follows: changes were made to §219.11 and §219.62 to correct drafting errors.

## SUBCHAPTER A. GENERAL PROVISIONS

### 43 TAC §219.1, §219.2

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

Filed with the Office of the Secretary of State on November 24, 2015.

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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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For further information, please call: (512) 465-5665



## SUBCHAPTER B. GENERAL PERMITS

### 43 TAC §§219.10 - 219.14

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

*§219.11. General Oversize/Overweight Permit Requirements and Procedures.*

(a) Purpose and scope. This section contains general requirements relating to oversize/overweight permits, including single-trip permits. Specific requirements for each type of specialty permit are provided for in this chapter.

(b) Prerequisites to obtaining an oversize/overweight permit. Unless exempted by law or this chapter, the following requirements must be met prior to the issuance of an oversize/overweight permit.

(1) Commercial motor carrier registration or surety bond. Prior to obtaining an oversize/overweight permit, an applicant permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, must be registered as a commercial motor carrier under Chapter 218 of this title (relating to Motor Carriers) or, if not required to obtain a motor carrier registration, file a surety bond with the department as described in subsection (n) of this section.

(2) Vehicle registration. A vehicle registered with a permit plate will not be issued an oversize/overweight permit under this subchapter. A permitted vehicle operating under this subchapter must be registered with one of the following types of vehicle registration:

(A) current Texas license plates that indicate the permitted vehicle is registered for maximum legal gross weight or the maximum weight the vehicle can transport;

(B) Texas temporary vehicle registration;

(C) current out of state license plates that are apportioned for travel in Texas; or

(D) foreign commercial vehicles registered under Texas annual registration.

(c) Permit application.

(1) An application for a permit shall be made in a form and by the method prescribed by the department, and at a minimum shall include the following:

(A) name, address, telephone number, and email address (if requested) of the applicant;

(B) applicant's customer identification number;

(C) applicant's MCR number or USDOT Number, if applicable;

(D) complete load description, including maximum width, height, length, overhang, and gross weight;

(E) complete description of vehicle, including truck year, make, license plate number and state of issuance, and vehicle identification number, if required;

(F) vehicle axle and tire information including number of axles, distance between axles, axle weights, number of tires, and tire size for overweight permit applications; and

(G) any other information required by law.

(2) Applications transmitted electronically are considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application.

(A) The department may only accept a digital signature used to authenticate an application under procedures that comply with any applicable rules adopted by the Department of Information Resources regarding department use or acceptance of a digital signature.

(B) The department may only accept a digital signature to authenticate an application if the digital signature is:

(i) unique to the person using it;

(ii) capable of independent verification;

(iii) under the sole control of the person using it; and

(iv) transmitted in a manner that will make it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

(d) Maximum permit weight limits.

(1) General. An overweight permitted vehicle will not be routed over a load-restricted bridge when exceeding the posted capacity of the bridge, unless a special exception is granted by TxDOT, based on an analysis of the bridge performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(A) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between each axle in the group to achieve the maximum permit weight for the group.

(B) The maximum permit weight for an axle group with spacing of five or more feet between each axle will be based on an engineering study of the equipment conducted by TxDOT.

(C) A permitted vehicle will be allowed to have air suspension, hydraulic suspension and mechanical suspension axles in a common weight equalizing suspension system for any axle group.

(D) The department may permit axle weights greater than those specified in this section, for a specific individual permit request, based on an engineering study of the route and hauling equipment performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(E) A permitted vehicle or combination of vehicles may not exceed the manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit based on an analysis performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(F) Two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, will be reduced by 2.5% for each foot less than 12 feet.

(2) Maximum axle weight limits. Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

(A) single axle--25,000 pounds;

(B) two axle group--46,000 pounds;

(C) three axle group--60,000 pounds;

(D) four axle group--70,000 pounds;

(E) five axle group--81,400 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle; or

(G) trunnion axles--30,000 pounds per axle if the trunnion configuration has:

(i) two axles;

(ii) eight tires per axle;

(iii) axles a minimum of 10 feet in width; and

(iv) at least five feet of spacing between the axles, not to exceed six feet.

(3) Weight limits for load restricted roads. Maximum permit weight for an axle or axle group, when traveling on a load restricted road, will be based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

- (A) single axle--22,500 pounds;
- (B) two axle group--41,400 pounds;
- (C) three axle group--54,000 pounds;
- (D) four axle group--63,000 pounds;
- (E) five axle group--73,260 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle;

(G) trunnion axles--54,000 pounds; and

(H) two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group will be reduced by 2.5% for each foot less than 12 feet.

(e) Permit issuance.

(1) General. Upon receiving an application in the form prescribed by the department, the department will review the permit application for the appropriate information and will then determine the most practical route based on information provided by TxDOT. After a route is selected and a permit number is assigned by the department, an applicant requesting a permit by telephone must legibly enter all necessary information on the permit application, including the approved route and permit number. Permit requests made by methods other than telephone will be returned via facsimile, mail, or electronically.

(2) Routing.

(A) A permitted vehicle will be routed over the most practical route available taking into consideration:

(i) the size and weight of the overdimension load in relation to vertical clearances, width restrictions, steep grades, and weak or load restricted bridges;

(ii) the geometrics of the roadway in comparison to the overdimension load;

(iii) sections of highways restricted to specific load sizes and weights due to construction, maintenance, and hazardous conditions;

(iv) traffic conditions, including traffic volume;

(v) route designations by municipalities in accordance with Transportation Code, §623.072;

(vi) load restricted roads; and

(vii) other considerations for the safe transportation of the load.

(B) When a permit applicant desires a route other than the most practical, more than one permit will be required for the trip unless an exception is granted by the department.

(3) Movement to and from point of origin or place of business. A permitted vehicle will be allowed to:

(A) move empty oversize and overweight hauling equipment to and from the job site; and

(B) move oversize and overweight hauling equipment with a load from the permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off a permitted load, as long as:

(i) the load does not exceed legal size and weight limits under Transportation Code, Chapters 621 and 622; and

(ii) the transport complies with the permit, including the time period stated on the permit.

(f) Payment of permit fees, refunds.

(1) Payment methods. All permit applications must be accompanied by the proper fee, which shall be payable as provided by §209.23 of this title (relating to Methods of Payment).

(A) Permit Account Card (PAC). Application for a PAC should be made directly to the issuing institution. A PAC must be established and maintained according to the contract provisions stipulated between the PAC holder and the financial institution under contract to the department and the Comptroller of Public Accounts.

(B) Escrow accounts. A permit applicant may establish an escrow account with the department for the specific purpose of paying any fee that is related to the issuance of a permit under this subchapter.

(i) A permit applicant who desires to establish an escrow account shall complete and sign an escrow account agreement, and shall return the completed and signed agreement to the department with a check in the minimum amount of \$305, which shall be deposited to the appropriate fund by the department with the Comptroller of Public Accounts. In lieu of submitting a check for the initial deposit to an applicant's escrow account, the applicant may transfer funds to the department electronically.

(ii) Upon initial deposit, and each subsequent deposit made by the escrow account holder, \$5 will be charged as an escrow account administrative fee.

(iii) The escrow account holder is responsible for monitoring of the escrow account balance.

(iv) An escrow account holder must submit a written request to the department to terminate the escrow account agreement. Any remaining balance will be returned to the escrow account holder.

(2) Refunds. A permit fee will not be refunded after the permit number has been issued unless such refund is necessary to correct an error made by the permit officer.

(g) Amendments. A permit may be amended for the following reasons:

(1) vehicle breakdown;

(2) changing the intermediate points in an approved permit route;

(3) extending the expiration date due to conditions which would cause the move to be delayed;

(4) changing route origin or route destination prior to the start date as listed on the permit;

(5) changing vehicle size limits prior to the permit start date as listed on the permit, provided that changing the vehicle size limit does not necessitate a change in the approved route; and

(6) correcting any mistake that is made due to permit officer error.

(h) Requirements for overwidth loads.

(1) Unless stated otherwise on the permit, an overwidth load must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(2) Overwidth loads are subject to the escort requirements of subsection (k) of this section.

(3) A permitted vehicle exceeding 16 feet in width will not be routed on the main lanes of a controlled access highway, unless an exception is granted by TxDOT, based on a route and traffic study. The load may be permitted on the frontage roads when available, if the movement will not pose a safety hazard to other highway users.

(4) An applicant requesting a permit to move a load exceeding 20 feet wide will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(i) Requirements for overlength loads.

(1) Overlength loads are subject to the escort requirements stated in subsection (k) of this section.

(2) A single vehicle, such as a motor crane, that has a permanently mounted boom is not considered as having either front or rear overhang as a result of the boom because the boom is an integral part of the vehicle.

(3) When a single vehicle with a permanently attached boom exceeds the maximum legal length of 45 feet, a permit will not be issued if the boom projects more than 25 feet beyond the front bumper of the vehicle, or when the boom projects more than 30 feet beyond the rear bumper of the vehicle, unless an exception is granted by TxDOT, based on a route and traffic study.

(4) Maximum permit length for a single vehicle is 75 feet.

(5) A load extending more than 20 feet beyond the front or rearmost portion of the load carrying surface of the permitted vehicle must have a rear escort, unless an exception is granted by TxDOT, based on a route and traffic study.

(6) A permit will not be issued for a vehicle and oversize load with:

(A) more than 25 feet front overhang; or

(B) more than 30 feet rear overhang, unless an exception is granted by TxDOT, based on a route and traffic study.

(7) An applicant requesting a permit to move an oversize vehicle and load exceeding 125 feet overall length will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely

negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(8) A permitted vehicle that is not overwidth or overheight, and does not exceed 150 feet overall length, may be moved in a convoy consisting of not more than four overlength permitted vehicles. A permitted vehicle that is not overwidth or overheight that exceeds 150 feet, but does not exceed 180 feet overall length, may be moved in a convoy consisting of not more than two overlength permitted vehicles. Convoys are subject to the requirements of subsection (k) of this section. Each permitted vehicle in the convoy must:

(A) be spaced at least 1,000 feet, but not more than 2,000 feet, from any other permitted vehicle in the convoy; and

(B) have a rotating amber beacon or an amber pulsating light, not less than eight inches in diameter, mounted at the rear top of the load being transported.

(j) Requirements for overheight loads.

(1) Overheight loads are subject to the escort requirements stated in subsection (k) of this section.

(2) An applicant requesting a permit to move an oversize vehicle and load with an overall height of 19 feet or greater will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(k) Escort vehicle requirements. Escort vehicle requirements are provided to facilitate the safe movement of permitted vehicles and to protect the traveling public during the movement of permitted vehicles. A permittee must provide for escort vehicles and law enforcement assistance when required by TxDOT. The requirements in this subsection do not apply to the movement of manufactured housing, portable building units, or portable building compatible cargo.

(1) General.

(A) Applicability. The operator of an escort vehicle shall, consistent with applicable law, warn the traveling public when:

(i) a permitted vehicle must travel over the center line of a narrow bridge or roadway;

(ii) a permitted vehicle makes any turning movement that will require the permitted vehicle to travel in the opposing traffic lanes;

(iii) a permitted vehicle reduces speed to cross under a low overhead obstruction or over a bridge;

(iv) a permitted vehicle creates an abnormal and unusual traffic flow pattern; or

(v) in the opinion of TxDOT, warning is required to ensure the safety of the traveling public or safe movement of the permitted vehicle.

(B) Law enforcement assistance. Law enforcement assistance may be required by TxDOT to control traffic when a permitted vehicle is being moved within the corporate limits of a city, or at such times when law enforcement assistance would provide for the safe movement of the permitted vehicle and the traveling public.

(C) Obstructions. It is the responsibility of the permittee to contact utility companies, telephone companies, television cable companies, or other entities as they may require, when it is necessary to raise or lower any overhead wire, traffic signal, street light, television cable, sign, or other overhead obstruction. The permittee is responsible for providing the appropriate advance notice as required by each entity.

(2) Escort requirements for overwidth loads. Unless an exception is granted based on a route and traffic study conducted by TxDOT, an overwidth load must:

(A) have a front escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a two lane roadway;

(B) have a rear escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a roadway of four or more lanes; and

(C) have a front and a rear escort vehicle for all roads, when the width of the load exceeds 16 feet.

(3) Escort requirements for overlength loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overlength loads must have:

(A) a front escort vehicle when traveling on a two lane roadway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length;

(B) a rear escort vehicle when traveling on a multi-lane highway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length; and

(C) a front and rear escort vehicle at all times if the permitted vehicle exceeds 125 feet overall length.

(4) Escort requirements for overheight loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overheight loads must have:

(A) a front escort vehicle equipped with a height pole to ensure the vehicle and load can clear all overhead obstructions for any permitted vehicle that exceeds 17 feet in height; and

(B) a front and rear escort vehicle for any permitted vehicle exceeding 18 feet in height.

(5) Escort requirements for permitted vehicles exceeding legal limits in more than one dimension. When a load exceeds more than one dimension that requires an escort under this subsection, front and rear escorts will be required unless an exception is granted by TxDOT.

(6) Escort requirements for convoys. Convoys must have a front escort vehicle and a rear escort vehicle on all highways at all times.

(7) General equipment requirements. The following special equipment requirements apply to permitted vehicles and escort vehicles that are not motorcycles.

(A) An escort vehicle must be a single unit with a gross vehicle weight (GVW) of not less than 1,000 pounds nor more than 10,000 pounds.

(B) An escort vehicle must be equipped with two flashing amber lights or one rotating amber beacon of not less than eight inches in diameter, affixed to the roof of the escort vehicle, which must be visible to the front, sides, and rear of the escort vehicle while actively engaged in escort duties for the permitted vehicle.

(C) An escort vehicle must display a sign, on either the roof of the vehicle, or the front and rear of the vehicle, with the words "OVERSIZE LOAD" or "WIDE LOAD." The sign must be visible from the front and rear of the vehicle while escorting the permitted load. The sign must meet the following specifications:

(i) at least five feet, but not more than seven feet in length, and at least 12 inches, but not more than 18 inches in height;

(ii) the sign must have a yellow background with black lettering;

(iii) letters must be at least eight inches, but not more than 10 inches high with a brush stroke at least 1.41 inches wide; and

(iv) the sign must be visible from the front or rear of the vehicle while escorting the permitted vehicle, and the signs must not be used at any other time.

(D) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(E) Warning flags must be either red or orange fluorescent material, at least 12 inches square, securely mounted on a staff or securely fastened by at least one corner to the widest extremities of an overwidth permitted vehicle, and at the rear of an overlength permitted vehicle or a permitted vehicle with a rear overhang in excess of four feet.

(8) Equipment requirements for motorcycles.

(A) An official law enforcement motorcycle may be used as a primary escort vehicle for a permitted vehicle traveling within the limits of an incorporated city, if the motorcycle is operated by a highway patrol officer, sheriff, or duly authorized deputy, or municipal police officer.

(B) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(1) Restrictions.

(1) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgment of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited to:

(A) visibility of less than 2/10 of one mile; or

(B) weather conditions such as wind, rain, ice, sleet, or snow.

(2) Daylight and night movement restrictions.

(A) A permitted vehicle may be moved only during daylight hours unless:

(i) the permitted vehicle is overweight only;

(ii) the permitted vehicle is traveling on an interstate highway and does not exceed 10 feet wide and 100 feet long, with front and rear overhang that complies with legal standards; or

(iii) the permitted vehicle meets the criteria of clause (ii) of this subparagraph and is overweight.

(B) An exception may be granted allowing night movement, based on a route and traffic study conducted by TxDOT. Escorts may be required when an exception allowing night movement is granted.

(3) Holiday restrictions. The maximum size limits for a permit issued under Transportation Code, Chapter 623, Subchapter D, for holiday movement is 14 feet wide, 16 feet high, and 110 feet long, unless an exception is granted based on a route and traffic study conducted by TxDOT. The department may restrict holiday movement of specific loads based on a determination that the load could pose a hazard for the traveling public due to local road or traffic conditions.

(4) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions of any city or county in which the vehicle is operated. However, only the curfew restrictions listed on the permit apply to the permit.

(m) General provisions.

(1) Multiple commodities.

(A) Except as provided in subparagraph (B) of this paragraph, when a permitted commodity creates a single overdimension, two or more commodities may be hauled as one permit load, provided legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created or made greater by the additional commodities. For example, a permit issued for the movement of a 12 foot wide storage tank may also include a 10 foot wide storage tank loaded behind the 12 foot wide tank provided that legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created.

(B) When the transport of more than one commodity in a single load creates or makes greater an illegal dimension of length, width, or height the department may issue an oversize permit for such load subject to each of the following conditions.

(i) The permit applicant or the shipper of the commodities files with the department a written certification by the Texas Department of Economic Development, approved by the Office of the Governor, attesting that issuing the permit will have a significant positive impact on the economy of Texas and that the proposed load of multiple commodities therefore cannot be reasonably dismantled. As used in this clause the term significant positive impact means the creation of not less than 100 new full-time jobs, the preservation of not less than 100 existing full-time jobs, that would otherwise be eliminated if the permit is not issued, or creates or retains not less than one percent of the employment base in the affected economic sector identified in the certification.

(ii) Transport of the commodities does not exceed legal axle and gross load limits.

(iii) The permit is issued in the same manner and under the same provisions as would be applicable to the transport of a single oversize commodity under this section; provided, however, that

the shipper and the permittee also must indemnify and hold harmless the department, its board members, officers, and employees from any and all liability for damages or claims of damages including court costs and attorney fees, if any, which may arise from the transport of an oversized load under a permit issued pursuant to this subparagraph.

(iv) The shipper and the permittee must file with the department a certificate of insurance on a form prescribed by the department, or otherwise acceptable to the department, naming the department, its board members, officers, and employees as named or additional insurers on its comprehensive general liability insurance policy for coverage in the amount of \$5 million per occurrence, including court costs and attorney fees, if any, which may arise from the transport of an oversized load under a permit issued pursuant to this subparagraph. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas.

(v) The shipper and the permittee must file with the department, in addition to all insurance provided in clause (iv) of this subparagraph, a certificate of insurance on a form prescribed by the department, or otherwise acceptable to the department, naming the department, its board members, officers, and employees as insurers under an auto liability insurance policy for the benefit of said insurers in an amount of \$5 million per accident. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas. If the shipper or the permittee is self-insured with regard to automobile liability then that party must take all steps and perform all acts necessary under the law to indemnify the department, its board members, officers, and employees as if the party had contracted for insurance pursuant to, and in the amount set forth in, the preceding sentence and shall agree to so indemnify the department, its board members, officers, and employees in a manner acceptable to the department.

(vi) Issuance of the permit is approved by written order of the board which written order may be, among other things, specific as to duration and routes.

(C) An applicant requesting a permit to haul a dozer and its detached blade may be issued a permit, as a non-dismantable load, if removal of the blade will decrease the overall width of the load, thereby reducing the hazard to the traveling public.

(2) Oversize hauling equipment. A vehicle that exceeds the legal size limits, as set forth by Transportation Code, Chapter 621, Subchapter C, may only haul a load that exceeds legal size limits unless otherwise noted in this subchapter, but such vehicle may haul an overweight load that does not exceed legal size limits, except for the special exception granted in §219.13(c)(3) of this title (relating to Time Permits).

(n) Surety bonds.

(1) General. The following conditions apply to surety bonds specified in Transportation Code, §623.075.

(A) The surety bond must:

(i) be made payable to the department with the condition that the applicant will pay the department for any damage caused to the highway by the operation of the equipment covered by the surety bond;

(ii) be effective the day it is issued and expires at the end of the state fiscal year, which is August 31st. For example, if you obtain a surety bond on August 30th, it will expire the next day at midnight.

(iii) include the complete mailing address and zip code of the principal;

(iv) be filed with the department and have an original signature of the principal;

(v) have a single entity as principal with no other principal names listed; and

(vi) A non-resident agent with a valid Texas insurance license may issue a bond on behalf of an authorized insurance company when in compliance with Insurance Code, Chapter 4056.

(B) A certificate of continuation will not be accepted.

(C) The owner of a vehicle bonded under Transportation Code, §623.075 or §623.163, that damages the state highway system as a result of the permitted vehicle's movement will be notified by certified mail of the amount of damage and will be given 30 days to submit payment for such damage. Failure to make payment within 30 days will result in TxDOT placing the claim with the attorney general for collection.

(D) The venue of any suit for a claim against a surety bond for the movement of a vehicle permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, will be any court of competent jurisdiction in Travis County.

(2) Permit surety bonds.

(A) A surety bond required under the provisions of Transportation Code, Chapter 623, Subchapter D, must be submitted on the department's standard surety bond form in the amount of \$10,000.

(B) A facsimile or electronic copy of the surety bond is acceptable in lieu of the original surety bond, for a period not to exceed 10 days from the date of its receipt in the department. If the original surety bond has not arrived in the department by the end of the 10 days, the applicant will not be issued a permit until the original surety bond has been received in the department.

(C) The surety bond requirement does apply to the delivery of farm equipment to a farm equipment dealer.

(D) A surety bond is required when a dealer or transporter of farm equipment or a manufacturer of farm equipment obtains a permit.

(E) The surety bond requirement does not apply to driving or transporting farm equipment which is being used for agricultural purposes if it is driven or transported by or under the authority of the owner of the equipment.

(F) The surety bond requirement does not apply to a vehicle or equipment operated by a motor carrier registered with the department under Transportation Code, Chapters 643 or 645 as amended.

#### §219.13. Time Permits.

(a) General information. Applications for time permits issued under Transportation Code, Chapter 623, and this section shall be made in accordance with §219.11(b) and (c) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures). Permits issued under this section are governed by the requirements of §219.11(e)(1).

(b) 30, 60, and 90 day permits. The following conditions apply to time permits issued for overwidth or overlength loads, or overlength vehicles, under this section.

(1) Fees. The fee for a 30-day permit is \$120; the fee for a 60-day permit is \$180; and the fee for a 90-day permit is \$240. All fees are payable in accordance with §219.11(f). All fees are non-refundable.

(2) Validity of Permit. Time permits are valid for a period of 30, 60, or 90 calendar days, based on the request of the applicant, and will begin on the effective date stated on the permit.

(3) Weight/height limits. The permitted vehicle may not exceed the weight or height limits set forth by Transportation Code, Chapter 621, Subchapters B and C.

(4) Registration requirements for permitted vehicles. Time permits will not be issued to a vehicle or vehicle combination that is registered with temporary vehicle registration.

(5) Vehicle indicated on permit. The permit will indicate only the truck or truck-tractor transporting the load; however, any properly registered trailer or semi-trailer is covered by the permit.

(6) Permit routes. The permit will allow travel on a statewide basis.

(7) Restrictions.

(A) The permitted vehicle must not cross a load restricted bridge or load restricted road when exceeding the posted capacity of the road or bridge.

(B) The permitted vehicle may travel through highway construction or maintenance areas if the dimensions do not exceed the construction restrictions as published by the department.

(C) The permitted vehicle is subject to the restrictions specified in §219.11(l), and the permittee is responsible for obtaining from the department information concerning current restrictions.

(8) Escort requirements. Permitted vehicles are subject to the escort requirements specified in §219.11(k).

(9) Transfer of time permits. Time permits issued under this subsection are non-transferable between permittees or vehicles.

(10) Amendments. With the exception of time permits issued under subsection (e)(4) of this section, time permits issued under this subsection will not be amended except in the case of permit officer error.

(c) Overwidth loads. An overwidth time permit may be issued for the movement of any load or overwidth trailer, subject to subsection (a) of this section and the following conditions:

(1) Width requirements.

(A) A time permit will not be issued for a vehicle with a width exceeding 13 feet.

(B) When multiple items are hauled at the same time, the items may not be loaded in a manner that creates a width greater than the width of the widest item being hauled.

(2) Weight, height, and length requirements.

(A) The permitted vehicle shall not exceed legal weight, height, or length according to Transportation Code, Chapter 621, Subchapters B and C.

(B) When multiple items are hauled at the same time, the items may not be loaded in a manner that creates:

(i) a height greater than 14 feet;

(ii) an overlength load; or

(iii) a gross weight exceeding the legal gross or axle weight of the vehicle hauling the load.

(3) Movement of overwidth trailers. When the permitted vehicle is an overwidth trailer, it will be allowed to:

(A) move empty to and from the job site; and

(B) haul a load from the permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off a permitted load, as long as:

(i) the load does not exceed legal size and weight limits under Transportation Code, Chapters 621 and 622; and

(ii) the transport complies with the permit, including the time period stated on the permit.

(4) Use in conjunction with other permits. An overwidth time permit may be used in conjunction with an overlength time permit.

(d) Overlength loads. An overlength time permit may be issued for the transportation of overlength loads or the movement of an overlength self-propelled vehicle, subject to subsection (a) of this section and the following conditions:

(1) Length requirements.

(A) The maximum overall length for the permitted vehicle may not exceed 110 feet.

(B) The department may issue a permit under Transportation Code, §623.071(a) for an overlength load or an overlength self-propelled vehicle that falls within the definition of a nondivisible load or vehicle.

(2) Weight, height and width requirements.

(A) The permitted vehicle may not exceed legal weight, height, or width according to Transportation Code, Chapter 621, Subchapters B and C.

(B) A permit will not be issued when the load has more than 25 feet front overhang, or more than 30 feet rear overhang.

(3) Use in conjunction with other permits. An overlength time permit may be used in conjunction with an overwidth time permit.

(4) Emergency movement. A permitted vehicle transporting utility poles will be allowed emergency night movement for restoring electrical utility service, provided the permitted vehicle is accompanied by a rear escort vehicle.

(e) Annual permits.

(1) General information. All permits issued under this subsection are subject to the following conditions.

(A) Fees for permits issued under this subsection are payable as described in §219.11(f).

(B) Permits issued under this subsection are not transferable.

(C) Vehicles permitted under this subsection shall be operated according to the restrictions described in §219.11(l). The permittee is responsible for obtaining information concerning current restrictions from the department.

(D) Vehicles permitted under this subsection may not travel over a load restricted bridge or load restricted road when exceeding the posted capacity of the road or bridge.

(E) Vehicles permitted under this subsection may travel through any highway construction or maintenance area provided the dimensions do not exceed the construction restrictions as published by the department.

(F) With the exception of permits issued under paragraph (5) of this subsection, vehicles permitted under this subsection

shall be operated according to the escort requirements described in §219.11(k).

(2) Implements of husbandry. An annual permit may be issued for an implement of husbandry being moved by a dealer in those implements, and for harvesting equipment being moved as part of an agricultural operation. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for a permit issued under this paragraph is \$270, plus the highway maintenance fee specified in Transportation Code, §623.077.

(B) The time period will be for one year and will start on the effective date stated on the permit.

(C) The maximum width may not exceed 16 feet; maximum height may not exceed 16 feet; maximum length may not exceed 110 feet; and maximum weight may not exceed the limits stated in §219.11(d).

(D) Unless stated otherwise on the permit, the permitted vehicle must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(E) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight for the vehicle or vehicle combination, as set forth by Transportation Code, Chapter 621.

(3) Water well drilling machinery. The department may issue annual permits under Transportation Code, §623.071, for water well drilling machinery and equipment that fall within the definition of a nondivisible load or vehicle. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for a permit issued under this paragraph is \$270, plus the highway maintenance fee specified in Transportation Code, §623.077 for an overweight load.

(B) A water well drilling machinery permit is valid for one year from the effective date stated on the permit.

(C) The maximum dimensions may not exceed 16 feet wide, 14 feet 6 inches high, 110 feet long, and maximum weight may not exceed the limits stated in §219.11(d).

(D) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for the maximum weight of the vehicle, as set forth by Transportation Code, Chapter 621.

(E) A permit issued under this section authorizes a permitted vehicle to operate only on the state highway system.

(4) Envelope vehicle permits.

(A) The department may issue an annual permit under Transportation Code, §623.071(c), to a specific vehicle, for the movement of superheavy or oversize equipment that falls within the definition of a nondivisible load. This permit may not be used for a container, including a trailer or an intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(i) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not exceed:

(I) 12 feet in width;

(II) 14 feet in height;

(III) 110 feet in length; or

(IV) 120,000 pounds gross weight.

(ii) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not transport a load that has more than 25 feet front overhang, or more than 30 feet rear overhang.

(iii) The fee for an annual envelope vehicle permit is \$4,000, and is non-refundable.

(iv) The time period will be for one year and will start on the effective date stated on the permit.

(v) This permit authorizes operation of the permitted vehicle only on the state highway system.

(vi) The permitted vehicle must comply with §219.11(d)(2) and (3).

(vii) The permitted vehicle or vehicle combination must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.

(viii) A permit issued under this paragraph is non-transferable between permittees.

(ix) A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(I) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been surrendered to the department; or

(II) the certificate of title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been transferred from the permittee.

(x) A single-trip permit, as described in §219.12 of this title (relating to Single-Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D), may be used in conjunction with an annual permit issued under this paragraph for the movement of vehicles or loads exceeding the height or width limits established in subparagraph (A) of this paragraph. The department will indicate the annual permit number on any single-trip permit to be used in conjunction with a permit issued under this paragraph, and permittees will be assessed a fee of \$60 for the single-trip permit.

(B) The department may issue an annual permit under Transportation Code, §623.071(d), to a specific motor carrier, for the movement of superheavy or oversize equipment that falls within the definition of a nondivisible load. This permit may not be used for a container, including a trailer or an intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection and subparagraphs (A)(i)-(viii) of this paragraph. A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(i) that no more than one vehicle is operated at a time; and

(ii) the original certified permit is carried in the vehicle that is being operated under the terms of the permit.

(C) An annual envelope permit issued under subparagraph (B) of this paragraph will be sent to the permittee via registered

mail, or at the permittee's request and expense overnight delivery service. This permit may not be duplicated. This permit will be replaced only if:

(i) the permittee did not receive the original permit within seven business days after its date of issuance;

(ii) a request for replacement is submitted to the department within 10 business days after the original permit's date of issuance; and

(iii) the request for replacement is accompanied by a notarized statement signed by a principle or officer of the permittee acknowledging that the permittee understands the permit may not be duplicated and that if the original permit is located, the permittee must return either the original or replacement permit to the department.

(D) A request for replacement of a permit issued under subparagraph (B) of this paragraph will be denied if the department can verify that the permittee received the original.

(E) Lost, misplaced, damaged, destroyed, or otherwise unusable permits will not be replaced. A new permit will be required.

(5) Annual manufactured housing permit. The department may issue an annual permit for the transportation of new manufactured homes from a manufacturing facility to a temporary storage location, not to exceed 20 miles from the point of manufacture, in accordance with Transportation Code, §623.094. Permits issued under this paragraph are subject to the requirements of paragraph (1), subparagraphs (A), (B), (C), (D), (E), and (G), of this subsection.

(A) A permit shall contain the name of the company or person authorized to be issued permits by Transportation Code, Chapter 623, Subchapter E.

(B) The fee for a permit issued under this paragraph is \$1,500. Fees are non-refundable, and shall be paid in accordance with §219.11(f).

(C) The time period will be for one year from the effective date stated on the permit.

(D) The permitted vehicle must travel in the outside traffic lane on multi-lane highways when the width of the load exceeds 12 feet.

(E) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502.

(F) Authorized movement for a vehicle permitted under this section shall be valid during daylight hours only as defined by Transportation Code, §541.401.

(G) The permitted vehicle must be operated in accordance with the escort requirements described in §219.14(f) of this title (relating to Manufactured Housing, and Industrialized Housing and Building Permits).

(H) Permits issued under this section are non-transferable between permittees.

(6) Power line poles. An annual permit will be issued under Transportation Code, Chapter 622, Subchapter E, for the movement of poles required for the maintenance of electric power transmission and distribution lines. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for the permit is \$120.

(B) The time period will be for one year and will start on the effective date stated on the permit.

(C) The maximum length of the permitted vehicle may not exceed 75 feet.

(D) The width, height and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.

(E) Vehicles permitted under this paragraph may not travel over a load restricted bridge or load zoned road when exceeding posted limits.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.

(G) Movement will be between the hours of sunrise and sunset; however, the limitation on hours of operation does not apply to a vehicle being operated to prevent interruption or impairment of electric service, or to restore electric service that has been interrupted. When operated at night, a vehicle permitted under this subsection must be accompanied by a rear escort.

(H) The permitted vehicle may not travel during hazardous road conditions as stated in §219.11(l)(1)(A) and (B) except to prevent interruption or impairment of electric service, or to restore electric service that has been interrupted.

(I) The speed of the permitted vehicle may not exceed 50 miles per hour.

(J) The permitted vehicle must display on the extreme end of the load:

(i) two red lamps visible at a distance of at least 500 feet from the rear;

(ii) two red reflectors that indicate the maximum width and are visible, when light is insufficient or atmospheric conditions are unfavorable, at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and

(iii) two red lamps, one on each side, that indicate the maximum overhang, and are visible at a distance of at least 500 feet from the side of the vehicle.

(7) Cylindrically shaped bales of hay. An annual permit may be issued under Transportation Code, §623.017, for the movement of vehicles transporting cylindrically shaped bales of hay. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The permit fee is \$10.

(B) The time period will be for one year, and will start on the effective date stated on the permit.

(C) The maximum width of the permitted vehicle may not exceed 12 feet.

(D) The length, height, and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.

(E) Movement is restricted to daylight hours only.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight, as set forth by Transportation Code, Chapter 621.

(8) Overlength load or vehicles. An annual overlength permit may be issued for the transportation of a nondivisible overlength load or the movement of a nondivisible overlength vehicle or combination of vehicles under Transportation Code, §623.071(c-1). This permit

is subject to the portions of subsections (a), (b), and (d) of this section that are not limited to the fee or duration for the 30, 60, and 90 day permits.

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

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David D. Duncan

General Counsel

Texas Department of Motor Vehicle

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Proposal publication date: September 18, 2015

For further information, please call: (512) 465-5665



## SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES

### 43 TAC §219.31

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

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## SUBCHAPTER D. PERMITS FOR OVERSIZE AND OVERWEIGHT OIL WELL RELATED VEHICLES

### 43 TAC §§219.41 - 219.43, 219.45

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

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## SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR VEHICLES

### 43 TAC §§219.61 - 219.63

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

#### §219.62. *Single-Trip Mileage Permits.*

##### (a) General information.

(1) Permits issued under this section are subject to the requirements of §219.61 of this title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles).

##### (2) A single-trip mileage permit:

(A) is limited to a maximum of seven consecutive days;

(B) is routed from the point of origin to the point of destination and has the route listed on the permit; and

(C) allows the crane to be returned to the point of origin on the same permit, provided the return trip is made within the time period stated in the permit.

(3) A crane permitted under Transportation Code, Chapter 623, Subchapter J, must be registered under Transportation Code, Chapter 502, for the maximum gross weight applicable to the vehicle under Transportation Code, §621.101 or have the distinguishing license plates as provided by Transportation Code, §502.146 if applicable to the vehicle.

##### (4) A crane exceeding 175,000 pounds gross weight must:

(A) have front and rear escort vehicles to prevent traffic from traveling beside the crane as it crosses a bridge;

(B) cross all multi-lane bridges by centering the crane on a lane line;

(C) cross all two-lane bridges in the center of the bridge; and

(D) cross each bridge at a speed not greater than 20 miles per hour.

(5) A crane exceeding 12 feet in width must be centered in the outside traffic lane of any highway that has paved shoulders.

(6) The permitted vehicle must not cross a load restricted bridge when exceeding the posted capacity of such.

##### (b) Maximum permit weight limits.

(1) The maximum permit weight for any single axle, not connected to another axle by a weight equalizing suspension system, must not exceed 30,000 pounds or 850 pounds per inch of tire width, whichever is less.

(2) The maximum permit weight for any group of axles on a crane is determined by calculating the "W" weight for the group, using the formulas shown in Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding "W" weight that is established in Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table."

(3) The maximum permit weight per inch of tire width for axles that are steerable must not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not steerable must not exceed 850 pounds.

(4) A crane that does not have any group of axles that exceeds the limits established in Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," will be permitted with a single-trip mileage permit or a quarterly hubometer permit for travel on any route that does not include a load restricted bridge.

(5) A crane that has any group of axles that exceeds the limits established by Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," will be eligible, on an individual case-by-case basis, for a single-trip mileage permit only. Permit approval or denial will be based on a detailed route study and an analysis conducted by TxDOT of each bridge on the proposed travel route to determine if the road(s) and bridges are capable of sustaining the movement.

(6) A road or bridge that has been analyzed and determined to be incapable of sustaining the crane will be excluded from the permit route.

##### (c) Permit application and issuance.

##### (1) Application for single-trip mileage permit.

(A) The applicant must submit the completed application to the department by telephone, facsimile, mail, or Internet. The application shall include, at a minimum, the following information:

(i) name, address, telephone number, and email address (if requested) of the applicant;

(ii) origin and destination points of the crane;

(iii) make and model of the crane;

(iv) vehicle identification number of the crane;

(v) license plate number of the crane;

(vi) size and weight dimensions; and

(vii) any other information required by law.

(B) Upon receipt of the application, the department will review and verify size and weight information, check the route and mileage to be traveled, compute the permit fee, and advise the applicant of the permit fee.

(2) Issuance of single-trip mileage permit. Upon receipt of the permit fee, the department will advise the applicant of the permit number, and will provide a copy of the permit to the applicant if requested to do so.

(d) Permit fees and refunds.

(1) Minimum fee. The minimum fee for a single-trip permit is either the calculated permit fee or \$31, whichever is the greater amount.

(2) Permit fee calculation. The permit fee for a single-trip mileage permit is calculated by multiplying the number of miles traveled, the highway use factor and the total rate per mile, and the indirect cost share.

(A) Highway use factor. The highway use factor for a single-trip mileage permit is 0.6.

(B) Total rate per mile. The total rate per mile is the combined mileage rates for width, height, and weight for the unit. The rate per mile for a trailer mounted crane is based on the overall width, overall height, and all axle weights, including the truck-tractor axles.

(i) The mileage rate for width is \$.06 per mile for each foot (or fraction thereof) above legal width.

(ii) The mileage rate for height is \$.04 per mile for each foot (or fraction thereof) above legal height.

(iii) The mileage rate for a single axle or any axle within a group that exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

(iv) The mileage rate for a single axle or any axle within a group that exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

(C) Indirect cost share. The indirect cost share is a prorated share of administering department activities, other than the direct cost of the activities, including the cost of providing statewide support services. The indirect cost share factor is based upon the previous year's expenditures.

(3) Exceptions to fee computations. A crane with two or more axle groups that does not have a spacing of at least 12 feet between the closest axles of the opposing groups must have the permit fee calculated by the following method.

(A) The axle group with the lowest weight will have the axle closest to the next axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet between the two groups for fee calculation purposes.

(B) An axle group will not have more than one axle disregarded.

(C) The permit fee for the axle group with the temporarily disregarded axle must be based on the actual weight of the entire axle group minus the legal weight for the remaining axles of the group.

(4) Refunds. Fees for permits issued under this section are non-refundable.

(e) Amendments. A single-trip mileage permit issued under this section may not be amended unless an exception is granted by the department.

(f) Weight table and formulas. The following table entitled "Maximum Permit Weight Table" is Figure 1: 43 TAC §219.62(f), and the list of formulas entitled "Maximum Permit Weight Formulas," is Figure 2: 43 TAC §219.62(f).

Figure 1: 43 TAC §219.62(f) (No change.)

Figure 2: 43 TAC §219.62(f) (No change.)

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505141

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Effective date: December 14, 2015

Proposal publication date: September 18, 2015

For further information, please call: (512) 465-5665



## SUBCHAPTER G. RECORDS AND INSPECTIONS

### 43 TAC §219.102

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

Filed with the Office of the Secretary of State on November 24, 2015, 2015.

TRD-201505142  
David D. Duncan  
General Counsel  
Texas Department of Motor Vehicles  
Effective date: December 14, 2015  
Proposal publication date: September 18, 2015  
For further information, please call: (512) 465-5665



## SUBCHAPTER H. ENFORCEMENT

### 43 TAC §219.121, §219.125

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

## CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505144  
David D. Duncan  
General Counsel  
Texas Department of Motor Vehicles  
Effective date: December 14, 2015  
Proposal publication date: September 18, 2015  
For further information, please call: (512) 465-5665



# REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

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

## Proposed Rule Reviews

Texas Facilities Commission

### Title 1, Part 5

Chapter 111, Administration

In accordance with Texas Government Code §2001.039, the Texas Facilities Commission (the "Commission") proposes to review its administrative rules contained in Texas Administrative Code, Title 1, Part 5, Chapter 111, entitled *Administration*.

Chapter 111 relates to the Commission's duties and functions concerning the organization of the Commission, general duties, complaints and dispute resolution, and vehicles.

As required by Texas Government Code §2001.039, the Commission conducts this review to determine whether the statutory authority and the business reasons for Chapter 111 continue to exist.

Comments on the proposals may be submitted to Kay Molina, General Counsel, Texas Facilities Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments may also be sent via electronic mail to [rulescomments@tfc.state.tx.us](mailto:rulescomments@tfc.state.tx.us) and should state "Proposed Rule Review Ch. 111" in the subject line of e-mailed comments. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *Texas Register*.

TRD-201505180

Kay Molina

General Counsel

Texas Facilities Commission

Filed: November 24, 2015



Chapter 115, Facilities Leasing Program

In accordance with Texas Government Code §2001.039, the Texas Facilities Commission (the "Commission") proposes to review its administrative rules contained in Texas Administrative Code, Title 1, Part 5, Chapter 115, entitled *Facilities Leasing Program*.

Chapter 115 relates to the Commission's duties and functions concerning the leasing of property by and for the State of Texas and addresses prerequisites for leasing space, leasing space for health and human services agencies, delegation of authority, leasing services, the use of private firms to obtain space, and tenant agency responsibility and reporting, and best value guidelines.

As required by Texas Government Code §2001.039, the Commission conducts this review to determine whether the statutory authority and the business reasons for Chapter 115 continue to exist.

Comments on the proposals may be submitted to Kay Molina, General Counsel, Texas Facilities Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments may also be sent via electronic mail to [rulescomments@tfc.state.tx.us](mailto:rulescomments@tfc.state.tx.us) and should state "Proposed Rule Review Ch. 115" in the subject line of e-mailed comments. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *Texas Register*.

TRD-201505181

Kay Molina

General Counsel

Texas Facilities Commission

Filed: November 24, 2015



Chapter 126, Surplus and Salvage Property Programs

In accordance with Texas Government Code §2001.039, the Texas Facilities Commission (the "Commission") proposes to review its administrative rules contained in Texas Administrative Code, Title 1, Part 5, Chapter 126, entitled *Surplus and Salvage Property Programs*.

Chapter 126 relates to the Commission's duties and functions concerning the state surplus and salvage property program including, definitions, delegation of authority to state agencies, firearms, direct transfer of property, reporting, and disposition of surplus and salvage property to the public.

As required by Texas Government Code §2001.039, the Commission conducts this review to determine whether the statutory authority and the business reasons for Chapter 126 continue to exist.

Comments on the proposals may be submitted to Kay Molina, General Counsel, Texas Facilities Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments may also be sent via electronic mail to [rulescomments@tfc.state.tx.us](mailto:rulescomments@tfc.state.tx.us) and should state "Proposed Rule Review Ch. 126" in the subject line of e-mailed comments. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *Texas Register*.

TRD-201505182

Kay Molina

General Counsel

Texas Facilities Commission

Filed: November 24, 2015



## Adopted Rule Reviews

Texas Education Agency

## Title 19, Part 2

The State Board of Education (SBOE) adopts the review of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, pursuant to the Texas Government Code, §2001.039. The SBOE proposed the review of 19 TAC Chapter 33, Subchapter A, in the September 25, 2015 issue of the *Texas Register* (40 TexReg 6757).

The SBOE finds that the reasons for adopting 19 TAC Chapter 33, Subchapter A, continue to exist and readopts the rules. The SBOE received no comments related to the review. At a later date, the SBOE may propose amendments to Subchapter A to clarify language and terminology and update language to reflect changes in the investment market environment.

TRD-201505244

Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: December 2, 2015



The State Board of Education (SBOE) adopts the review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners, pursuant to the Texas Government Code, §2001.039. The SBOE proposed the review of 19 TAC Chapter 157, Subchapters A and D, in the September 25, 2015 issue of the *Texas Register* (40 TexReg 6757).

Relating to the review of 19 TAC Chapter 157, Subchapter A, the SBOE finds that the reasons for adopting Subchapter A continue to exist and readopts the rules. The SBOE received no comments related to the review of Subchapter A. Future amendments to Subchapter A may be necessary if the SBOE adopts revisions to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, relating to the administrative penalties authorized under the TEC, §31.151.

Relating to the review of 19 TAC Chapter 157, Subchapter D, the SBOE finds that the reasons for adopting Subchapter D continue to exist and readopts the rules. The SBOE received one comment related to the review of Subchapter D. Following is a summary of the public comment received and the corresponding response.

Comment: A member of the public commented that independent hearing examiners should have a more comprehensive training program and a more in-depth training manual to ensure they are fully familiar with relevant laws and rules.

Agency Response: The agency agrees that independent hearing examiners need to receive adequate training to adjudicate the cases before them. Therefore, 19 TAC §157.41 specifies minimum qualifications an individual must meet to be certified as an independent hearing examiner, including experience in relevant areas of the law and continuing education that includes review of education law. In addition, the certification lasts only one year to ensure an unqualified independent hearing examiner may not continue to provide services. The current qualifications provide the necessary safeguards to ensure competent independent hearing examiners while ensuring a sufficient number of examiners to handle the relevant caseloads.

No changes to Subchapter D are necessary as a result of the review.

TRD-201505200

Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: November 30, 2015



Texas Facilities Commission

## Title 1, Part 5

Chapter 116, Property Management Division

Pursuant to the notice of the proposed rule review published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6941), the Texas Facilities Commission (the "Commission") has reviewed and considered for re adoption, revision, or repeal Texas Administrative Code, Title 1, Part 5, Chapter 116, Property Management Division, in accordance with Texas Government Code §2001.039.

The Commission received no public comments concerning the review of Chapter 116. The Commission has completed its review and has determined that the reasons for originally adopting Chapter 116 continue to exist. In addition, the Commission reviewed the rules to determine whether the rules are obsolete, reflect current legal and policy considerations, reflect current procedures and practices of the Commission, and are in compliance with the Texas Administrative Procedure Act, Texas Government Code Chapter 2001. The Commission has determined that §116.3, Maintenance, Repairs, and Modifications, requires amendment to reflect current procedures and practices of the Commission.

The Commission has determined to readopt the rules in Chapter 116 with amendments pursuant to Texas Government Code §2001.039 and Texas Government Code §2165.0012 and §2165.058 (West 2008). A concurrent notice of proposed rule amendment related to §116.3 will be published in the *Texas Register* for public comment.

This completes the Commission's review of Texas Administrative Code, Title 1, Part 5, Chapter 116, Property Management Division.

TRD-201505183

Kay Molina  
General Counsel  
Texas Facilities Commission  
Filed: November 24, 2015



Chapter 117, Mandatory Paper Recycling Program

Pursuant to the notice of the proposed rule review published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6941), the Texas Facilities Commission (the "Commission") has reviewed and considered for re adoption, revision, or repeal Texas Administrative Code, Title 1, Part 5, Chapter 117, Mandatory Paper Recycling Program, in accordance with Texas Government Code §2001.039.

The Commission received no public comments concerning the review of Chapter 117. The Commission has completed its review and has determined that the reasons for originally adopting Chapter 117 continue to exist. In addition, the Commission reviewed and determined that the rules are not obsolete, reflect current legal and policy considerations and current procedures and practices of the Commission, and are in compliance with the Texas Administrative Procedure Act, Texas Government Code Chapter 2001.

Accordingly, the Commission readopts the rules in Chapter 117 without changes pursuant to Texas Government Code §2001.039 and Texas Government Code §2175.061(b) and §2175.902 (Vernon 2008).

This completes the Commission's review of Texas Administrative Code, Title 1, Part 5, Chapter 117, Mandatory Paper Recycling Program.



TRD-201505179  
Kay Molina  
General Counsel  
Texas Facilities Commission  
Filed: November 24, 2015

*Thomas Huizar*



# TABLES &

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# GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

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Figure: 22 TAC §190.14(9)

Violation Description	Statutory/Rule Citation	Low Sanction	High Sanction
Abusive or Disruptive Behavior	§164.052(a)(5) (unprofessional conduct likely to injure public); Rule §190.8(2)(K), (P)	Remedial Plan: Anger management and communications CME, JP exam, medical ethics	Agreed Order with IME or Public Referral to PHP; CME in medical ethics, anger management, communications with colleagues, JP exam. For multiple orders or egregious actions- interfering with patient care: public reprimand, suspension with terms and conditions
Aiding in unlicensed practice	§164.052(a)(17) (directly or indirectly aids or abets unlicensed practice)	Remedial Plan: Directed CME in supervision or delegation if applicable; 8 hours CME in medical ethics, 8 hours CME in risk management; must pass JP within 1 year	Agreed Order: Public reprimand, all sanctions in low category, plus \$2,000 admin penalty
Bad faith mediation by a licensee in relation to an out-of-network health benefit claim	§1467.101 and 1467.102 of the Texas Insurance Code (bad faith in out-of-network claim dispute resolution)--"except for good cause shown, the regulatory agency shall impose an administrative penalty"	Good cause shown: Remedial Plan: 8 hours of medical ethics; otherwise, admin penalty is statutorily required	Agreed Order: Public reprimand; \$5,000 admin penalty, "except for good cause shown" per §1467.102; plus all sanctions in low category
Boundary Violation: Engaging in sexual contact with a patient or engaging in sexually inappropriate behavior or comments directed towards a patient	§164.052(a)(5) (unprofessional conduct likely to injure public); Rule §190.8(2)(E)-(F)	<b>RP is statutorily prohibited</b> Verbal remarks, or inappropriate behavior, but not involving touching: Agreed Order: Public reprimand; Vanderbilt or PACE boundaries course; JP exam; CME in ethics; chaperone	Cases involving physical contact: Agreed Order: Low sanctions plus IME, Replace chaperone with may not treat patient of the affected gender; or suspension or revocation
Boundary Violation: Becoming financially or personally involved with a patient in an inappropriate manner	§164.052(a)(5)(unprofessional conduct likely to injure public); Rule §190.8(2)(G)	<b>RP is statutorily prohibited</b> Single incident: Agreed Order: CME in ethics, JP exam; if financial involvement, restitution if appropriate; and/or admin penalty	More than one incident (more than one patient, or occasion): Agreed Order: Low Sanctions plus: Public reprimand; Vanderbilt or PACE boundaries course; JP exam; CME in ethics; administrative

			penalty; or suspension or revocation
Breach of Confidentiality	§164.052(a)(5) (unprofessional conduct likely to injure public); Rule §190.8(2)(N)	Remedial Plan: 8 hours risk management CME to include HIPAA, \$500 administration fee	Agreed Order: Public reprimand, CME in risk management and in HIPAA requirements; \$3,000 per occurrence; JP exam
Cease and desist order--issuance of: See "Unlicensed practice of medicine"	§164.002 (Board's general authority to dispose of "any complaint or matter" unless precluded by another statute) §165.052 (power to issue cease and desist orders against unlicensed persons)		
Cease and desist order (existing), violation of	§165.052(b) (violation of (c) and (d) is grounds for imposing admin penalty)	Administrative penalty \$2,000 - \$5,000 per offense	Referral to Attorney General for civil penalty and costs or criminal prosecution. §165.101 (civil) and §165.152 (criminal)
Change in practice or mailing address, failure to notify the board of	§164.051(a)(3) Rule §166.1(d) (notify Board within 30 days of change of mailing or practice address or professional name on file)	Remedial Plan: 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of ethics/risk management; \$2,000 admin penalty; JP exam
CME - Failure to obtain or document CME	§164.051(a)(3) (forbids breaking or attempting to break a Board rule); Rule §166.2 (48 credits each 24 months + other requirements and accreditation of CME req'ts)	Remedial Plan: All missing hours of CME and 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of CME in ethics/risk management plus complete all missing hours; \$1,000 admin penalty; JP exam
Crime: Abortion - performing a criminal abortion. Health and Safety Code §170.002 and Chapter 171 (§170.002 prohibits third-trimester abortions, with exceptions; Chapter 171 requires physicians to make available certain materials to abortion patients and restricts how informed consent is obtained; the criminal offense (§171.018) is an unspecified class of misdemeanor punishable only by a \$10,000 fine)	§164.052(a)(16) (prohibits performing, procuring, aiding, or abetting in procuring a criminal abortion); §164.055 (requires "appropriate disciplinary action" against a physician who violates Health and Safety Code §170.002 or Chapter 171)	Agreed Order: Public Reprimand; must pass JP within 1 year; \$5,000 admin penalty	Agreed Order: Suspension, probated with terms, or revocation

Crime: Arrest for offense under Penal Code §§21.02; 21.11; 22.011(a)(2); 22.021(a)(1)(B); (assaultive offenses against children)	§164.0595 (Temporary suspension or restriction of license for certain arrests)	Agreed Order: Restriction of license, chaperone; may not treat pediatric patients	Agreed Order: Suspension of license, no probation
Crime: Deferred adjudication community supervision for offense under Penal Code §§21.11; 22.011(a)(2); 22.021(a)(1)(B); (assaultive offenses against children)	§164.057(c) (mandates revocation upon proof of deferred adjudication community supervision)		Revocation is statutorily required
Crime: Felony conviction	§204.303(a)(2) of the Physician Assistant Act; §205.351(a)(7) of the Acupuncture Act; §164.057(a)(1)(A) of the Medical Practice Act (requires suspension on initial conviction for a felony)	Initial conviction: Statutorily required §190.8(6)(A)(iv) and §164.057(a)(1)(A); suspension to occur by operation of law pursuant to §187.72	Revocation is statutorily required on final conviction - §164.057(b)
Crime: Felony deferred adjudication; Misdemeanor involving moral turpitude deferred adjudication	§204.303(a)(2) & (3) of the Physician Assistant Act; Board Rule 185.17(7)&(11); §205.351(a)(7) of the Acupuncture Act; §164.051(a)(2)(A) of the Medical Practice Act (authorizes sanctions for initial convictions and deferred adjudications for felonies and misdemeanors involving moral turpitude)	Agreed Order: Appropriate sanction such as referral to PHP, anger management, IME, restrictions on practice, CME in appropriate area	Suspension or Revocation; §164.001(a); Revocation is statutorily required on final conviction of a felony- §164.057(b)
Crime: Misdemeanor conviction of crime involving moral turpitude	§204.303(a)(2) of the Physician Assistant Act; §205.351(a)(7) of the Acupuncture Act; §164.051(a)(2)(B) of the Medical Practice Act (authorizes suspension on initial conviction for misdemeanor of moral turpitude, and revocation upon final conviction)	If the offense is not related to the duties and responsibilities of the licensed occupation, the standard sanction shall require: (-a-) Suspension of license, which may be probated; (-b-) compliance with all restrictions, conditions and terms imposed by any order of probation or deferred adjudication; (-c-) public reprimand; and (-d-) administrative penalty of \$2,000 per violation.	If the offense is related to the duties and responsibilities of the licensed occupation, the standard sanction shall be revocation of the license.
Crime: Misdemeanor	Texas Occupations Code §53.021;	Suspension	Revocation

conviction <b>not</b> involving moral turpitude that is connected with the physician's practice of medicine	Rule §190.8(6)(B)(iv) stating Chapter 53 of applies to misdemeanor convictions not involving moral turpitude but connected with the physicians practice of medicine and setting out factors showing connection to practice of medicine		
Crime: Misdemeanor initial conviction under Penal Code Chapter 22 (assaultive offenses - <b>see also: arrest or deferred adjudication for assaultive offenses against children</b> ) of crime punishable by more than a fine; <b>OR</b> Penal Code §25.07 (violation of court order re: family violence); <b>OR</b> §25.071 (violation of court order re: crime of bias or prejudice); <b>OR</b> one requiring registration as a sex offender under Code of Criminal Procedures Chapter 62	§164.057(a)(1)(B), (C), (D), and (E) (when misdemeanor conviction requires suspension)	Suspension is statutorily required per §164.057(a)(1)(B)	Revocation is statutorily required on final conviction - §164.057(b)
Death certificate, failure to sign electronically	§164.053(a)(1) (authorizes sanctions via §164.052(a)(5) for breaking any law that "is connected with the physician's practice of medicine"); Health and Safety Code Chapter 193 (requires electronic filing of death certificates)	Remedial Plan: 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: CME – 8 hours of risk management, 4 – 8 hours medical ethics; \$2,000 admin penalty; JP exam
Delegation of professional medical responsibility or acts to person if the physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the	§164.053(a)(9) (describes the violation as unprofessional conduct, allows sanctions)	Remedial Plan: 12 hours CME in supervision and delegation, 8 hours in risk management, 8 hours in medical ethics; JP exam	Agreed Order: Low sanctions plus no delegation or supervision authority; administrative penalty of \$2,000 per violation

responsibility or acts			
Discipline by peers, may be either an administrative violation or SOC	§164.051(a)(7) (describes offense: includes being subjected to disciplinary action taken by peers in a local, regional, state, or national professional medical ass'n or being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of privileges, or other action IF the board finds the action was based on unprofessional conduct or professional incompetence that was likely to harm the public and "was appropriate and reasonably supported by evidence submitted to the board." Expert panel report provides such evidence)	Agreed Order: See the applicable sanction for the violation of the Texas Medical Practice Act that most closely relates to the basis of the disciplinary action by peers. In addition, the licensee shall comply with all restrictions, conditions and terms imposed by the disciplinary action by peers to the extent possible.	Agreed Order: Public reprimand; comply with all restrictions, conditions and terms imposed by the disciplinary action by peers to the extent possible; and administrative penalty of \$3,000 per violation, plus directed CME and, if SOC case, a chart monitor. If not SOC: IME; anger management; CME in communications
Disciplined by another state or military may be either an administrative violation or a patient care violation	§164.051(a)(9) (describes the violation, requires that acts for which discipline imposed be the same or similar to acts in §164.052 or acts that are the same or similar to acts described in 164.051(a), for example rule violations, SOC violations, and all forms of impairment) Issue is only whether there was an order--no relitigation of prior facts, e.g., no new expert panel required	If no standard of care concerns, Remedial Plan with appropriate CME and \$500 administration fee; OR reciprocal Agreed Order as appropriate.	If out-of-state order is revocation, revocation is statutorily required.
Drug logs - Failure to maintain (see also, violation of state or federal law connected with practice)	§164.053(a)(2) (describes offense and refers to Chapter 481 Health and Safety Code and 21 USC §801 et seq.)	Remedial Plan: 8 hours of ethics/risk management and \$500 administration fee	Agreed Order: Public reprimand; 8 hours of ethics/risk management; \$2,000 admin penalty; JP exam
Employing a revoked/cancelled/ or suspended physician (see also aiding and abetting the unlicensed practice)	§164.052(a)(14) (describes offense: "directly or indirectly employs . . ."); §164.052(a)(15) (forbids associating in the practice of medicine with such a person)	Agreed Order: Public reprimand; \$3,000 admin penalty; take and pass JP exam	Agreed Order: Public reprimand; \$5,000 admin penalty; JP exam; no delegation authority
Failing to adequately supervise subordinates and improper delegation	§164.053(a)(8); §164.053(a)(9) - These sections describe the respective violations and define them as unprofessional conduct	Remedial Plan: 12 hours CME in supervision and delegation; consider ordering Rsp to furnish ED copies of delegation orders of develop and furnish delegation orders to ED; \$500 admin fee	Agreed Order: Low category sanctions plus: monitoring of practice; no delegation or supervision authority; administrative penalty of \$2,000 per violation; JP exam
Fails to keep proper medical	§164.051(a)(3) (authorizes sanctioning	Remedial Plan: CME in appropriate area;	Agreed Order: 8 or more hours of

records	rule violations); §164.051(a)(6) (authorizes sanctioning failure to practice acceptably consistent with public welfare); Rule §165.1 describes contents of an adequate medical record	\$500 administration fee	medical record-keeping, require in-person attendance if practical; chart monitor 8 – 12 cycles; \$2,000 admin penalty; JP exam; PACE course in medical record-keeping if prior order for inadequate record-keeping
Failure to Communicate with patient or other providers	§164.052(a)(5) (prohibits conduct that is "likely to deceive or defraud the public" and unprofessional conduct as defined by §164.053)	Single incident: Remedial Plan--8 hours risk management CME to include patient communications, \$500 administration fee	Multiple instances: Agreed Order: Public reprimand, risk management and communications CME, fine, counseling, IME
Failure to display a "Notice Concerning Complaints" sign	Rule §178.3(a)(1) (requires display of sign)	Remedial Plan: 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of ethics/risk management, \$1,000 admin penalty; JP exam
Failure to report dangerous behavior to governmental body	§164.052(a)(5) (prohibits conduct that is "likely to deceive or defraud the public" and unprofessional conduct as defined by §164.053)	Single incident: Agreed Order: Admin penalty; CME in medical ethics; JP exam	Multiple or egregious: Agreed Order: Low category sanctions plus public reprimand and \$5,000 admin penalty
Failure to Pay/CS	Gov't Code; Family Code Chapter 232 (authorizes suspending licenses of any kind granted by the state to persons who do not pay support payments)	Suspension until such time as the licensee is no longer in default is required – statutorily required	Suspension until such time as the licensee is no longer in default - statutorily required
Failure to Pay Student Loan	§56.003 of the Texas Occupations Code	Agreed Order: public reprimand; within a certain time frame, provide proof of entering into an agreement with the loan servicing agent and/or default has been cured. Auto-suspend if violate order	Suspension until such time as the licensee is no longer in default
Failure to report suspected abuse of a patient by a third party, when the report of that abuse is required by law	§164.052(a)(5)(prohibits conduct that is "likely to deceive or defraud the public" and unprofessional conduct as defined by §164.053); Rule §190.8(2)(O)	Remedial Plan; CME- 8 hrs risk management; JP Exam	Agreed Order: Low sanctions plus public reprimand; administrative penalty \$3,000 per violation
Fees, failure to provide	§101.203 (prohibits overbilling via ref to Health and Safety Code	Remedial Plan: 8 hours of ethics/risk	Agreed Order: 8 - 16 hours of CME in

explanation of	§311.025); §101.351 (establishes requirement and excludes application of §101.351 to physicians who post a billing practice sign in their waiting room)	management/billing practices and \$500 administration fee	ethics, risk management, billing practices, and CPT coding, \$2,000 admin penalty
Fraud on a diploma/in an exam	§164.052(a)(2); §164.052(a)(3) (describes offense as presenting an illegally or fraudulently obtained credential and cheating on exams)	Misrepresentations that do not make licensee/applicant ineligible: Remedial Plan - 8 hours of ethics/risk management and \$500 administration fee	If misrepresentation makes the licensee ineligible, then revocation.
Fraudulent, improper billing practices - requires that Respondent knows the service was not provided or knows was improper, unreasonable, or medically or clinically unnecessary. Should not sanction for an unknowing and isolated episode.	§101.203 (prohibits overbilling via ref to Health and Safety Code §311.0025); §164.053(a)(7) (prohibits violation of Health and Safety Code §311.0025)	Agreed order: Including, but not limited to: monitoring of billing practices; directed CME; restitution; and administrative penalty of \$1,000, but not to exceed the amount of improper billing	Agreed Order: Public reprimand, monitoring of practice, including billing practices; directed CME; restitution; and administrative penalty of \$3,000 per violation
Health care liability claim, failure to report	§160.052(b) (requires reporting health care liability claims to Board) Rule §176.2 and §176.9 (prescribes form for such reporting)	Remedial Plan: 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of ethics/risk management; \$2,000 admin penalty; JP exam
Impairment (no history and no aggravating factors such as SOC, boundary violation, or felony)	§164.051(a)(4) (authorizes sanctions for practicing by those unable because of illness, drunkenness, excessive use of substances, or a mental or physical condition); §164.052(a)(4) (forbids use of alcohol or drugs in an intemperate manner that could endanger a patient's life)	Refer to PHP--Public referral via agreed order required if case involves discharge from PHP, otherwise private referral is OK if appropriate	Voluntary surrender or temporary suspension
Impairment (with history or SOC violation or boundary violation or felony)	§164.051(a)(4) (authorizes sanctions for practicing by those unable because of illness, drunkenness, excessive use of substances, or a mental or physical condition); §164.052(a)(4) (forbids use of alcohol or drugs in an intemperate manner that could endanger a patient's life)	Agreed Order: IME with report to ED or to panel at re-convened ISC, restrict practice or voluntary suspension pending report; if impairment is found at ISC, suspension of license until such time as the licensee can demonstrate that the licensee is	Agreed Order: Suspension of license until such time as the licensee can demonstrate that the licensee is safe and competent to practice medicine OR Suspension probated for 10 years with terms and conditions including but not necessarily

		safe and competent to practice medicine, with conditions to be determined by a subsequent panel	limited to: drug testing; restrictions on practice; AA or NA attendance evidenced by logs; IME for psychiatric/psychological evaluation and treatment; proficiency testing OR revocation.
Intimidation of Complainant	§164.052(a)(5) (prohibits unprofessional conduct as defined by §164.053 or that is "likely to deceive or defraud the public")	Single Incident: Public reprimand and fine	Multiple/Egregious: Suspension and/or revocation; significant admin penalty; CME in ethics; JP exam
Medical Records: failure to release/ Overcharging for	§159.006 of the Act (information furnished by licensee); §164.051(a)(3) (prohibits rule violations); Rule §165.2 (requires release to proper person as described therein unless release would harm the patient and prescribes allowable charges	Remedial Plan: 4 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of ethics/risk management, \$2,000 admin penalty; JP exam. Also, §159.006 (Board may appoint temp or permanent custodian of patient records held by a physician)
Misleading advertising	§164.051(a)(3); §164.052(6) (prohibits false advertising); Rule §164.3, §164.	Remedial Plan: 8 hours of ethics/risk management, correct the advertisement and \$500 administration fee	Agreed Order: 16 hours of ethics/risk management in person, correct the advertisement, \$5,000 admin penalty, JP exam
Operating an unlicensed pharmacy	§158.001(b) (requires physicians to comply with Occupations Code Chapter 558 to operate a retail pharmacy)	Agreed Order: Must pass JP within 1 year, \$2,000 penalty, CME – medical ethics	Agreed Order: JP exam; cease operating pharmacy; CME – ethics and risk management
Overbilling: See fraudulent, improper billing			
Peer review action: See Discipline by peers			
Physician-patient relationship, Improper termination of	Rule §190.8(1)(J) (requires reasonable notice to patient of termination)	Single incident: Remedial Plan: 8 hours CME - 4 risk management and 4 ethics, \$500 administration fee	Multiple instances: Public reprimand, risk management, fine, CME - in physician-patient communications
Pill mills, unregistered pain clinics, overprescribing – See Delegation, Supervision,			Revocation

Prescribing			
Prescribing controlled substances to oneself, family members, or others in which there is a close personal relationship absent immediate need, without taking an adequate history, performing a proper physical examination, or creating and maintaining adequate records	§164.051(a)(6); Rule §190.8(1)(L), (M)	Agreed Order CME 8 hours medical recordkeeping, or risk management; 8 hours appropriate prescribing of controlled substances; JP Exam  If only one prescription and no evidence of pattern, the ISC Panel may consider a remedial plan.	Agreed Order Low sanctions plus public reprimand; restrictions on prescribing to self, family, and others in which there is a close personal relationship, restrictions on practice including restrictions on prescribing and administering controlled substances and dangerous drugs, administrative penalty of \$3,000 per violation
Prescribing dangerous drugs to oneself, family members, or others in which there is a close personal relationship without taking an adequate history, performing a proper physical examination, or creating and maintaining adequate records	§164.051(a)(6); Rule §190.8(1)(L), (M)	Remedial Plan: CME - 8 hours medical recordkeeping or risk management; JP Exam	Agreed Order: Low sanctions plus restrictions on prescribing to self, family, and others in which there is a close personal relationship and administrative penalty of \$2,000 per violation
Prescribing, writes false or fictitious prescriptions OR prescribes or dispenses drugs to a person who is known to be an abuser of narcotic drugs, controlled substances, or dangerous drugs OR writes prescriptions for or dispenses to a person who the physician should have known was an abuser of narcotic drugs, controlled substances, or dangerous drugs OR prescribes,	§164.053(a)(3)-(6) (defines the violations under unprofessional conduct)	Agreed Order: CME - 8 hours drug-seeking behavior, 8 hours risk management; chart monitor at least 8 cycles; if Respondent does not use one, order to develop a pain management contract with specific provisions for termination of physician-patient relationship on a maximum of 3 violations by the patient including a positive test for a controlled substance not prescribed by Respondent, drug screens required by contract; JP Exam;	Agreed Order Low sanctions plus: restrictions on practice including restrictions on prescribing and administering controlled substances and dangerous drugs; proficiency testing; directed CME; and increase administrative penalty to \$5,000 per violation.  If evidence of false or fictitious prescriptions, surrender DEA registration certificate for all controlled

administers, or dispenses in a manner inconsistent with public health and welfare		admin penalty of \$3,000 per violation	substance schedules.
Prescribing, nontherapeutic--or dispensing, or administering of drugs nontherapeutically, one patient, no prior board disciplinary history related to standard of care or care-related violations	§164.053(a)(5) (prohibits prescribing or administering any drug or treatment that is nontherapeutic per se or because of the way it is administered or prescribed)	Remedial Plan CME in appropriate area; \$500 administration fee per year.	Agreed Order: Proficiency testing, CME in appropriate area; chart monitor for 8 cycles; administrative penalty of \$3,000 per violation
Prescribing, nontherapeutic--or dispensing, or administering of drugs nontherapeutically, more than one patient or prior history of disciplinary action for standard of care or care-related violations	§164.053(a)(5) (prohibits prescribing or administering any drug or treatment that is nontherapeutic per se or because of the way it is administered or prescribed)	Agreed Order: Proficiency testing; CME in appropriate area; chart monitor 12 cycles; administrative penalty \$3,000 per violation	Agreed Order: Low sanctions plus restrictions on practice, including prescribing and administering controlled substances and dangerous drugs; and administrative penalty of \$5,000 per violation. If there are aggravating factors, revocation should be considered.
Referring a patient to a facility, laboratory, or pharmacy without disclosing the existence of the licensee's ownership interest in the entity to the patient	§164.052(a)(5) (prohibits conduct that is "likely to deceive or defraud the public" and unprofessional conduct as defined by §164.053); Rule §190.8(2)(H)	Remedial Plan: CME 8 hrs ethics, 8 hrs risk management; within 30 days of order's entry, provide proof of implement of form used to disclose ownership to interest	Agreed Order: Low sanctions plus public reprimand; JP Exam; administrative penalty \$3,000 per violation
Refusal to respond to board subpoena or request for information or action	§160.009 of the Act and Rule §179.4 (relating to Request for Information and Records from Physicians); §164.052(a)(5), as further defined by Board Rule 190.8(2)(B) (prohibits Unprofessional conduct as defined by §164.053 or that is "likely to deceive or defraud the public")	If records eventually received, Remedial Plan of 8 hours of ethics/risk management and \$500 administration fee	If records never received and intentionally withheld, Agreed Order: public reprimand; JP exam; admin penalty; CME in medical ethics
Reporting false or misleading information on an initial application for licensure or for licensure renewal	§164.052(a)(1) (forbids submission of false or misleading statements of documents in an application for a license)	Misrepresentations that do not make licensee/applicant ineligible: Remedial Plan - 8 hours of ethics/risk management and	If misrepresentation makes the licensee ineligible, then revocation.

		\$500 administration fee	
Reporting false or misleading Board (non-licensing matter)	§164.052(a)(5), as further defined by Rule §190.8(2)(C)	Remedial Plan - 8 hours of ethics/risk management and \$500 administration fee	Agreed Order: 8 hours of ethics/risk management JP Exam administrative penalty of \$3,000
Self-Prescribing: See "Prescribing to self."			
Solicitation of patients/Drumming	§165.155 (provides a Class A misdemeanor penalty)	Agreed Order (if no conviction): 8 hours of ethics/risk management and \$500 administration fee	Egregious: Agreed Order: Public reprimand, chart sign off, \$5,000 fine, JP exam, CME in medical ethics OR referral to county attorney for prosecution as Class A misdemeanor under §165.155(e)
Standard of Care - one patient, no prior SOC or care-related violations	§164.051(a)(6) (fails to practice medicine in an acceptable, professional manner consistent with public health and welfare)	Remedial Plan*: CME in appropriate area; \$500 administration fee per year. *No RP if case concerns a patient death	Agreed Order: Proficiency testing; directed CME; chart monitor for 8 cycles; administrative penalty of \$3,000 per violation
Standard of care - one patient, one prior SOC or care-related violation	§164.051(a)(6) (fails to practice medicine in an acceptable, professional manner consistent with public health and welfare)	Agreed Order: Chart monitor for 8 cycles; directed CME, administrative penalty of \$3,000 per violation	Agreed Order: Limiting the practice of the person or excluding one or more specified activities of medicine; proficiency testing; directed CME; monitoring of the practice (either chart monitor for 12 cycles or supervising physician for a number of cases or specified period of time); public reprimand; and administrative penalty of \$5,000 per violation.
Standard of care - one patient, more than one prior SOC or care-related violation	§164.051(a)(6) (fails to practice medicine in an acceptable, professional manner consistent with public health and welfare); §164.051(a)(8) (recurring meritorious healthcare liability claims that evidence professional incompetence likely to injure the public); Rule §190.8(5) (defines	Agreed Order: Limiting the practice of the person or excluding one or more specified activities of medicine; proficiency testing; directed CME; monitoring of the	Agreed Order: K-STAR or PACE or equivalent proficiency testing; directed CME; chart monitoring (either chart monitor for 16 cycles or supervising

	"recurring" as 3 or more claims awarded or settled for \$50,000 in a 5-year period)	practice (either chart monitor for 12 cycles or supervising physician for a number of cases or specified period of time); administrative penalty of \$ 3,000 per violation	physician for a number of cases or specified period of time), restricting the practice; withdrawal of prescribing privileges or delegating privileges; public reprimand; administrative penalty of \$5,000 per violation
Standard of care - more than one patient, no prior SOC or care-related violation	§164.051(a)(6) (fails to practice medicine in an acceptable, professional manner consistent with public health and welfare); §164.051(a)(8) (recurring meritorious healthcare liability claims that evidence professional incompetence); Rule §190.8(5) (defines "recurring" as 3 or more claims awarded or settled for \$50,000 in a 5-year period)	Agreed Order: Chart Monitor for 8 cycles; CME in appropriate area; administrative penalty of \$3,000 per violation	Agreed Order: Proficiency testing; directed CME; chart monitor 12 cycles; public reprimand; and administrative penalty of \$5,000 per violation
Standard of care - more than one patient, prior SOC or care-related violations	§164.051(a)(6) (fails to practice medicine in an acceptable, professional manner consistent with public health and welfare); §164.051(a)(8) (recurring meritorious healthcare liability claims that evidence professional incompetence); Rule §190.8(5) (defines "recurring" as 3 or more claims awarded or settled for \$50,000 in a 5-year period)	Agreed Order: Proficiency testing; directed CME; monitoring for 12 cycles; requiring oversight or restricting of the practice; public reprimand; and administrative penalty of \$5,000 per violation.	Suspension or revocation
Supervision of midlevels, failure to perform: See "Failing to adequately supervise subordinates and improper delegation."			
Unlicensed practice of medicine	§165.052(a) (see definition of "practice of medicine" at §151.002(a)(13))	Cease and Desist Order and referral of Order to District Attorney or Attorney General	Cease and Desist Order; referral to Attorney General's office for injunction or civil penalties
Unsound Mind - adjudicated (See also "Impairment")	§164.051(a)(5) (enables Board to take action if a licensee or applicant "is found by a court to be of unsound mind")	Suspension of license until such time as the licensee can demonstrate that the licensee is safe and competent to practice medicine; IME and return to ISC panel with results	Temporary suspension prior to seeking revocation; show cause hearing under §164.056
Violation of Board	§164.052(a)(5) (enables	Administrative in	Agreed Order: Low

Order	sanctioning of unprofessional or dishonorable conduct as defined by §164.053 or conduct that injures the public)	nature- Agreed Order: Administrative Penalty of \$1,000; Substantive in nature-extension of order and increase the terms of the original order	sanctions plus: public reprimand; admin penalty of \$3,000 - \$5,000
Violation of state or federal law connected with physician's practice	§164.053(a)(1) (authorizes sanctions via §164.052(a)(5) for breaking any law that "is connected with the physician's practice of medicine")	If criminal law, see above under "Crime." If civil law, Agreed Order: must pass JP exam and 8 hours of risk management/ethics	Agreed Order: public reprimand; restriction of license; surrender of controlled substance privileges; plus low sanctions

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Ark-Tex Council of Governments

### Request for Proposals

The Texarkana Urban Transit District (TUTD) is a political subdivision district created under the laws of the State of Texas as defined by Chapter 458 of the Texas Transportation Code and Chapter 791 of the Texas Government Code. TUTD is actively engaged in providing public transportation services in the urbanized areas of Texarkana, Arkansas; and Nash, Wake Village and Texarkana, Texas.

The TUTD is currently accepting proposals for Ambulatory Paratransit Transportation Services. Proposals are being solicited and will be received until 4:00 p.m. on December 17, 2015, by the TUTD/T-Line, 1402 Texas Boulevard, Texarkana, Texas. There is a Pre-Proposal Conference scheduled December 8, 2015, at 2:00 p.m. at the T-Line Building. Information for the Request for Proposals is available on the T-Line website at [www.t-linebus.org](http://www.t-linebus.org). For additional information prior to submitting a proposal, please contact Eric Elmore at (903) 794-8883, [eelmore@atcog.org](mailto:eelmore@atcog.org).

TUTD reserves the right to reject any and all proposals, to waive informalities, to reject nonconforming or conditional proposals, and to

proceed otherwise when in the best interest of TUTD. Proposals received after the deadline will not be considered.

TRD-201505236

Chris Brown

Executive Director

Ark-Tex Council of Governments

Filed: December 1, 2015

## Office of the Attorney General

### 2016 Tax Charts

Pursuant to §154.061(b) of the Texas Family Code, the Office of the Attorney General of Texas, as the Title IV-D agency, has promulgated the following tax charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

**EMPLOYED PERSONS  
2016 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*.**		
\$100.00	\$6.20	\$1.45	\$0.00	\$92.35
\$200.00	\$12.40	\$2.90	\$0.00	\$184.70
\$300.00	\$18.60	\$4.35	\$0.00	\$277.05
\$400.00	\$24.80	\$5.80	\$0.00	\$369.40
\$500.00	\$31.00	\$7.25	\$0.00	\$461.75
\$600.00	\$37.20	\$8.70	\$0.00	\$554.10
\$700.00	\$43.40	\$10.15	\$0.00	\$646.45
\$800.00	\$49.60	\$11.60	\$0.00	\$738.80
\$900.00	\$55.80	\$13.05	\$3.75	\$827.40
\$1,000.00	\$62.00	\$14.50	\$13.75	\$909.75
\$1,100.00	\$68.20	\$15.95	\$23.75	\$992.10
\$1,200.00	\$74.40	\$17.40	\$33.75	\$1,074.45
\$1,256.67****	\$77.91	\$18.22	\$39.42	\$1,121.12
\$1,300.00	\$80.60	\$18.85	\$43.75	\$1,156.80
\$1,400.00	\$86.80	\$20.30	\$53.75	\$1,239.15
\$1,500.00	\$93.00	\$21.75	\$63.75	\$1,321.50
\$1,600.00	\$99.20	\$23.20	\$73.75	\$1,403.85
\$1,700.00	\$105.40	\$24.65	\$86.98	\$1,482.97
\$1,800.00	\$111.60	\$26.10	\$101.98	\$1,560.32
\$1,900.00	\$117.80	\$27.55	\$116.98	\$1,637.67
\$2,000.00	\$124.00	\$29.00	\$131.98	\$1,715.02
\$2,100.00	\$130.20	\$30.45	\$146.98	\$1,792.37
\$2,200.00	\$136.40	\$31.90	\$161.98	\$1,869.72
\$2,300.00	\$142.60	\$33.35	\$176.98	\$1,947.07
\$2,400.00	\$148.80	\$34.80	\$191.98	\$2,024.42
\$2,500.00	\$155.00	\$36.25	\$206.98	\$2,101.77
\$2,600.00	\$161.20	\$37.70	\$221.98	\$2,179.12
\$2,700.00	\$167.40	\$39.15	\$236.98	\$2,256.47
\$2,800.00	\$173.60	\$40.60	\$251.98	\$2,333.82
\$2,900.00	\$179.80	\$42.05	\$266.98	\$2,411.17
\$3,000.00	\$186.00	\$43.50	\$281.98	\$2,488.52
\$3,100.00	\$192.20	\$44.95	\$296.98	\$2,565.87
\$3,200.00	\$198.40	\$46.40	\$311.98	\$2,643.22
\$3,300.00	\$204.60	\$47.85	\$326.98	\$2,720.57
\$3,400.00	\$210.80	\$49.30	\$341.98	\$2,797.92
\$3,500.00	\$217.00	\$50.75	\$356.98	\$2,875.27
\$3,600.00	\$223.20	\$52.20	\$371.98	\$2,952.62
\$3,700.00	\$229.40	\$53.65	\$386.98	\$3,029.97
\$3,800.00	\$235.60	\$55.10	\$401.98	\$3,107.32
\$3,900.00	\$241.80	\$56.55	\$416.98	\$3,184.67
\$4,000.00	\$248.00	\$58.00	\$431.98	\$3,262.02
\$4,250.00	\$263.50	\$61.63	\$494.48	\$3,430.39
\$4,500.00	\$279.00	\$65.25	\$556.98	\$3,598.77
\$4,750.00	\$294.50	\$68.88	\$619.48	\$3,767.14
\$5,000.00	\$310.00	\$72.50	\$681.98	\$3,935.52
\$5,250.00	\$325.50	\$76.13	\$744.48	\$4,103.89
\$5,500.00	\$341.00	\$79.75	\$806.98	\$4,272.27
\$5,750.00	\$356.50	\$83.38	\$869.48	\$4,440.64
\$6,000.00	\$372.00	\$87.00	\$931.98	\$4,609.02
\$6,250.00	\$387.50	\$90.63	\$994.48	\$4,777.39
\$6,500.00	\$403.00	\$94.25	\$1,056.98	\$4,945.77
\$6,750.00	\$418.50	\$97.88	\$1,119.48	\$5,114.14
\$7,000.00	\$434.00	\$101.50	\$1,181.98	\$5,282.52
\$7,500.00	\$465.00	\$108.75	\$1,306.98	\$5,619.27
\$8,000.00	\$496.00	\$116.00	\$1,431.98	\$5,956.02
\$8,500.00	\$527.00	\$123.25	\$1,558.23	\$6,291.52
\$9,000.00	\$558.00	\$130.50	\$1,698.23	\$6,613.27
\$9,500.00	\$589.00	\$137.75	\$1,838.23	\$6,935.02
\$10,000.00	\$612.25*****	\$145.00	\$1,978.23	\$7,264.52
\$10,500.00	\$612.25	\$152.25	\$2,118.23	\$7,617.27
\$11,000.00	\$612.25	\$159.50	\$2,258.23	\$7,970.02
\$11,500.00	\$612.25	\$166.75	\$2,398.23	\$8,322.77
\$11,822.08*****	\$612.25	\$171.42	\$2,488.41	\$8,550.00
\$12,000.00	\$612.25	\$174.00	\$2,538.23	\$8,675.52
\$12,500.00	\$612.25	\$181.25	\$2,678.23	\$9,028.27
\$13,000.00	\$612.25	\$188.50	\$2,818.23	\$9,381.02
\$13,500.00	\$612.25	\$195.75	\$2,958.23	\$9,733.77
\$14,000.00	\$612.25	\$203.00	\$3,098.23	\$10,086.52
\$14,500.00	\$612.25	\$210.25	\$3,238.23	\$10,439.27
\$15,000.00	\$612.25	\$217.50	\$3,378.23	\$10,792.02

**Footnotes to Employed Persons 2016 Tax Chart:**

- \* An employed person not subject to the Old-Age, Survivors and Disability Insurance/Hospital (Medicare) Insurance taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.
- \*\* When income exceeds \$200,000.00 per year there is an additional Medicare Tax of 0.9%. The additional Medicare Tax does not apply to any values shown on this chart because the highest gross income included is \$15,000.00 per month (\$180,000.00 per year).
- \*\*\* These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (\$4,050.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$6,300.00).

For a single taxpayer with an adjusted gross income in excess of \$259,400.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$259,400.00. The reduction is completed (i.e., the deduction for the personal exemption is eliminated) for adjusted gross income in excess of \$381,900.00. In no case is the deduction for the personal exemption reduced by more than 100%. The phase out of the Personal Exemption does not apply to any values shown on this chart because the highest income included is \$15,000.00 per month (\$180,000.00 per year).

- \*\*\*\* The amount represents one-twelfth (1/12) of the gross income of an individual earning the federal minimum wage (\$7.25 per hour) for a 40-hour week for a full year. \$7.25 per hour x 40 hours per week x 52 weeks per year equals \$15,080.00 per year. One-twelfth (1/12) of \$15,080.00 equals \$1,256.67.
- \*\*\*\*\* For annual gross wages above \$118,500.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 2016 maximum Old-Age, Survivors and Disability Insurance tax of \$7,347.00 per person (6.2% of the first \$118,500.00 of annual gross wages equals \$7,347.00). One-twelfth (1/12) of \$7,347.00 equals \$612.25.
- \*\*\*\*\* This amount represents the point where the monthly gross wages of an employed individual would result in \$8,550.00 of net resources. Texas Family Code section 154.125 provides “The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater.” Effective September 1, 2013 the adjusted amount determined under Subsection (a-1) is \$8,550.00.

\* \* \* \* \*

**References Relating to Employed Persons 2016 Revised Tax Chart:**

1. Old-Age, Survivors and Disability Insurance Tax
  - (a) Contribution Base

- (1) Social Security Administration's notice appearing in 80 Fed. Reg. 66963 (October 30, 2015)
- (2) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))

3. Federal Income Tax

(a) Tax Rate Schedule for 2016 for Single Taxpayers

- (1) Revenue Procedure 2015-53, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
- (2) Section 1(c), (f) and (i) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c), 1(f), 1(i))

(b) Standard Deduction

- (1) Revenue Procedure 2015-53, Section 3.14(1), which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) Revenue Procedure 2015-53, Section 3.24, which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
  - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))
4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 38 TexReg 4647 (July 19, 2013)

**SELF-EMPLOYED PERSONS  
2016 TAX CHART**

Monthly Net Earnings From Self-Employment*	Social Security Taxes		Federal Income Taxes****	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)** , ***		
\$100.00	\$11.45	\$2.68	\$0.00	\$85.87
\$200.00	\$22.90	\$5.36	\$0.00	\$171.74
\$300.00	\$34.35	\$8.03	\$0.00	\$257.62
\$400.00	\$45.81	\$10.71	\$0.00	\$343.48
\$500.00	\$57.26	\$13.39	\$0.00	\$429.35
\$600.00	\$68.71	\$16.07	\$0.00	\$515.22
\$700.00	\$80.16	\$18.75	\$0.00	\$601.09
\$800.00	\$91.61	\$21.43	\$0.00	\$686.96
\$900.00	\$103.06	\$24.10	\$0.00	\$772.84
\$1,000.00	\$114.51	\$26.78	\$6.69	\$852.02
\$1,100.00	\$125.97	\$29.46	\$15.98	\$928.59
\$1,200.00	\$137.42	\$32.14	\$25.27	\$1,005.17
\$1,300.00	\$148.87	\$34.82	\$34.57	\$1,081.74
\$1,400.00	\$160.32	\$37.49	\$43.86	\$1,158.33
\$1,500.00	\$171.77	\$40.17	\$53.15	\$1,234.91
\$1,600.00	\$183.22	\$42.85	\$62.45	\$1,311.48
\$1,700.00	\$194.67	\$45.53	\$71.74	\$1,388.06
\$1,800.00	\$206.13	\$48.21	\$82.90	\$1,462.76
\$1,900.00	\$217.58	\$50.88	\$96.84	\$1,534.70
\$2,000.00	\$229.03	\$53.56	\$110.78	\$1,606.63
\$2,100.00	\$240.48	\$56.24	\$124.73	\$1,678.55
\$2,200.00	\$251.93	\$58.92	\$138.67	\$1,750.48
\$2,300.00	\$263.38	\$61.60	\$152.61	\$1,822.41
\$2,400.00	\$274.83	\$64.28	\$166.55	\$1,894.34
\$2,500.00	\$286.29	\$66.95	\$180.49	\$1,966.27
\$2,600.00	\$297.74	\$69.63	\$194.43	\$2,038.20
\$2,700.00	\$309.19	\$72.31	\$208.37	\$2,110.13
\$2,800.00	\$320.64	\$74.99	\$222.31	\$2,182.06
\$2,900.00	\$332.09	\$77.67	\$236.25	\$2,253.99
\$3,000.00	\$343.54	\$80.34	\$250.19	\$2,325.93
\$3,100.00	\$354.99	\$83.02	\$264.13	\$2,397.86
\$3,200.00	\$366.44	\$85.70	\$278.07	\$2,469.79
\$3,300.00	\$377.90	\$88.38	\$292.01	\$2,541.71
\$3,400.00	\$389.35	\$91.06	\$305.95	\$2,613.64
\$3,500.00	\$400.80	\$93.74	\$319.89	\$2,685.57
\$3,600.00	\$412.25	\$96.41	\$333.83	\$2,757.51
\$3,700.00	\$423.70	\$99.09	\$347.77	\$2,829.44
\$3,800.00	\$435.15	\$101.77	\$361.71	\$2,901.37
\$3,900.00	\$446.60	\$104.45	\$375.65	\$2,973.30
\$4,000.00	\$458.06	\$107.13	\$389.59	\$3,045.22
\$4,250.00	\$486.68	\$113.82	\$424.44	\$3,225.06
\$4,500.00	\$515.31	\$120.52	\$477.50	\$3,386.67
\$4,750.00	\$543.94	\$127.21	\$535.59	\$3,543.26
\$5,000.00	\$572.57	\$133.91	\$593.67	\$3,699.85
\$5,250.00	\$601.20	\$140.60	\$651.75	\$3,856.45
\$5,500.00	\$629.83	\$147.30	\$709.84	\$4,013.03
\$5,750.00	\$658.46	\$153.99	\$767.92	\$4,169.63
\$6,000.00	\$687.08	\$160.69	\$826.01	\$4,326.22
\$6,250.00	\$715.71	\$167.38	\$884.09	\$4,482.82
\$6,500.00	\$744.34	\$174.08	\$942.18	\$4,639.40
\$6,750.00	\$772.97	\$180.78	\$1,000.26	\$4,795.99
\$7,000.00	\$801.60	\$187.47	\$1,058.35	\$4,952.58
\$7,500.00	\$858.86	\$200.86	\$1,174.51	\$5,265.77
\$8,000.00	\$916.11	\$214.25	\$1,290.68	\$5,578.96
\$8,500.00	\$973.37	\$227.64	\$1,406.85	\$5,892.14
\$9,000.00	\$1,030.63	\$241.03	\$1,523.02	\$6,205.32
\$9,500.00	\$1,087.88	\$254.42	\$1,650.31	\$6,507.39
\$10,000.00	\$1,145.14	\$267.82	\$1,780.41	\$6,806.63
\$10,500.00	\$1,202.40	\$281.21	\$1,910.52	\$7,105.87
\$11,000.00	\$1,224.50*****	\$294.60	\$2,045.56	\$7,435.34
\$11,500.00	\$1,224.50	\$307.99	\$2,183.68	\$7,783.83
\$12,000.00	\$1,224.50	\$321.38	\$2,321.81	\$8,132.31
\$12,500.00	\$1,224.50	\$334.77	\$2,459.93	\$8,480.80
\$12,599.29*****	\$1,224.50	\$337.43	\$2,487.36	\$8,550.00
\$13,000.00	\$1,224.50	\$348.16	\$2,598.06	\$8,829.28
\$13,500.00	\$1,224.50	\$361.55	\$2,736.18	\$9,177.77
\$14,000.00	\$1,224.50	\$374.94	\$2,874.31	\$9,526.25
\$14,500.00	\$1,224.50	\$388.33	\$3,012.43	\$9,874.74
\$15,000.00	\$1,224.50	\$401.72	\$3,150.56	\$10,223.22

**Footnotes to Self-Employed Persons 2016 Tax Chart:**

\* Determined without regard to Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12)) (the “Code”).

\*\* In calculating each of the Old-Age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under Section 1402(a)(12) of the Code. The deduction under Section 1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-Age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) of \$2,500.00 are calculated as follows:

- (i) Old-Age, Survivors and Disability Insurance Taxes:  
 $\$2,500.00 \times 92.35\% \times 12.4\% = \$286.29$
- (ii) Hospital (Medicare) Insurance Taxes:  
 $\$2,500.00 \times 92.35\% \times 2.9\% = \$66.95$

\*\*\* When income exceeds \$200,000.00 per year there is an additional Medicare Tax of 0.9%. The additional Medicare Tax does not apply to any values shown on this chart because the highest gross income included is \$15,000.00 per month (\$180,000.00 per year).

\*\*\*\* These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (\$4,050.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$6,300.00).

In calculating the annual federal income tax, gross income is reduced by the deduction under Section 164(f) of the Code. For example, monthly net earnings from self-employment of \$8,500.00 times 12 months equals \$102,000.00. The Old-Age, Survivors and Disability Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$9,796.49 ( $\$102,000.00 \times .9235 \times 12.4\% = \$11,680.43$ ). The Hospital (Medicare) Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$2,731.71 ( $\$102,000.00 \times .9235 \times 2.9\% = \$2,731.71$ ). The deduction under Section 164(f) of the Code for 2014 is equal to \$7,206.08 ( $(\$11,680.43 \times 0.5) + (\$2,731.72 \times 0.5) = \$7,206.08$ ).

For a single taxpayer with an adjusted gross income in excess of \$259,400.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$259,400.00. The reduction is completed (i.e., the deduction for the personal exemption is eliminated) for adjusted gross income in excess of \$381,900.00. In no case is the deduction for the personal exemption reduced by more than 100%. The phase out of the Personal Exemption does

not apply to any values shown on this chart because the highest income included is \$15,000.00 per month (\$180,000.00 per year).

\*\*\*\* For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$118,500.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 2016 maximum Old-Age, Survivors and Disability Insurance tax of \$14,694.00 per person (12.4% of the first \$118,500.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$14,694.00). One-twelfth (1/12) of \$14,694.00 equals \$1,224.50.

\*\*\*\*\* This amount represents the point where the monthly net earnings from self-employment of a self-employed individual would result in \$8,550.00 of net resources. Texas Family Code section 154.125 provides “The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater.” Effective September 1, 2013 the adjusted amount determined under Subsection (a-1) is \$8,550.00.

\* \* \* \* \*

**References Relating to Self-Employed Persons 2016 Tax Chart:**

1. Old-Age, Survivors and Disability Insurance Tax
  - (a) Contribution Base
    - (1) Social Security Administration’s notice appearing in 80 Fed. Reg. 66963 (October 30, 2015)
    - (2) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))
    - (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)
  - (b) Tax Rate
    - (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))
  - (c) Deduction Under Section 1402(a)(12)
    - (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))
2. Hospital (Medicare) Insurance Tax
  - (a) Contribution Base
    - (1) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))

- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)
  - (b) Tax Rate
    - (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))
  - (c) Deduction Under Section 1402(a)(12)
    - (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))
3. Federal Income Tax
- (a) Tax Rate Schedule for 2016 for Single Taxpayers
    - (1) Revenue Procedure 2015-53, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
    - (2) Section 1(c), (f) and (i) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c), 1(f), 1(i))
  - (b) Standard Deduction
    - (1) Revenue Procedure 2015-53, Section 3.14(1), which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
    - (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))
  - (c) Personal Exemption
    - (1) Revenue Procedure 2015-53, Section 3.24, which appears in Internal Revenue Bulletin 2015-44, dated November 2, 2015
    - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))
  - (d) Deduction Under Section 164(f)
    - (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))
4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 38 TexReg 4647 (July 19, 2013)

## INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, §§154.061 - 154.070 provide for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. If necessary, one may compute an obligee's net resources using similar steps.

TRD-201505209  
Amanda Crawford  
General Counsel  
Office of the Attorney General  
Filed: November 30, 2015



## Texas Water Code and Texas Health and Safety Code Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code. Before the State may enter into a voluntary settlement agreement, pursuant to §7.110 of the Texas Water Code the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Suburban Utility Co.*; Cause No. D-1-GN-14-003376; in the 353rd Judicial District Court, Travis County, Texas.

Background: This is a drinking water enforcement action brought by the State of Texas on behalf of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC) against Suburban Utility Company (Suburban) which owns and operates four public drinking water systems located at Beaumont Place Subdivision, Castlewood Subdivision, Reservoir Acres Subdivision, and Cypress Bend Subdivision in Harris County, Texas. Suburban has failed to comply with state law and TCEQ rules for public water systems since at least September 2012.

Proposed Settlement: The parties propose an Agreed Final Judgment and Permanent Injunction, which provides for an award of civil penalties against Suburban in the amount of \$225,000, of which \$100,000 will be deferred upon timely compliance with the terms of the Agreed Final Judgment and Permanent Injunction. Suburban must complete corrective actions at each of the public drinking water systems in accordance with state law and TCEQ rules, and must timely submit documentation of compliance to the State. The proposed settlement also includes an award of the State's reasonable attorney's fees incurred in prosecuting this case.

The Office of the Attorney General will accept written comments relating to the proposed judgment for thirty (30) days from the date of publication of this notice. The proposed judgment may be examined at the Office of the Attorney General, 300 W. 15th Street, 10th Floor,

Austin, Texas, and copies may be obtained in person or by mail for the cost of copying. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Emily E. Petrick, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911.

TRD-201505196  
Amanda Crawford  
General Counsel  
Office of the Attorney General  
Filed: November 30, 2015



## Comptroller of Public Accounts

### Notice of Legal Banking Holidays

Texas Tax Code Annotated §111.053(b) requires that, before January 1 of each year, the Comptroller of Public Accounts publish a list of the legal holidays for banking purposes for that year. Below is the Bank Holiday Schedule for 2016. Pursuant to the Federal Reserve Bank of Dallas and its branches at El Paso, Houston, and San Antonio, Texas, will observe the following holidays for calendar year 2016 and will not be open on the dates indicated below:

January 1, New Year's Day  
January 18, Martin Luther King, Jr., Day  
February 15, Presidents Day  
May 30, Memorial Day  
July 4, Independence Day  
September 5, Labor Day  
October 10, Columbus Day  
November 11, Veterans Day  
November 24, Thanksgiving Day  
December 26, Christmas Day

The Federal Reserve standard holiday schedule mandates that if January 1, July 4, November 11, or December 25 fall on a Sunday, the following Monday will be observed as a holiday. If January 1, July 4, November 11, or December 25 occur on a Saturday, the preceding Friday will not be observed as a holiday.

For 2016, December 25 occurs on a Sunday; therefore, the following Monday will be observed as a holiday.

TRD-201505176  
Jette Withers  
Deputy General Counsel for Contracts  
Comptroller of Public Accounts  
Filed: November 24, 2015



### Notice of No Award

The Texas Comptroller of Public Accounts announces that there will be no contract award under Request for Proposals No. 212c ("RFP") for the Endangered Species Research Projects for the American Eel.

The notice of issuance of the RFP was published in the November 14, 2014, issue of the *Texas Register* (39 TexReg 9106).

TRD-201505248

Laurie Velasco  
Assistant General Counsel, Contracts  
Comptroller of Public Accounts  
Filed: December 2, 2015

◆ ◆ ◆  
**Office of Consumer Credit Commissioner**

**Notice of Rate Ceilings**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 11/30/15 - 12/06/15 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 11/30/15 - 12/06/15 is 18% for Commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

TRD-201505127  
Leslie Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: November 24, 2015

◆ ◆ ◆  
**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, 303.005, 303.008, 303.009, 304.003, and 346.101, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/07/15 - 12/13/15 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/07/15 - 12/13/15 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009<sup>3</sup> for the period of 12/01/15 - 12/31/15 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 12/01/15 - 12/31/15 is 18% for Commercial over \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 1/01/16 - 3/31/16 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 1/01/16 - 03/31/16 is 18% for Commercial over \$250,000.

The retail credit card quarterly rate as prescribed by §303.009<sup>1</sup> for the period of 1/01/16 - 03/31/16 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The lender credit card quarterly rate as prescribed by §346.101<sup>1</sup> for the period of 1/01/16 - 03/31/16 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009<sup>4</sup> for the period of 1/01/16 - 03/31/16 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009 for the period of 1/01/16 - 03/31/16 is 18% for Commercial over \$250,000.

The retail credit card annual rate as prescribed by §303.009<sup>1</sup> for the period of 1/01/16 - 03/31/16 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 12/01/15 - 12/31/15 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 12/01/15 - 12/31/15 is 5.00% for Commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

<sup>3</sup> For variable rate commercial transactions only.

<sup>4</sup> Only for open-end credit as defined in §301.002(14), Texas Finance Code.

TRD-201505212  
Leslie Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: December 1, 2015

◆ ◆ ◆  
**State Board of Dental Examiners**

**Disciplinary Matrix**

The Texas State Board of Dental Examiners' (Board) Disciplinary Matrix was developed to outline Board policy when the Board takes disciplinary action in accordance with the Dental Practice Act (Texas Occupations Code, Chapters 251 - 267) and Board rules (22 Texas Administrative Code Chapters 100 - 104, 107, 108, 110, 112 - 117, 119 and 125). The matrix also provides licensees, attorneys, the public and Administrative Law Judges ready access to the Board's enforcement policies. Further, the matrix is intended to maintain flexibility in determining the most appropriate sanction for each violation and allows the Board to take into account aggravating and mitigating factors (i.e., the licensee's compliance history, the seriousness of the violation, the threat to the public health and safety, etc.) when determining sanctions.

The matrix is organized by violation type and distinguished by violation tiers. The violations described in the matrix mirror the violations specified in the Texas Occupations Code (Dental Practice Act). Violations that are distinguished as First Tier Violations are those that the Board determines to be less serious, or which pose minimal threat to the public safety, after consideration of any aggravating or mitigating factors. Each violation tier in the matrix includes a description of events that might fall within that violation tier. The corresponding sanction description describes each of the sanctions that could be imposed.

The matrix was first published in the September 3, 2010, issue of the *Texas Register* (35 TexReg 8152) and was subsequently amended and published in the December 21, 2012, September 27, 2013, September 5, 2014, and June 12, 2015, issues of the *Texas Register*. At the November 20, 2015, Board meeting, the Board voted to amend the Disciplinary Matrix to move the failure to self-report patient hospitalization or patient death to a first tier violation with the understanding that this only refers to the administrative requirement to self-report and not any violation of the minimum standard of care in the dental treatment that may have led to hospitalization or death. The Board republishes the matrix with this amendment.

**Texas State Board of Dental Examiners - Disciplinary Matrix**

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## **VIOLATION TIERS**

First Tier Violations: Violations that are distinguished as First Tier Violations are those that the Board determines to be less serious, or which pose minimal threat to public safety, after consideration of any aggravating or mitigating factors.

Second, Third, or Fourth Tier Violations: Violations that are distinguished as Second, Third, or Fourth Tier Violations are those that the Board determines to be more serious, or which pose more than a minimal threat to public safety, after consideration of any aggravating or mitigating factors.

## **SANCTIONS**

The Board will determine an appropriate sanction after consideration of any aggravating or mitigating factors.

When considering conduct constituting a violation of multiple statute sections, the Board will determine an appropriate sanction after consideration of the sanction recommendations from all applicable violation sections and any aggravating or mitigating factors.

NOTE: All Sanctions other than Administrative Penalty Tickets, denial of licensure, revocation of license, emergency suspension of license, or surrender of license should include a stipulation requiring completion of the online jurisprudence assessment.

### **Levels listed from lowest (no action) to highest (revocation):**

- Denial of Licensure
- Administrative Penalty (Ticket) – Fine-based penalty limited to those violations that do not involve the provision of direct patient care.
- Remedial Plan – Non-disciplinary action.
- Warning – Lowest level of disciplinary action.
- Reprimand – Increased level of disciplinary action.
- Suspension – Increased level of disciplinary action. Suspension may be probated in full or for limited time periods.
  - Emergency Suspension – If a licensee is found by the board or executive committee to constitute a clear, imminent, or continuing threat to a person's physical health or well-being, the person's license or permit will be immediately suspended.
- Revocation of license or certification. Voluntary surrender may be accepted in lieu of revocation.

## **AGGRAVATING AND MITIGATING FACTORS**

The Board will consider all factors required by statute or board rule (e.g., Tex. Occ. Code Chapter 53). In addition, the Board will consider aggravating or mitigating factors, including the following:

- Potential or actual patient harm
- Prior disciplinary action
- Prior violations of a similar nature
- Self-report or voluntary admission of violation
- Remedial measures taken to correct or mitigate harm
- Rehabilitative potential
- Level of competency exhibited over course of career
- Attempts to circumvent a statute or board rule
- Isolated or repeated violation
- Number of violations
- Cooperation with board investigation and response to board communication
- Material or financial gain from violation
- Involvement of, or impairment by alcohol, illegal drugs, or controlled substances
- Criminal conduct
- Other relevant circumstances

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**ADMINISTRATIVE FINE SCHEDULE**

See SBDE Rule §107.202 – 22 Tex. Admin. Code §107.202. The amount of an administrative fine assessed will be based on the following criteria:

- The seriousness of the violation, including but not limited to, the nature, circumstances, extent and the gravity of the prohibited acts and the hazard of potential hazard created to the health, safety, or welfare of the public;
- the economic damage to property or the environment caused by the violation;
- the history of previous violations;
- the amount necessary to deter future violations;
- efforts made to correct the violation; or
- any other matter the justice may require.

Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

First Offense:	Second Offense:	Third Offense:
≤ \$3,000	≤ \$4,000	≤ \$5,000

**ADMINISTRATIVE PENALTY SCHEDULE (Tickets)**

An administrative penalty may consist only of a monetary penalty that does not exceed \$1,000 for each violation. The total amount of penalties assessed against a person may not exceed \$3,000 in a calendar year.

If the Respondent fails to pay or appeal the administrative penalty by the due date, the penalty amount will double, not to exceed the statutory maximum penalty for each violation.

Violation:	Administrative Penalty:
No Consumer Information	\$250.00
Names of Dentists not Posted	\$250.00
Fail to Display Registration (Dental office)	\$250.00
Fail to Provide Records to Board	\$500.00
Fail to Provide Records to Patient	\$500.00
Fail to File Records Maintenance Agreement	\$250.00
Fail to Notify Board of Change of Information	\$250.00
Sanitation and Infection Control	\$500.00
False/Misleading Communications/Unlawful or Deceptive Advertising	\$250.00
Specialty Announcement-	\$250.00
Advertising – Testimonials	\$250.00
Improper Use of Trade Name	\$500.00
No Prosthetic Identification	\$250.00

**STANDARD OF CARE**

**Licensee fails to treat a patient according to the standard of care in the practice of dentistry or dental hygiene.**  
 Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(4)

<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Remedial Plan including continuing education and/or restitution to patient for service rendered below minimum standard.</li> <li>• Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient for service rendered below minimum standard, community service, and/or audit of practice procedures.</li> </ul>	<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Practice below minimum standard with a low risk of patient harm.</li> <li>• Failure to advise patient before beginning treatment.</li> <li>• Failure to make, maintain and keep adequate dental records.</li> <li>• Failure to report patient death or injury requiring hospitalization, where the patient death or injury requiring hospitalization did not occur as a result of the dental care provided.</li> </ul>
<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning, Reprimand, or Probated Suspension with stipulations that may include: period of enforced suspension, continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.</li> <li>• Denial, suspension of license, revocation of license or request for voluntary surrender.</li> </ul>	<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Practice below minimum standard with patient harm or risk of patient harm.</li> <li>• Misleading patient as to the gravity, or lack thereof, of their dental needs.</li> <li>• Failure to maintain appropriate life support training.</li> <li>• Abandonment of patient.</li> <li>• Act or omission that demonstrates level of incompetence such that the person should not practice without remediation and subsequent demonstration of competency.</li> </ul>
<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene</li> </ul>	<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Negligence in treatment</li> <li>• Any intentional act or omission that risks or results in serious harm.</li> </ul>

**Standard of care violations continued on next page**

**STANDARD OF CARE (continued)**

<p><b>Licensee fails to use proper diligence in practice or fails to safeguard patients against avoidable infections.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(9)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Failure to properly document compliance with health and sanitation requirements. Office premises are maintained in compliance with health and sanitation requirements. Low risk of patient harm.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Administrative Penalty ticket</li> <li>• Remedial Plan including continuing education, and/or audit of practice procedures.</li> <li>• Warning or Reprimand with stipulations that may include: continuing education, administrative fine, community service, and/or audit of practice procedures.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Office premises are not maintained in compliance with health and sanitation requirements.</li> <li>• Barrier techniques, disinfection, or sterilization techniques do not comply with health and sanitation requirements.</li> <li>• Failure to properly document controlled substance inventories or prescription records.</li> <li>• Failure to use reasonable diligence in preventing unauthorized persons from utilizing DEA or DPS permit privileges.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning, Reprimand, or Probated Suspension with stipulations that may include: continuing education, restitution to patient, administrative fine, community service, audit of practice procedures, and/or supervised practice or practice in a group setting.</li> </ul>
<p><b>Licensee is negligent in performing dental services and that negligence causes injury or damage to a dental patient.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(12)</p>	
	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>
<p><b>Licensee is physically or mentally incapable of practicing in a manner that is safe for the person's dental patients.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(11)</p>	
	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Suspension of license pending medical evaluation determining licensee is safe to practice. If evaluation determining licensee is safe to practice is received, then probated suspension with stipulation including regular evaluations for ability to practice safely.</li> <li>• Denial, suspension of license, revocation of license or request for voluntary surrender .Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>

**AIDING AND ABETTING OR IMPERMISSIBLE DELEGATION**

<p><b>Licensee holds a dental license and employs, permits, or has employed or permitted a person not licensed to practice dentistry to practice dentistry in an office of the dentist that is under the dentist's control or management.</b> Dental Practice Act (DPA), Tex. Occ. Code §§ 258.001 and 263.002(a)(8)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Impermissible delegation resulting in no more than a minimal risk of patient harm. Isolated incident.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Remedial Plan including continuing education and/or restitution to patient.</li> <li>• Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Impermissible delegation resulting in actual patient harm, or presenting a risk of patient harm.</li> <li>• Aiding and abetting another to practice dentistry without a license</li> <li>• Repeated incidents or pattern of impermissible delegation or aiding and abetting.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Probated Suspension with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.</li> <li>• Denial, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>

**DISHONORABLE OR UNPROFESSIONAL CONDUCT**

NOTE: Violations under this section may also constitute violations under sections such as those related to criminal conduct, chemical dependency, or improper distribution of a drug.

**Licensee practices dentistry or dental hygiene in a manner that constitutes dishonorable conduct.**

Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(3)

<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Isolated dishonorable conduct resulting in no adverse patient effects.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Remedial Plan including continuing education and/or restitution to patient. Warning or Reprimand with stipulations that may include: continuing education, administrative fine, supervised practice or practice in a group setting, community service, audit of practice procedures, and/or limitations on sedation or controlled substance permits.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Repeated acts of dishonorable conduct or dishonorable conduct which places a patient or the public at risk of harm.</li> <li>Dishonorable conduct which impairs a person's ability to treat a patient according to the standard of care.</li> <li>Dispensing, administering, prescribing, or distributing drugs for a non-dental purpose.</li> <li>Failure to meet duty of fair dealing in advising, treating, or billing patient.</li> <li>Diagnosis of dental disease, prescription of medication, or performance of impermissible acts by dental hygienist.</li> <li>Practicing dental hygiene without required supervision.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Warning, Reprimand, or Probated Suspension with stipulations that may include: continuing education, restitution to patient for financial exploitation, administrative fine, community service, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits.</li> <li>Denial, suspension of license, revocation of license or request for voluntary surrender. If violation involves mishandling or improper documentation of controlled substances, misdemeanor crimes or criminal conduct involving alcohol, drugs or controlled substances, then the stipulations will also include mandatory evaluation and enrollment in a Board approved peer assistance program, and abstinence from unauthorized use of drugs and alcohol, to be verified by random drug testing.</li> </ul>
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Failure to comply with a substantive board rule regarding dishonorable conduct resulting in serious patient harm.</li> <li>Repeated acts of dishonorable conduct or dishonorable conduct which results in harm to a patient or the public.</li> <li>Sexual or sexualized conduct with patient.</li> <li>Financial exploitation or dishonorable conduct resulting in a material or financial loss to a patient in excess of \$4,999.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Denial, suspension of license, revocation of license or request for voluntary surrender. Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>

**CRIMINAL OFFENSES**

The Board considers criminal behavior to be highly relevant to an individual's fitness to engage in the practice of dentistry and has determined that the disciplinary actions imposed by these guidelines promote the intent of the Act. This matrix was developed to address criminal actions for which the Dental Practice Act does not mandate the Board take a specific disciplinary action.

The "date of disposition," when used to calculate the application of disciplinary actions, refers to the date a criminal action is entered by the court. The disciplinary actions imposed by the guidelines may be used in conjunction with other types of disciplinary actions, including administrative penalties.

The Board has determined that the nature and seriousness of certain crimes outweigh other factors to be considered in accordance with Section 101.8(h) of the Board's Rules and Regulations and so necessitate the disciplinary action as described below. Regarding the crimes enumerated in this matrix, the Board has weighed the factors in Section 101.8(h) in a light most favorable to the individual, and even if these factors are present, the Board has concluded that the following disciplinary actions apply to individuals with the criminal offenses as described below:

Type of Offense	Disciplinary Action
Criminal offenses requiring the individual maintain current registration as a sex offender with the Department of Public Safety Chapter 62, Code of Criminal Procedure	Denial or revocation of license
Criminal offenses relating to the regulation of dentists, dental hygienists, or dental assistants or committed in the practice of or connected to dentistry, dental hygiene or dental assistance	0-5 years since disposition – Denial or revocation of license 6-10 years since disposition – 5 years Probated Suspension of license 11-20 years since disposition – 3 years Probated Suspension of license Over 20 years since disposition – 1 year Probated Suspension of license

Type of Offense	Disciplinary Action
<p>Criminal offense relating to the regulation of a plan to provide, arrange for, or reimburse any part of the cost of dental care services or the regulation of the business of insurance</p>	<p>0-5 years since disposition – Denial or revocation of license          6-10 years since disposition – 5 years Probated Suspension of license          11-20 years since disposition – 3 years Probated Suspension of license          Over 20 years since disposition – 1 year Probated Suspension of license</p>
<p>Felony offenses under:</p> <ul style="list-style-type: none"> <li>(1) Chapter 481 or 483, Health and Safety Code;</li> <li>(2) Section 485.033, Health and Safety Code; or</li> <li>(3) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §801 et seq.).</li> </ul>	<p>0-5 years since disposition – Denial or revocation of license          6-10 years since disposition – 5 years Probated Suspension of license          11-20 years since disposition – 3 years Probated Suspension of license          Over 20 years since disposition – 1 year Probated Suspension of license</p>
<p>All other felony offenses</p>	<p>Currently on probation – Denial or revocation of license, or 30- to 180-day suspension followed by 5 years probation of license          0-5 years since disposition – 5 years Probated Suspension of license          6-10 years since disposition – 3 years Probated Suspension of license          11-20 years since disposition – 1 year Probated Suspension of license</p>

Type of Offense	Disciplinary Action
Misdemeanor offenses under: (1) Chapter 22, Penal Code, other than a misdemeanor punishable by fine only; (2) Section 25.07, Penal Code; or (3) Section 25.071, Penal Code.	0-5 years since disposition – 3 years Probated Suspension of license 6-10 years since disposition – 1 year Probated Suspension of license
Other Class A and B misdemeanor offenses	0-5 years since disposition – Reprimand

**CHEMICAL DEPENDENCY OR IMPROPER POSSESSION OR DISTRIBUTION OF DRUG**

NOTE: Violations under this section may also constitute dishonorable or unprofessional conduct violations.

<p><b>Licensee is addicted to or habitually intemperate in the use of alcoholic beverages or drugs or has improperly obtained, possessed, used, or distributed habit-forming drugs or narcotics.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(7)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Misuse of drugs or alcohol without patient interaction and no risk of patient harm or adverse patient effects. No previous history of misuse and no other aggravating circumstances.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Probated suspension of license with stipulations that may include: continuing education, supervised practice or practice in a group setting, limitations on sedation or controlled substance permits, random drug screens, and/or enrollment in a Board approved peer assistance program.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Improperly distributes habit-forming drugs or narcotics</li> <li>• Prescribes or dispenses a controlled substance for a non-dental purpose.</li> <li>• Prescribes or dispenses a controlled substance to a person who is not a dental patient, or to a patient without adequate diagnosis of the need for prescription.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Probated suspension of license with stipulations that may include: period of enforced suspension, mandatory evaluation and enrollment in a Board approved peer assistance program, and abstention from unauthorized use of drugs and alcohol, to be verified by random drug testing, continuing education, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits.</li> </ul>
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Misuse of drugs or alcohol with a risk of patient harm or adverse patient effects. Misuse of drugs or alcohol and other serious practice violation noted.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Enforced or probated suspension of license with stipulations that may include: period of enforced suspension, mandatory evaluation and enrollment in a Board approved peer assistance program, and abstention from unauthorized use of drugs and alcohol, to be verified by random drug testing, continuing education, supervised practice or practice in a group setting, and/or limitations on sedation or controlled substance permits.</li> </ul>
<p><u>Fourth Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Misuse of drugs or alcohol with significant physical injury or death of a patient or a risk of significant physical injury or death.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>

**FRAUD AND MISREPRESENTATION**

NOTE: Violations under this section may also constitute dishonorable or unprofessional conduct violations.

<p><b>Licensee obtains a license by fraud or misrepresentation.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(6)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Failure to honestly and accurately provide information that may have affected the Board's determination of whether to grant or renew a license.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Remedial Plan including continuing education. Elements normally related to dishonesty, fraud or deceit are deemed to be unintentional.</li> <li>• Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Intentional misrepresentation of previous licensure, education, or professional character, including failure to disclose criminal convictions.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>
<p><b>Licensee engages in deception or misrepresentation in soliciting or obtaining patronage.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(5)</p>	
<p><u>Violation:</u></p> <ul style="list-style-type: none"> <li>• Engaging in false advertising.</li> <li>• Creating unjustified expectation.</li> <li>• Engaging in false, misleading or deceptive referral schemes.</li> <li>• Failing to comply with requirements relating to professional signs.</li> <li>• Failure to list at least one dentist practicing under a trade name in an advertisement.</li> <li>• Falsely advertising as a specialist in one of the ADA recognized specialties or advertising as a specialist in an area not recognized by the ADA.</li> <li>• Other violations as assigned by rule.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• For a first violation of advertising restrictions, no sanction will be pursued until an opportunity to cure has been provided pursuant to statutory requirements.</li> <li>• Administrative Penalty ticket</li> <li>• Warning or Reprimand with stipulations that may include: cure of violation, continuing education, community service, and/or administrative fine.</li> </ul>

**VIOLATION OF LAW REGULATING DENTISTRY OR DENTAL HYGIENE**

NOTE: A violation of any law relating to the regulation of dentists or dental hygienists, including those law violations expressed elsewhere in this matrix, will also be considered a violation of the Dental Practice Act, at Tex. Occ. Code §263.002(a)(10).

<p><b>Licensee violates or refuses to comply with a law relating to the regulation of dentists or dental hygienists.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(10)</p>	<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Isolated failure to make, maintain and keep adequate dental records not resulting in patient harm.</li> <li>Failure to notify patients that complaints concerning dental services can be directed to the Board.</li> <li>Failure to post names of, degrees received by, and schools attended by each dentist practicing in office. Failure to properly exclude names of dentists not practicing in office.</li> <li>Failure to place identifying mark on a removable prosthetic device.</li> <li>Failure to notify the Board of maintenance of records agreement.</li> <li>First Tier violation of another law regulating dentists or dental hygienists.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Administrative Penalty ticket.</li> <li>Remedial Plan including continuing education, restitution to patient, and/or audit of practice procedures.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Failure to make, maintain and keep adequate dental records resulting in potential for patient harm.</li> <li>Failure to obtain written, signed informed consent.</li> <li>Failure to provide full dental records to the Board upon request.</li> <li>Failure to maintain an appropriate permit for a mobile dental facility.</li> <li>Perform treatment outside licensee's scope of practice not resulting in patient harm.</li> <li>Prescription of controlled substance while DPS or DEA permit is expired.</li> <li>Second Tier violation of another law regulating dentists or dental hygienists.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Remedial Plan including continuing education, restitution to patient, and/or audit of practice procedures.</li> <li>Warning or Reprimand with stipulations that may include: continuing education, administrative fine, restitution to patient, community service, and/or audit of practice procedures.</li> </ul>	
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>Failure to make, maintain and keep adequate dental records resulting in actual patient harm.</li> <li>Violation of stipulation in a prior Board Order.</li> <li>Perform treatment outside licensee's scope of practice resulting in patient harm or potential for patient harm.</li> <li>Prescription of controlled substance without DPS or DEA permit.</li> <li>Third Tier or Fourth Tier violation of another law regulating dentists or dental hygienists.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>Reprimand or Probated Suspension with stipulations that may include: enforced suspension of license until licensee obtains compliance with all stipulations in prior Board Orders, continuing education, restitution to patient, community service, and/or administrative fine.</li> <li>Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.</li> <li>Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>	

**VIOLATION OF LAW REGULATING DENTISTRY OR DENTAL HYGIENE (continued)**

<p><b>Licensee knowingly provides or agrees to provide dental care in a manner that violates a federal or state law that regulates a plan to provide, arrange for, pay for, or reimburse any part of the cost of dental care services; or regulates the business of insurance.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(14)</p>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Reprimand or Probated Suspension with stipulations that may include: continuing education, administrative fine, community service, repayment of any funds gained in violation of applicable law.</li> <li>• Denial of licensure, suspension of license, revocation of license or request for voluntary surrender..</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>
<p><b>Licensee holds a license or certificate in another state and that state reprimands the licensee, suspends or revokes the licensee’s license or certificate or places the licensee on probation, or imposes another restriction on the licensee’s practice.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(13)</p>	<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• License or certificate is reprimanded or restricted in another jurisdiction. The action leading to the reprimand or restriction did not cause patient harm or risk patient harm.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• License or certificate is reprimanded or restricted in another jurisdiction. The action leading to the reprimand or restriction caused patient harm or caused a risk of patient harm.</li> <li>• Failure to report disciplinary action received in another jurisdiction.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning, reprimand, or probated suspension of license with stipulations that may include: continuing education, administrative fine, community service, and/or audit of practice procedures.</li> </ul>
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• License or certificate is suspended, revoked, or placed on probation in another jurisdiction.</li> <li>• License or certificate is reprimanded or restricted in another jurisdiction for action that caused severe patient harm or death.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>

**PRACTICING DENTISTRY WITHOUT A LICENSE**

<p><b>License required to practice dentistry or dental hygiene</b> Dental Practice Act (DPA), Tex. Occ. Code §256.001</p>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Issuance of Cease and Desist Order with referral of all information to Attorney General's Office and local law enforcement.</li> </ul>
<p><u>Violation:</u></p> <ul style="list-style-type: none"> <li>• Practicing dentistry without a license.</li> </ul>	

<p><b>Licensee enters into a contract, agreement or arrangement that allows a non-dentist to practice dentistry.</b> Dental Practice Act (DPA), Tex. Occ. Code §251.003(a)(4) and (a)(9)</p>	
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Licensee knowingly, or should have known, entered into a contract, agreement or arrangement that allowed a non-dentist to practice dentistry that did not result in harm to patients.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Probated suspension, suspension of license, revocation of license or request for voluntary surrender.</li> </ul>
<p><u>Third Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Licensee knowingly, or should have known, entered into a contract, agreement or arrangement that allowed a non-dentist to practice dentistry that resulted in harm to patients.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license.</li> </ul>

**OTHER VIOLATIONS**

<p><b>Licensee is adjudged under the law to be insane.</b> Dental Practice Act (DPA), Tex. Occ. Code §263.002(a)(1)</p>	
<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial of licensure, suspension of license, revocation of license or request for voluntary surrender.</li> <li>• Emergency suspension of license to practice dentistry or dental hygiene.</li> </ul>	

**DENTAL ASSISTANTS**

<p><b>Permitted Duties</b> Dental Practice Act (DPA), Tex. Occ. Code §265.003</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Failure to comply with procedural Board rule such as failure to timely complete continuing education to maintain a Board-issued certification.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Remedial Plan including continuing education.</li> <li>• Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Practices dentistry or dental hygiene, or otherwise performs activities outside the scope of permitted duties for dental assistants.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.</li> </ul>

**OWNER RESPONSIBILITY**

<p><b>Owner is responsible for all professional acts performed under the name of the owner.</b> Dental Practice Act (DPA), Tex. Occ. Code §259.004(b)</p>	
<p><u>First Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Violation of the DPA or Board Rules – owner not personally involved or management of the entity was not a cause of the violation</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Remedial Plan or Warning with stipulations that may include: continuing education, community service, and/or administrative fine, restitution to patient</li> </ul>
<p><u>Second Tier Violation:</u></p> <ul style="list-style-type: none"> <li>• Violation of the DPA or Board Rules – owner not personally involved, but management of the entity was a cause of the violation</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning or Reprimand with stipulation that may include: continuing education, and/or administrative fine, restitution to patient, and community service.</li> </ul>
<p><u>Third Tier Violation</u></p> <ul style="list-style-type: none"> <li>• Repeated Violations of the DPA or Board Rules – owner not personally involved, but management of the entity was a cause of the violation</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Probated Suspension, Suspension of License, Voluntary Surrender, or Revocation with stipulations that may include: continuing education, and/or administrative fine, restitution to patient, and community service.</li> </ul>

**DENTAL LABORATORIES**

<p><b>Registration Required</b> Dental Practice Act (DPA), Tex. Occ. Code §266.151</p>	
<p><u>Violation:</u></p> <ul style="list-style-type: none"> <li>• Operation of a dental laboratory or offer to provide dental laboratory services without a registration certificate.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Issuance of Cease and Desist Order with referral of all information to Attorney General's Office and local law enforcement.</li> </ul>

<p><b>Certified Dental Technician</b> Dental Practice Act (DPA), Tex. Occ. Code §266.152</p>	
<p><u>Violation:</u></p> <ul style="list-style-type: none"> <li>• Failure to have at least one dental technician working on the laboratory's premises who is certified by a recognized board of certification for dental technology.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine.</li> <li>• Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.</li> </ul>

<p><b>Applicant or certificate holder has violated, aided another person, or allowed a person under their direction to violate a law regulating the practice of dentistry.</b> Dental Practice Act (DPA), Tex. Occ. Code §266.251</p>	
<p><u>Violation:</u></p> <ul style="list-style-type: none"> <li>• Failure to obtain written work orders or prescriptions from a licensed dentist, and maintain appropriate records.</li> <li>• Failure to keep premises and records open to inspection during working hours.</li> <li>• Failure to comply with the requirements for notification of change of ownership.</li> </ul>	<p><u>Sanction:</u></p> <ul style="list-style-type: none"> <li>• Warning or Reprimand with stipulations that may include: continuing education, community service, and/or administrative fine.</li> <li>• Denial of registration, suspension of registration, revocation of registration or request for voluntary surrender.</li> </ul>

This amended matrix is effective immediately upon filing in the *Texas Register*.

TRD-201505210

Nycia Deal

General Counsel

State Board of Dental Examiners

Filed: December 1, 2015

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**Texas Education Agency**

**Public Notice**

Public Notice Announcing a Waiver Request Under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Section 1003(g), School Improvement Grant Funds

Purpose and Scope of the Waiver Requests. Funding for school improvement grants (SIGs) under the Elementary and Secondary Education Act of 1965 (ESEA), Title I, Section 1003(g), provides funds to local educational agencies (LEAs) for schools that have been identified as persistently lowest achieving according to the final regulations released by the U.S. Department of Education (USDE). USDE has allowed states to apply for a waiver with respect to SIG funding to extend the period of availability.

Specifically, the Texas Education Agency (TEA) will apply for waiver requests on behalf of Texas LEAs to waive the General Education Provisions Act (20 U.S.C. Section 1225(b)), Section 421(b), to combine and extend the period of availability of fiscal year (FY) 2012 and extend FY 2013 school improvement funds through September 30, 2020. TEA will combine the remaining federal FY 2012 and 2013 SIG funds with its 2014 SIG funds to make additional Cycle 4 SIG awards consistent with the SIG final requirements. In addition, consistent with the implementation of grant Cycles 1 and 2, TEA will invite Cycle 3 campuses to apply for an extension to implement their selected intervention model through a fourth (succession) year during school year 2017-2018.

The proposed requested waiver will allow eligible LEAs that receive a Title I Priority Schools Grant to use those funds in accordance with the final requirements for SIG and the LEA's application for a grant. The waivers will increase the quality of instruction for students and improve the academic achievement of students in eligible schools by enabling an LEA to use more effectively the school improvement funds to implement one of the school intervention models in its priority and focus schools.

Texas must ensure in the waiver request that the state has met or will meet all of the eligibility requirements outlined by the USDE and authorized in statute under the ESEA, Section 9401.

Further Information. For more information, contact Mark Baxter with the TEA Division of School Improvement and Support by mail at 1701 North Congress Avenue, Austin, Texas 78701; by telephone at (512) 936-3732; or by email at [sisdivision@tea.texas.gov](mailto:sisdivision@tea.texas.gov).

TRD-201505246

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: December 2, 2015

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**Texas Board of Professional Engineers**

**Policy Advisory Opinion Regarding On-Farm Energy Audits - EAOR 39**

The Texas Board of Professional Engineers is given authority to issue Advisory Opinions under Chapter 1001, Subchapter M, of the Occupations Code (Texas Engineering Practice Act). The Board is required to issue an advisory opinion about interpretations of the Texas Engineering Practice Act in regard to a specific existing or hypothetical factual situation if requested by a person and to respond to that request within 180 days.

Pursuant to that requirement, the Board hereby presents the following draft Policy Advisory Opinion regarding On-Farm Energy Audits. The Board, upon a written request to issue a Policy Advisory regarding On-Farm Energy Audits, has developed a stakeholder process to gather information from professional engineers and others in the related field. The draft Policy Advisory, "Policy Advisory Opinion Regarding On-Farm Energy Audits", was accepted by the Texas Board of Professional Engineers on November 19, 2015.

**Request:** The Texas Board of Professional Engineers (Board) received a request from the United States Department of Agriculture, Natural Resources Conservation Service that the Board consider whether On-Farm Energy Audits, as defined in the American Society of Agricultural and Biological Engineers Standard, ANSI/ASABE S612 Jul2009, Performing On-Farm Energy Audits (Standard), require the services of a Texas licensed professional engineer for Texas projects.

**Background:** The Standard defines a Type 1 and a Type 2 Audit. The Type 1 Audit is a report that provides a data summary of the farm energy use without addressing individual components or possible changes to individual activities that contribute to energy use. A Type 2 Audit is a more detailed evaluation and report of the farm energy use that considers all major activities and components. The standard defines an Energy Auditor as "A licensed professional engineer or other technically qualified individual who will certify that the audit report provided to the farmer/rancher meets the requirements outlined in the..." Standard.

**Analysis and Conclusion:** The Standard's Annex A Commentary states that "There are certifications and licensing processes that do provide a level of assurance that an individual is qualified, if only ethically bound, to perform the audits..., such as licensed engineers, Association of Energy Engineers (AEE)-Certified Energy Managers (CEM),... Certified Energy Auditor (CEA), or a state certified/licensed farm energy auditors." Texas does not certify or license farm energy auditors.

The Board has gathered information from individuals who responded to a request for comments, as well as the requesting agency, and based on that input the Board has determined that the knowledge and skills required to perform an energy audit in accordance with the Standard is not unique to licensed professional engineers. Any present or future requirements of an energy audit that are found to be included in the practice of engineering as defined in the Board's statute §1001.003 would require that the person performing such work be licensed by the Board. The knowledge required to perform an energy audit is not necessarily the same as the knowledge required to analyze or design elements that may be necessary to implement recommendations resulting from an energy audit. Any engineering designs or analysis as defined by Texas Occupations Code §1001.003, that are included in or with an energy audit, or resulting from an energy audit, must be performed by a licensed Texas Professional Engineer. Qualified Texas licensed professional engineers who participate in such energy audits, or work ensuing from an energy audit, are subject to the professional oversight of the Board.

Any feedback, questions or concerns should be directed to CW Clark at CW.Clark@engineers.texas.gov no later than 30 days from date of this publication.

TRD-201505239

Lance Kinney, P.E.

Executive Director

Texas Board of Professional Engineers

Filed: December 2, 2015

## 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 January 15, 2016. 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 January 15, 2016. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: BDESH CORPORATION dba Shell Express Food; DOCKET NUMBER: 2015-1250-PST-E; IDENTIFIER: RN101547164; LOCATION: Irving, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline located; 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 at a frequency of at least once every month; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: City of Seminole; DOCKET NUMBER: 2014-1313-PWS-E; IDENTIFIER: RN101376978; LOCATION: Seminole, Gaines County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) of 0.010 milligrams per liter (mg/L) for arsenic, based on the running annual average, as shown in the attached

violation table; and failing to comply with the MCL of 4 mg/L for fluoride based on the running annual average; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(3) COMPANY: City of Socorro; DOCKET NUMBER: 2015-0746-WQ-E; IDENTIFIER: RN105472989; LOCATION: Socorro, El Paso County; TYPE OF FACILITY: municipal separate storm sewer system; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(a)(9)(i)(A), by failing to maintain authorization to discharge stormwater associated with a Texas Pollutant Discharge Elimination System Small Municipal Separate Storm Sewer System General Permit; PENALTY: \$14,250; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(4) COMPANY: CROWN Cork and Seal USA, Incorporated; DOCKET NUMBER: 2015-1356-AIR-E; IDENTIFIER: RN100711118; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: can manufacturing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(2), Texas Health and Safety Code, §382.085(b), and Federal Operating Permit Number O1036, Special Terms and Conditions Number 13, by failing to submit an Annual Compliance Certification within 30 days after the end of the certification period; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(5) COMPANY: Lodgic Development, LLC; DOCKET NUMBER: 2015-1668-WQ-E; IDENTIFIER: RN108756610; LOCATION: Tyler, Smith County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Construction General Permit for stormwater; PENALTY: \$875; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 2616 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(6) COMPANY: MEZGER ENTERPRISES, LIMITED; DOCKET NUMBER: 2015-1018-WQ-E; IDENTIFIER: RN104854419; LOCATION: Leuders, Shackleford County; TYPE OF FACILITY: aggregate production operation (APO); RULE VIOLATED: 30 TAC §342.25(b), by failing to register the site as an APO no later than 10 business days before the beginning date of regulated activities; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(7) COMPANY: PAYNE SPRINGS WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-1141-PWS-E; IDENTIFIER: RN101206811; LOCATION: Log Cabin, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(v) and Texas Health and Safety Code, §341.0315(c), by failing to provide emergency power that will deliver water at a rate of 0.35 gallons per minute per connection to the distribution system in the event of the loss of normal power supply; 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 §290.44(d)(4), by failing to have one meter per residential, commercial or industrial service connection; and 30 TAC §290.44(h)(1)(A), by failing to install the appropriate backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TAC §290.46(i); PENALTY: \$630; ENFORCEMENT COOR-

DINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(8) COMPANY: Ronnie Emberton; DOCKET NUMBER: 2015-1164-WQ-E; IDENTIFIER: RN106510787; LOCATION: Huntsville, San Jacinto County; TYPE OF FACILITY: residential construction site; RULES VIOLATED: 30 TWC, §26.121(a)(2) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR150000, Part II, Section C.2, by failing to prevent the discharge of other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state; 30 TAC §281.25(a)(4), 40 Code of Federal Regulations (CFR) §122.26(c), and TPDES General Permit Number TXR150000, Part III, Section D.1, by failing to maintain a Stormwater Pollution Prevention Plan (SWP3) and make the SWP3 readily available for review; and 30 TAC §281.25(a)(4), 40 CFR §122.26(c), and TPDES General Permit Number TXR150000, Part III, Sections F.7(a) and (e), by failing to retain records of inspections; PENALTY: \$3,188; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(9) COMPANY: SAN AUGUSTINE RURAL WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-1227-PWS-E; IDENTIFIER: RN101450054; LOCATION: San Augustine, San Augustine County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$175; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(10) COMPANY: SHAWCOR PIPE PROTECTION LLC FORMERLY KNOWN AS SOCOTHERM GULF OF MEXICO LLC; DOCKET NUMBER: 2015-0389-IHW-E; IDENTIFIER: RN106036494; LOCATION: Channel View, Harris County; TYPE OF FACILITY: pipeline coating services company; RULES VIOLATED: 30 TAC §335.4, by failing to not cause, suffer, allow, or permit the unauthorized discharge of industrial hazardous waste; and TWC, §26.039(b), by failing to immediately notify the agency of the soil contamination at the facility's maintenance area and the blast/dust collection area; PENALTY: \$30,563; Supplemental Environmental Project offset amount of \$12,225; ENFORCEMENT COORDINATOR: Tiffany Maurer, (512) 239-2696; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11) COMPANY: Sunoco Pipeline L.P.; DOCKET NUMBER: 2015-1002-AIR-E; IDENTIFIER: RN100715762; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: gasoline terminal and storage facility; RULES VIOLATED: 30 TAC §101.201(c) and §122.143(4), Federal Operating Permit (FOP) Number O3029, Special Terms and Conditions (STC) Number 2.F., and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a final record for a reportable emissions event no later than two weeks after the end of the event; 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 53849, Special Conditions Number 1, FOP Number O3029, STC Number 7, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §106.492(2)(C) and §122.143(4), FOP Number O3029, STC Number 7, and THSC, §382.085(b), by failing to prevent liquid from being burned in the portable flare; PENALTY: \$9,225; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(12) COMPANY: Trinity Tank Car, Incorporated; DOCKET NUMBER: 2015-1274-AIR-E; IDENTIFIER: RN100224435; LOCATION: Longview, Harrison County; TYPE OF FACILITY: railroad tank car manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), New Source Review Permit Number 18553, General Conditions Number 8, and Federal Operating Permit (FOP) Number O1648, Special Terms and Conditions Number 7, by failing to comply with the annual volatile organic compounds (VOC) combined maximum allowable emission rate (MAER) per rolling 12 consecutive months for Paint Booths 2, 3, and 6, Emission Point Numbers PB-2, PB-3, and PB-6, and failing to comply with the annual VOC MAER per rolling 12 consecutive months for the plant, resulting in 27.75 tons of unauthorized VOC; 30 TAC §116.110(a) and §122.143(4), THSC, §382.0518(a) and §382.085(b), and FOP Number O1648, General Terms and Conditions, by failing to obtain authorization to construct and operate a source of air emissions; PENALTY: \$112,500; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: TX LFG Energy, LP; DOCKET NUMBER: 2015-1127-AIR-E; IDENTIFIER: RN102663085; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: electric generating plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O2574, Special Terms and Conditions Number 6, and New Source Review Permit Numbers 70133 and N-058, Special Conditions Number 2, by failing to limit the fuel fired in the engines to landfill gas containing no more than 13.2 grains total sulfur per 100 dry standard cubic feet; PENALTY: \$24,938; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-201505211

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: December 1, 2015



### Correction of Error

The Texas Commission on Environmental Quality (TCEQ) adopted revisions to 30 TAC Chapter 217, concerning Design Criteria for Domestic Wastewater Systems, in the November 20, 2015, issue of the *Texas Register* (40 TexReg 8254). TCEQ adopted amended §217.210 with changes to the proposal. The section and its associated graphic, Figure: 30 TAC §217.210(i)(2), were republished.

On page 8397, in Figure: 30 TAC §217.210(i)(2), the descriptions for "K" and "a" are incorrect. The phrase "(1,000 m/yr @ 20° C for TSS)" should be included with the description for "K" and deleted from the description for "a." The corrected text should read as follows:

K = first-order areal rate constant:

(34 meters/year (m/yr) @ 20° C for BOD<sub>5</sub>)

(1,000 m/yr @ 20° C for TSS)

a = is required wetland area, hectare (active treatment area, not including dike, buffers, etc.)

The corrected graphic is included in the Texas Administrative Code on-line.

TRD-201505213



## Enforcement Orders

An agreed order was entered regarding United States Postal Service, Docket No. 2015-0223-PWS-E on November 17, 2015 assessing \$375 in administrative penalties with \$75 deferred.

Information concerning any aspect of this order may be obtained by contacting James Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Benjamin Munoz dba Benjamin Custom Paint & Body, Docket No. 2015-0258-AIR-E on November 17, 2015 assessing \$5,250 in administrative penalties with \$1,050 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Nguyen, Enforcement Coordinator at (512) 239-6160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lake Amistad Rentals, L.L.C., Docket No. 2015-0326-MLM-E on November 17, 2015 assessing \$4,585 in administrative penalties with \$917 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Montgomery, Enforcement Coordinator at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of George West, Docket No. 2015-0354-PWS-E on November 17, 2015 assessing \$1,990 in administrative penalties with \$398 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Montgomery, Enforcement Coordinator at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HilltopMHPark LLC, Docket No. 2015-0545-PWS-E on November 17, 2015 assessing \$2,176 in administrative penalties with \$435 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EA Engineering Science, and Technology, Inc. PBC, Docket No. 2015-0631-WQ-E on November 17, 2015 assessing \$938 in administrative penalties with \$187 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lower Valley Water District, Docket No. 2015-0771-PWS-E on November 17, 2015 assessing \$300 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Jason Fraley, Enforcement Coordinator at (512) 239-2552, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fort Bend County Municipal Utility District No. 50, Docket No. 2015-0804-MWD-E on November 17, 2015 assessing \$3,000 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2601, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Prime Marketing, Inc. dba Star Mart 2, Docket No. 2015-0807-PST-E on November 17, 2015 assessing \$2,567 in administrative penalties with \$513 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas Department of Transportation, Docket No. 2015-0846-PST-E on November 17, 2015 assessing \$4,688 in administrative penalties with \$937 deferred.

Information concerning any aspect of this order may be obtained by contacting John Duncan, Enforcement Coordinator at (512) 239-2720, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Y.S.R. ENTERPRISE, INC. dba Hardy Express, Docket No. 2015-0849-PST-E on November 17, 2015 assessing \$6,750 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding East Texas Precast Co., Ltd., Docket No. 2015-0862-AIR-E on November 17, 2015 assessing \$6,000 in administrative penalties with \$1,200 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Nguyen, Enforcement Coordinator at (512) 239-6160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WEST LAKE STORES, INC. dba Jedco Food Mart 22, Docket No. 2015-0878-PST-E on November 17, 2015 assessing \$6,000 in administrative penalties with \$1,200 deferred.

Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2616, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gerardo M. Romero dba Sol Y Mar and Marivel Romero dba Sol Y Mar, Docket No. 2015-0882-PWS-E on November 17, 2015 assessing \$1,463 in administrative penalties with \$292 deferred.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SOUTHWEST LTC - CORPUS, LLC dba Vista Del Mar Health and Rehabilitation, Docket No. 2015-0886-PST-E on November 17, 2015 assessing \$6,943 in administrative penalties with \$1,388 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding UNITED PARTNERSHIP, INC. dba Shell Food Mart, Docket No. 2015-0888-PST-E on November 17, 2015 assessing \$2,567 in administrative penalties with \$513 deferred.

Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2616, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Alamo, Docket No. 2015-0890-MWD-E on November 17, 2015 assessing \$5,062 in administrative penalties with \$1,012 deferred.

Information concerning any aspect of this order may be obtained by contacting Farhaid Abbaszadeh, Enforcement Coordinator at (512) 239-0779, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EIS CONSTRUCTION, INC., Docket No. 2015-0914-WQ-E on November 17, 2015 assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-6155, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Point Comfort, Docket No. 2015-0917-MWD-E on November 17, 2015 assessing \$5,750 in administrative penalties with \$1,150 deferred.

Information concerning any aspect of this order may be obtained by contacting James Boyle, Enforcement Coordinator at (512) 239-2527, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding A S GOLDEN INC dba Temple Food Mart, Docket No. 2015-0920-PST-E on November 17, 2015 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (817) 588-5892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PLATINUM CONVENIENCE STORES, INC. dba Super Sak 4, Docket No. 2015-0923-PST-E on November 17, 2015 assessing \$4,875 in administrative penalties with \$975 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tx Xpress LLC dba Gas & Go 8, Docket No. 2015-0933-PST-E on November 17, 2015 assessing \$2,942 in administrative penalties with \$588 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Neocom, Inc. dba Super Food Mart 2, Docket No. 2015-0940-PST-E on November 17, 2015 assessing \$6,750 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Tiffany Maurer, Enforcement Coordinator at (512)

239-2696, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Diamond P Aggregates Ltd., Docket No. 2015-0953-WQ-E on November 17, 2015 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Christopher Bost, Enforcement Coordinator at (512) 239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Nevzat Zeneli dba Italian Garden Restaurant and Gule Zeneli dba Italian Garden Restaurant, Docket No. 2015-0955-PWS-E on November 17, 2015 assessing \$275 in administrative penalties with \$55 deferred.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Geviga, LLC, Docket No. 2015-0957-EAQ-E on November 17, 2015 assessing \$1,250 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Delaware Basin JV Gathering LLC, Docket No. 2015-0966-AIR-E on November 17, 2015 assessing \$2,888 in administrative penalties with \$577 deferred.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (210) 403-4063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DG RV Properties, LLC dba Olde Magnolia Place RV Park, Docket No. 2015-0970-PWS-E on November 17, 2015 assessing \$350 in administrative penalties with \$70 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Montgomery, Enforcement Coordinator at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Bandera, Docket No. 2015-0985-MWD-E on November 17, 2015 assessing \$4,687 in administrative penalties with \$937 deferred.

Information concerning any aspect of this order may be obtained by contacting James Boyle, Enforcement Coordinator at (512) 239-2527, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MANAKAMANA DHARSHAN INC dba Mr. Beegs, Docket No. 2015-0990-PST-E on November 17, 2015 assessing \$2,235 in administrative penalties with \$447 deferred.

Information concerning any aspect of this order may be obtained by contacting Holly Kneisley, Enforcement Coordinator at (817) 588-5856, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shumard Corporation, Docket No. 2015-1001-AIR-E on November 17, 2015 assessing \$3,563 in administrative penalties with \$712 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arnold Stone, Inc., Docket No. 2015-1035-WQ-E on November 17, 2015 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201505241

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 2, 2015



## Texas Ethics Commission

### List of Late Filers

Below is a list from the Texas Ethics Commission of names of filers who did not file a report or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

#### **Deadline: Semiannual Report due January 15, 2015, for Candidates and Officeholders**

Ted Seago, 12345 Lake Vista Dr., Willis, Texas 77318-5242

#### **Deadline: Semiannual Report due July 15, 2015, for Candidates and Officeholders**

David Medina, 5300 Memorial Dr., Ste. 890, Houston, Texas 77007

Ted Seago, 12345 Lake Vista Dr., Willis, Texas 77318-5242

#### **Deadline: Lobby Activities Report due September 10, 2015**

Roberto Maldonado, 924 McCullough Ave., San Antonio, Texas 78215

Jennifer E. Sellers, 511 Clover Flat Rd., Cedar Park, Texas 78613

Ward Wyatt, 3018 Windsor Rd., Austin, Texas 78703

TRD-201505155

Natalia Luna Ashley

Executive Director

Texas Ethics Commission

Filed: November 24, 2015



## 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 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of October 5, 2015 through November 7, 2015. 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 §§506.25, 506.32, and 506.41, 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, December 4, 2015. The public comment period for this project will close at 5:00 p.m. on Monday, January 4, 2016.

#### FEDERAL AGENCY ACTIONS:

**Applicant:** Texas Parks and Wildlife Department

**Location:** The project site is located in Aransas Bay, at Goose Island State Park, along the south side of Park Road 13 approximately 900 feet east-southeast of the main intersection on Goose Island. The project can be located on the U.S.G.S. quadrangle map titled: SAINT CHARLES BAY, Texas.

#### **LATITUDE & LONGITUDE (NAD 83):**

Latitude: 28.12619 North; Longitude: 96.98384 West

**Project Description:** The applicant proposes to elevate an approximately 300-foot-long section of Park Road 13 (Trout Street) approximately 12 to 24 inches within its existing footprint, and construct a 624-foot-long sheet pile seawall with a concrete cap that would tie into existing seawalls on either side of the proposed project site. The area between the seawall and the road would be backfilled with a combination of smaller riprap/oyster shell/shell hash. There would be no temporary or permanent construction impacts north or northeast of the current asphalt edge of the road. Approximately 450 cubic yards of stone riprap would be placed in front of the seawall to dissipate wave energy and compensate for ecological impacts to waters of the United States (U.S.).

In order to maintain pedestrian access to the water for recreational activities, the seawall would have two openings and stairs leading to the natural bay bottom, approximately 2 feet below the top of the seawall. Riprap would not be placed in front of the access stairs. The purpose of the project is to provide dependable access to and from the camping area and fishing pier, and to prevent a breach of Goose Island, which would potentially destroy valuable salt marsh and seagrass habitat found on the leeward side of the island. The project as proposed would impact 0.261-acre of unvegetated bay bottom and 0.083-acre of vegetated estuarine marsh for a total of 0.344-acre of impacts to waters of the U.S. Construction would require placing 295.47 cubic yards of fill material in unvegetated bay bottom habitat and 71.39 cubic yards in vegetated estuarine marsh for a total of 366.86 cubic yards of fill placed into waters of the U.S.

**CMP Project No:** 16-1068-F1

**Type of Application:** U.S. Army Corps of Engineers (USACE) permit application #SWG-2015-01546. 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.

**Applicant:** Cameron County

**Location:** The project is located along the Arroyo Colorado, at the Adolph Thomae Jr. County Park, at 37844 Marshall Hutts Road, east of Arroyo City, in Cameron County, Texas.

#### **LATITUDE & LONGITUDE (NAD 83):**

Latitude: 26.348209 North; Longitude: 97.400462 West

**Project Description:** The applicant proposes to construct shoreline repairs and improvements along the Arroyo Colorado shoreline within the Adolph Thomae Jr. County Park. The project would include approximately 870 linear feet of pre-cast concrete block wall that would be installed on a 12-inch-thick base and gravel backfill for the pre-cast

concrete block wall, approximately 3,200 linear feet of habitat bench that would include a section of revetment stone of 15-inch average size riprap and a 12-inch thick base for the revetment stone, approximately 315 linear feet of articulated concrete block mattress that would be installed on a 6-inch base, approximately 200 linear feet of breakwater structure of 15-inch average size riprap, a 12-inch-thick base for the breakwater structure, and riprap transitional sections between structures. Excavation and replacement of the native topsoil with base material would be necessary and would be reused onsite where needed as a structural backfill for the shoreline structures. Excess topsoil would be hauled offsite and any disturbed areas would be protected by incorporating any required best management practices (BMPs) to avoid the disturbance of adjacent areas. Installation of the habitat bench would involve the discharge of approximately 6,100 cubic yards of riprap, 3,415 cubic yards of gravel backfill, and 3,200 cubic yards of base stone below the delimited High Tide Level elevation (+1.8 NAVD88). Approximately 0.156 acres of wetlands would be filled with base stone using tracked equipment.

**CMP Project No:** 16-1072-F1

**Type of Application:** U.S. Army Corps of Engineers (USACE) permit application #SWG-2015-00602. 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 under §401 of the Clean Water Act (33 U.S.C.A. §1344).**

FEDERAL AGENCY ACTIVITIES:

**Applicant:** Federal Natural Resource Damage Trustees: U.S. Department of Interior, National Oceanic and Atmospheric Administration, U.S. Department of Agriculture, and the U.S. Environmental Protection Agency (Federal NRDA Trustees).

**Project Name:** Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement for the Deepwater Horizon Oil Spill.

**Location:** Gulf of Mexico

**Project Description:** The Federal NRDA Trustees have proposed to accept a settlement with BP to resolve BP's liability for natural resource injuries from the *Deepwater Horizon* oil spill. Under this settlement, BP would pay up to \$8.8 billion for restoration. Based on an assessment of impacts to the Gulf's natural resources, the Federal NRDA Trustees have determined that the best method for addressing the injuries is a comprehensive, integrated, ecosystem restoration plan. The draft plan would allocate funds from the settlement for restoration over the next 15 years.

On October 5, 2015, the Federal NRDA Trustees for the *Deepwater Horizon* Oil Spill released a document entitled "Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement for the Deepwater Horizon Oil Spill" ("Draft PDARP") for public review and comment. That draft plan, and information on the proposed settlement with BP (called the Consent Decree), can be found at: <http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan/>.

**CMP Project No:** 16-1090

**Type of Application:** Request for review for federal agency activities under the Texas Coastal Management Program.

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action or activity is or is

not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Land Commissioner for review.

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection may be obtained from Mr. Ray Newby, P.O. Box 12873, Austin, Texas 78711-2873 or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov). Comments should be sent to Mr. Newby at the above address or by email.

TRD-201505249

Anne L. Idsal

Chief Clerk/Deputy Land Commissioner

General Land Office

Filed: December 2, 2015

## Texas Health and Human Services Commission

### Public Notice - Prescribed Pediatric Extended Care Centers

The Texas Health and Human Services Commission announces its intent to submit transmittal number 15-032 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to add a new provider type and reimbursement for prescribed pediatric extended care centers under early periodic screening, diagnosis, and treatment services. Texas Human Resources Code §32.024(jj) requires HHSC to establish licensed prescribed pediatric extended care centers as a separate provider type. The proposed amendment is effective November 1, 2016.

The proposed amendment is estimated to result in a cost savings of \$459,721 for the remainder of federal fiscal year (FFY) 2017, consisting of \$260,524 cost savings in federal funds and \$199,197 cost savings in state general revenue. For FFY 2018, the estimated cost savings is \$1,119,890, consisting of \$634,642 cost savings in federal funds and \$485,248 cost savings in state general revenue.

To obtain copies of the proposed amendment, interested parties may contact J.R. Top, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 462-6397; by facsimile at (512) 730-7472; or by e-mail at [jr.top@hhsc.state.tx.us](mailto:jr.top@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201505238

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: December 1, 2015

### Public Notice: State Plan Amendment 16-0002

The Texas Health and Human Services Commission announces its intent to submit transmittal number 16-0002 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to confirm existing reimbursement methodology for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). The proposed amendment is effective January 1, 2016.

The proposed amendment is estimated to have no fiscal impact.

To obtain copies of the proposed amendment, interested parties may contact J.R. Top, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 462-6397; by facsimile at (512) 730-7472; or by e-mail at [jr.top@hhsc.state.tx.us](mailto:jr.top@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201505243

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: December 2, 2015



## Public Notice - State Plan Attachment Administrative Correction

The Texas Health and Human Services Commission announces its intent to submit transmittal number 15-035 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to correct the Texas Medicaid State Plan Attachments to show current Texas Medicaid administration. The proposed amendment is effective October 1, 2015.

The proposed amendment is estimated to have no fiscal impact. The amendment does not change or modify allowable coverage or benefits.

To obtain copies of the proposed amendment, interested parties may contact J.R. Top, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 462-6397; by facsimile at (512) 730-7472; or by e-mail at [jr.top@hhsc.state.tx.us](mailto:jr.top@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201505118

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: November 20, 2015



## Texas Department of Housing and Community Affairs

### Notice of Funding Availability

*(Editor's Note: Due to a Texas Register error, the following notice was omitted from the November 27, 2015, issue of the Texas Register and an earlier notice was published with its docket number. The complete notice as submitted follows.)*

The Texas Department of Housing and Community Affairs ("Department") is making available 2015 HOME Investment Partnerships Program ("HOME") funding for single family activities.

Funds will be available through amending the 2015 HOME Reservation Participation System Single Family Program Notice of Funding Availability ("NOFA"). The NOFA is for participation in the Reservation System and will add approximately \$6,000,000 to the system. The Reservation System NOFA may be increased from time to time as funds become available. Approval to receive a Reservation System Participant ("RSP") agreement is not a guarantee of funding availability.

The availability and use of these funds are subject to the Department's Administrative Rule at 10 TAC Chapter 1, Enforcement Rule at 10

TAC Chapter 2, Single Family Umbrella Rules at 10 TAC Chapter 20, the Minimum Energy Efficiency Requirements for Single Family Construction Activities at 10 TAC Chapter 21, the Department's 2015 HOME Program Rule at 10 TAC Chapter 23, and the federal regulation governing the HOME Program at 24 CFR Part 92.

The NOFAs are available on the Department's website at <http://www.tdhca.state.tx.us/nofa.htm>.

All Application materials including manuals, NOFA, program guidelines, and applicable HOME rules and regulations are available on the Department's website at <http://www.tdhca.state.tx.us/home-divisions/applications.htm>.

Applications submitted in response to the RSP NOFA will be accepted on an ongoing basis until 5:00 p.m. CDT, Thursday, June 30, 2016, unless the Department cancels the NOFA before that date.

TRD-201504985

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: November 16, 2015



## Section 811 Request for Applications

The Texas Department of Housing and Community Affairs ("TDHCA") announces the release of a Request for Applications for Eligible Multifamily Developments for the Section 811 Project Rental Assistance Program. If you are interested in providing a response to this request, please view the RFA posting on the TDHCA webpage.

View our Department website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) under "What's New" on our homepage: <http://www.tdhca.state.tx.us/nofa.htm>.

Or Visit the 811 Program page at <http://www.tdhca.state.tx.us/section-811-pra/announcements.htm>.

Should you have any difficulty accessing either website or need further information, please contact:

Spencer Duran, Section 811 Manager

Texas Department of Housing and Community Affairs

(512) 475-1784

[spencer.duran@tdhca.state.tx.us](mailto:spencer.duran@tdhca.state.tx.us)

TRD-201505166

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: November 24, 2015



## Texas Department of Insurance

### Notice of Application by a Small Employer Carrier to be a Risk-Assuming Carrier

Notice is given to the public of the application of the listed small employer health benefit plan issuer to be a risk-assuming health benefit plan issuer under Insurance Code §1501.312. A small employer health benefit plan issuer is defined by Insurance Code §1501.002(16) as a health benefit plan issuer offering, delivering, issuing for delivery, or renewing health benefit plans subject to Insurance Code Chapter 1501, Subchapters C - H. A risk-assuming health benefit plan issuer is defined by Insurance Code §1501.301(4) as a small employer health benefit plan issuer that does not participate in the Texas Health Reinsurance

System. The following small employer health benefit plan issuer has applied to be a risk-assuming health benefit plan issuer:

SHA, L.L.C.

The application is available for public inspection at the Texas Department of Insurance, Legal Services, Office of Policy Development Counsel. To inspect the application, contact Jennifer Soldano, Staff Attorney, William P. Hobby Jr. Building, 333 Guadalupe, Tower I, Room 920B, Austin, Texas.

If you wish to comment on the application from SHA, L.L.C. to be a risk-assuming carrier, you must submit your written comments within 60 days after publication of this notice in the *Texas Register* to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. On consideration of the application, if the commissioner is satisfied that all requirements of law have been met, the commissioner or his designee may take action to approve SHA, L.L.C.'s application to be a risk-assuming carrier.

TRD-201505218

Sara Waitt

General Counsel

Texas Department of Insurance

Filed: December 1, 2015



#### Notice of Public Hearing

#### **TEXAS WORKERS' COMPENSATION REVISED CLASSIFICATION RELATIVITIES**

The commissioner of insurance will hold a public hearing to consider revised Texas workers' compensation classification relativities to replace those adopted under Commissioner's Order No. 3848, dated March 5, 2015. The hearing will begin at 2:00 p.m., Central time, December 16, 2015, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas. The notice of hearing and exhibit are on the TDI website at [www.tdi.texas.gov/alert/event/index.html](http://www.tdi.texas.gov/alert/event/index.html).

#### **Docket No. 2784: Revised Workers' Compensation Classification Relativities**

#### *Subject and Scope*

Staff proposes that the commissioner adopt revised classification relativities to replace those adopted under Commissioner's Order No. 3848, dated March 5, 2015. Exhibit A is a schedule of the revised classification relativities. Staff requests that the proposed revised classification relativities be available for adoption by insurers immediately, but that their use be mandatory for all policies with an effective date on or after July 1, 2016, unless the insurer files an alternative classification rate basis.

Staff recommends reducing the overall level of the classification relativities by 10 percent.

#### *Applicable Authority, Jurisdiction, Statutes, and Rules*

The commissioner has jurisdiction over this hearing under Insurance Code §2053.051. Section 2053.051 requires TDI to determine hazards by class and establish classification relativities applicable to the payroll in each classification for workers' compensation insurance. It further provides that the classification system must be revised at least once every five years.

#### **Comments and Exhibits**

To comment on the matter to be considered, you may submit written comments and exhibits at or before the public hearing, or you may present oral comments at the hearing. Please include the applicable docket number on any comments or exhibits. Submit two copies of any written comments no later than 5:00 p.m., Central time, on January 4, 2016. Send one copy by mail to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [chiefclerk@tdi.texas.gov](mailto:chiefclerk@tdi.texas.gov). Send the other copy by mail to J'ne Byckovski, Chief Actuary, Property and Casualty Actuarial Office, Mail Code 105-5F, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [jne.byckovski@tdi.texas.gov](mailto:jne.byckovski@tdi.texas.gov).

#### **Deadlines Subject to Change**

The commissioner may change any of the deadlines in this notice, subject to the applicable statutes and rules.

**EXHIBIT A**

TEXAS WORKERS' COMPENSATION RELATIVITIES  
 AVAILABLE FOR IMMEDIATE USE  
 MANDATORY EFFECTIVE DATE 7/1/2016

<b>Class</b>	<b>Relativity</b>	<b>Class</b>	<b>Relativity</b>
0005	4.02	2288	6.62
0008	5.35	2361	1.22
0011	10.53	2380	1.76
0016	9.10	2501	6.64
0034	5.35	2503	1.05
0035	5.32	2532	1.76
0037	7.37	2534	2.84
0042	5.68	2560	5.83
0059	'a'	2576	5.28
0065	'a'	2578	6.72
0066	'a'	2581	7.79
0067	'a'	2583	3.29
0079	4.44	2587	4.47
0083	7.54	2670	14.68
0106	9.91	2683	4.68
0113	6.08	2688	6.76
0401	20.98	2702	24.38
0913	'a'	2705	12.60
0923	'a'	2710	9.74
1165	'a'	2719	10.04
1321	2.48	2731	5.46
1438	5.99	2790	4.09
1463	17.73	2802	6.54
1472	6.47	2835	4.87
1701	7.77	2881	5.01
1747	2.71	2923	2.00
1803	4.32	3004	4.29
1924	5.07	3022	4.97
2003	6.63	3027	1.47
2014	7.71	3028	5.63
2040	3.71	3040	6.64
2041	3.13	3041	5.21
2068	5.59	3042	2.59
2081	5.49	3064	6.33
2095	6.70	3066	5.00
2105	5.46	3081	4.59
2111	9.13	3082	9.59
2114	7.47	3085	4.33
2121	3.05	3110	6.18
2157	6.14	3111	4.86
2172	1.42	3113	4.29
2211	18.52	3114	4.08
2220	3.80	3126	3.17
2260	3.46	3131	2.63
2286	2.98	3132	3.95

**EXHIBIT A**

**TEXAS WORKERS' COMPENSATION RELATIVITIES  
AVAILABLE FOR IMMEDIATE USE  
MANDATORY EFFECTIVE DATE 7/1/2016**

<b>Class</b>	<b>Relativity</b>	<b>Class</b>	<b>Relativity</b>
3146	4.18	4038	6.08
3179	3.19	4045	5.74
3220	3.14	4062	4.20
3223	3.66	4101	6.69
3224	6.55	4112	0.73
3227	6.66	4114	3.29
3255	5.92	4130	7.98
3257	6.53	4150	1.34
3300	9.14	4206	6.14
3316	1.37	4207	1.08
3331	6.64	4239	2.62
3365	5.19	4243	6.21
3372	4.74	4244	3.56
3383	1.44	4250	2.71
3507	3.95	4273	2.61
3548	3.03	4279	4.51
3574	1.03	4282	1.55
3620	4.83	4283	3.11
3629	2.45	4299	2.88
3632	4.30	4304	6.23
3639	7.14	4307	3.06
3642	4.34	4351	0.95
3643	3.56	4360	6.00
3647	2.82	4361	3.44
3648	3.48	4362	1.05
3681	1.30	4410	5.57
3685	1.57	4417	4.85
3719	2.53	4420	10.11
3724	4.42	4431	5.24
3726	4.51	4432	2.96
3805	1.27	4439	1.90
3807	6.55	4452	3.72
3808	6.30	4459	3.10
3821	7.16	4470	3.84
3822	4.38	4484	4.26
3823	6.04	4511	1.13
3824	4.97	4519	4.42
3830	2.99	4558	2.68
3865	5.96	4568	5.78
3881	7.88	4583	5.86
4000	5.26	4611	1.45
4021	8.35	4635	2.71
4024	2.94	4653	5.26
4034	8.27	4665	12.82
4036	3.14	4670	8.40

**EXHIBIT A**

TEXAS WORKERS' COMPENSATION RELATIVITIES  
 AVAILABLE FOR IMMEDIATE USE  
 MANDATORY EFFECTIVE DATE 7/1/2016

<b>Class</b>	<b>Relativity</b>	<b>Class</b>	<b>Relativity</b>
4692	0.86	5183	5.01
4693	2.07	5190	5.22
4703	4.57	5191	1.32
4712	3.01	5192	4.47
4716	5.13	5200	5.89
4717	5.78	5203	12.19
4720	3.35	5213	6.21
4740	1.17	5220	5.80
4743	2.30	5348	3.39
4751	1.71	5403	7.40
4766	'a'	5437	5.96
4777	'a'	5443	3.64
4800	'a'	5462	8.61
4801	'a'	5474	5.35
4802	'a'	5479	6.94
4803	'a'	5491	2.75
4804	'a'	5506	9.68
4805	'a'	5536	4.50
4806	'a'	5538	11.72
4807	'a'	5551	14.40
4808	'a'	5606	1.17
4809	'a'	5701	5.61
4810	'a'	6003	7.00
4811	'a'	6045	4.31
4812	'a'	6202	11.14
4813	'a'	6203	1.87
4814	'a'	6204	10.03
4815	'a'	6205	'a'
4816	'a'	6206	4.74
4817	'a'	6213	3.59
4818	'a'	6216	7.61
4819	'a'	6219	6.55
4820	'a'	6229	3.82
4821	'a'	6233	3.48
4822	'a'	6237	3.57
4823	'a'	6238	12.80
4902	4.51	6306	10.16
4923	1.64	6319	6.21
5022	9.76	6400	6.87
5040	14.76	6504	4.45
5041	9.63	6823	6.85
5057	5.33	6824	10.68
5070	14.33	6843	11.70
5102	6.16	6872	9.89
5160	3.35	6874	22.56

**EXHIBIT A**

TEXAS WORKERS' COMPENSATION RELATIVITIES  
 AVAILABLE FOR IMMEDIATE USE  
 MANDATORY EFFECTIVE DATE 7/1/2016

<b>Class</b>	<b>Relativity</b>	<b>Class</b>	<b>Relativity</b>
7016	3.94	8033	4.65
7024	4.33	8034	6.04
7046	5.84	8039	3.63
7047	6.74	8044	6.91
7098	6.49	8045	0.67
7099	10.00	8047	1.14
7133	5.71	8058	4.01
7134	6.34	8102	8.88
7135	9.76	8106	7.54
7219	10.60	8107	4.41
7230	14.58	8113	6.63
7309	21.61	8209	8.15
7313	7.40	8215	5.04
7317	6.25	8227	4.08
7327	4.96	8231	10.77
7350	20.65	8234	8.04
7360	6.83	8264	7.95
7380	7.04	8265	9.75
7382	9.07	8288	8.07
7390	7.22	8292	6.10
7405	3.33	8293	14.98
7418	5.26	8295	5.56
7421	1.14	8304	11.28
7422	3.78	8350	10.85
7423	7.15	8385	5.22
7502	2.13	8387	3.13
7515	1.83	8391	3.46
7520	4.57	8601	0.41
7538	14.03	8606	3.03
7539	1.55	8607	2.62
7580	3.53	8709	3.56
7590	7.78	8726	1.31
7600	4.62	8742	0.40
7602	7.71	8748	0.65
7610	0.57	8752	4.24
7704	5.59	8754	1.47
7720	3.66	8755	0.46
7855	5.94	8803	0.14
8002	3.72	8809	0.29
8006	4.41	8810	0.23
8008	2.28	8820	0.18
8013	1.03	8828	3.83
8017	2.72	8829	4.87
8018	5.24	8831	2.06
8032	5.19	8832	0.46

**EXHIBIT A**

TEXAS WORKERS' COMPENSATION RELATIVITIES  
 AVAILABLE FOR IMMEDIATE USE  
 MANDATORY EFFECTIVE DATE 7/1/2016

<b>Class</b>	<b>Relativity</b>	<b>Class</b>	<b>Relativity</b>
8833	1.08		
8837	'a'		
8838	0.87		
8858	0.41		
8868	0.88		
8901	0.26		
9014	5.05		
9015	4.70		
9016	5.26		
9019	4.22		
9032	6.75		
9033	4.80		
9040	5.11		
9052	4.26		
9058	2.85		
9060	3.03		
9061	1.85		
9063	1.75		
9079	2.25		
9080	1.98		
9089	1.27		
9093	2.09		
9101	5.59		
9102	4.89		
9154	3.19		
9156	2.61		
9170	28.56		
9178	13.31		
9179	13.82		
9182	4.10		
9186	14.62		
9220	11.80		
9402	8.58		
9501	3.75		
9522	7.12		
9529	5.22		
9552	10.88		
9586	1.38		
9600	2.24		
9620	1.65		
9984	'a'		
9985	'a'		

TRD-201505172  
 Sara Waitt  
 General Counsel  
 Texas Department of Insurance  
 Filed: November 24, 2015

◆     ◆     ◆  
 Proposed Fiscal Year 2016 Research Agenda  
 Workers' Compensation Research and Evaluation Group

Labor Code §405.0026 requires the commissioner of insurance to adopt an annual research agenda for the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance. Labor Code §405.0025 authorizes the REG to conduct professional studies and research related to the delivery of benefits; litigation and controversy related to workers' compensation; insurance rates and ratemaking procedures; rehabilitation and reemployment of injured employees; the quality and cost of medical benefits; employer participation in the workers' compensation system; employment health and safety issues; and other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system. Insurance Code §1305.502 requires the REG to develop and issue an annual informational report card that identifies and compares, on an objective basis, the quality, costs, health care provider availability, and other analogous factors of workers' compensation health care networks operating under the workers' compensation system of this state with each other and with medical care provided outside of networks. Labor Code §405.0026 requires the REG to prepare and publish annually in the *Texas Register* a proposed workers' compensation research agenda for the commissioner's review and approval.

In October 2015, the REG posted an informal request for suggestions for its research agenda on the TDI website to get input from stakeholders and the general public. The REG also asked legislative offices for input on the Fiscal Year (FY) 2016 Research Agenda.

The REG received one response to its request for suggestions. The respondent requested a research project on Texas workers' access to supplemental income benefits (SIBs). The REG will review the feasibility of obtaining data on Texas workers' access to SIBs.

The REG used the following criteria to evaluate the responses:

- \* Is the proposed research project required by statute or likely to be part of an upcoming legislative review?
- \* Will the results of the proposed research project address the information needs of multiple stakeholder groups and legislative committees?
- \* Is there available data to complete the project or can data be obtained easily and economically to complete the project?
- \* Does the REG have the resources to complete the project during FY 2016?

Based on the one response received and the criteria outlined above, the REG proposes the following seven research projects for the FY 2016 Research Agenda:

1. Completion and publication of the 10th edition of the Workers' Compensation Health Care Network Report Card (required under Insurance Code §1305.502(a)-(d) and Labor Code §405.0025(b)).
2. An update of the 2014 *Setting the Standard* biennial report on the impact of the HB 7 (2005) legislative reforms of the Texas workers' compensation system. The report presents results on the affordability and availability of workers' compensation insurance for Texas employers and the impact of certified workers' compensation health care networks on return-to-work outcomes, medical costs, quality-of-care issues, and medical dispute resolution (required by Insurance Code §2053.012 and Labor Code §405.0025(a)-(c)).
3. An update of the 2014 biennial study to estimate employer participation in the Texas workers' compensation system (required by Insurance Code §2053.012(a) and Labor Code §405.0025(a)(6)).
4. An analysis of designated doctor examinations in the Texas workers' compensation system.

5. An annual update of medical costs and utilization in the Texas workers' compensation system, with additional attention on the cost and utilization of office visits and physical medicine services.

6. An updated analysis of the impact of the pharmacy closed formulary on the utilization and cost patterns in pharmacy prescriptions for new and legacy claims, with special focus on the preliminary impact of federal reclassification of hydrocodone-combination drugs, as well as post-formulary trends in the utilization of physical medicine in the Texas workers' compensation system.

7. Examine the adequacy of Lifetime Income Benefits and Death Benefits for injured employees and their beneficiaries who receive those benefits, and related issues cited in the House of Representatives Interim Charges to the 84th Legislature for the House Business and Industry Committee.

The REG will consider expanding the scope of listed projects or conducting additional projects to accommodate stakeholder suggestions, subject to resource and data availability.

#### REQUEST FOR PUBLIC COMMENT OR PUBLIC HEARING

If you wish to comment on the proposed FY 2016 Research Agenda or request a public hearing, you must do so in writing no later than 5 p.m., Central time, on January 11, 2016. A hearing request must be on a separate page from any written comments. TDI requires two copies of your comments or hearing request. Send one copy by mail to the Office of the Chief Clerk and General Counsel, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or by email to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov). Send the other copy by mail to D.C. Campbell, Director of the Workers' Compensation Research and Evaluation Group, Texas Department of Insurance, Mail Code 105-2A, P.O. Box 149104, Austin, Texas 78714-9104 or by email to [wcresearch@tdi.texas.gov](mailto:wcresearch@tdi.texas.gov). If the commissioner holds a hearing, he will also consider written and oral comments presented at the hearing.

Please visit the TDI website at [www.tdi.texas.gov](http://www.tdi.texas.gov) for copies of the proposed research agenda. You may send any questions you have regarding the proposed agenda to D.C. Campbell at [wcresearch@tdi.texas.gov](mailto:wcresearch@tdi.texas.gov).

TRD-201505201

Sara Waitt

General Counsel

Texas Department of Insurance

Filed: November 30, 2015

◆ ◆ ◆

### Texas Lottery Commission

Scratch Ticket Game Number 1625 "Mega Slots"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1625 is "MEGA SLOTS". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1625 shall be \$5.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1625.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: CHERRY SYMBOL, GOLD BAR SYMBOL, BANANA SYMBOL, DICE SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, SPADE SYMBOL, PINEAPPLE SYMBOL, BELL SYMBOL, SUN SYMBOL, ANCHOR SYMBOL, APPLE SYMBOL, STACK OF BILLS SYMBOL, HORSESHOE SYMBOL, PEAR SYMBOL, LEMON SYMBOL, HEART SYMBOL, STRAWBERRY SYMBOL, SAFE SYMBOL, STAR SYMBOL, KEY SYMBOL, CLUB SYMBOL, POT OF GOLD SYMBOL, 4 LEAF CLOVER SYMBOL,

WISHBONE SYMBOL, LIGHTNING BOLT SYMBOL, 01, 02, 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, 3X SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250, \$500, \$1,000 and \$100,000.

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. 1625 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
CHERRY SYMBOL	WINX2
GOLD BAR SYMBOL	BAR
BANANA SYMBOL	BANANA
DICE SYMBOL	DICE
CROWN SYMBOL	CROWN
DIAMOND SYMBOL	DIAMOND
SPADE SYMBOL	SPADE
PINEAPPLE SYMBOL	PNAPLE
BELL SYMBOL	BELL
SUN SYMBOL	SUN
ANCHOR SYMBOL	ANCHOR
APPLE SYMBOL	APPLE
STACK OF BILLS SYMBOL	BILLS
HORSESHOE SYMBOL	HRSHOE
PEAR SYMBOL	PEAR
LEMON SYMBOL	LEMON
HEART SYMBOL	HEART
STRAWBERRY SYMBOL	STRWBY
SAFE SYMBOL	SAFE
STAR SYMBOL	STAR
KEY SYMBOL	KEY
CLUB SYMBOL	CLUB
POT OF GOLD SYMBOL	GOLD
4 LEAF CLOVER SYMBOL	CLOVER
WISHBONE SYMBOL	WISHBN
LIGHTNING BOLT SYMBOL	BOLT
01	ONE
02	TWO
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
3X SYMBOL	WINX3
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUN
\$250	TWO FTY
\$500	FIV HUN
\$1,000	ONE THOU
\$100,000	100 THOU

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100, \$250 or \$500.

H. High-Tier Prize - A prize of \$1,000 or \$100,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1625), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers

start with 001 and end with 075 within each Pack. The format will be: 1625-0000001-001.

K. Pack - A Pack of the "MEGA SLOTS" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "MEGA SLOTS" Scratch Ticket Game No. 1625.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "MEGA SLOTS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 59 (fifty-nine) Play Symbols. GAME 1: If a player reveals 3 matching Play Symbols in the same SPIN, the player wins the PRIZE for that SPIN. If a player reveals 2 matching Play Symbols and a "CHERRY" Play Symbol in the same SPIN, the player wins DOUBLE the PRIZE for that SPIN. GAME 2: If a player matches any of YOUR NUMBERS Play Symbols to any of the LUCKY NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "3X" Play Symbol, the player wins TRIPLE 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 59 (fifty-nine) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 59 (fifty-nine) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 59 (fifty-nine) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 59 (fifty-nine) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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 of either Play Symbols or Prize Symbols.

B. A Ticket will win as indicated by the prize structure.

C. A Ticket can win up to twenty-one (21) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$100,000 and \$1,000 will each appear at least once, except on Tickets winning twenty-one (21) times.

E. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

F. GAME 1: A Ticket can win up to six (6) times in this play area; once in each SPIN.

G. GAME 1: On all Tickets, non-winning Prize Symbols will all be different.

H. GAME 1: The play area consists of eighteen (18) Play Symbols and six (6) Prize Symbols.

I. GAME 1: There will never be three (3) matching Play Symbols in a vertical or diagonal line, unless required for a multiple win.

J. GAME 1: Consecutive Non-Winning Tickets within a Pack will not have matching SPINS. For instance if the first Ticket contains a Lemon Play Symbol, Banana Play Symbol, Bell Play Symbol in any SPIN, then the next Ticket may not contain a Lemon Play Symbol, Banana Play Symbol, Bell Play Symbol in any SPIN in any order.

K. GAME 1: Non-Winning Tickets will not have matching SPINS. For example if SPIN 1 is Lemon Play Symbol, Banana Play Symbol, Bell

Play Symbol, then SPIN 2 through SPIN 6 will not contain Lemon Play Symbol, Banana Play Symbol, Bell Play Symbol in any order.

L. GAME 1: Winning Tickets will contain three (3) matching Play Symbols in a horizontal SPIN or two (2) matching Play Symbols and a "CHERRY" (WINX2) Play Symbol.

M. GAME 1: The "CHERRY" (WINX2) Play Symbol will only appear on games winning a doubled prize.

N. GAME 1: The "CHERRY" (WINX2) Play Symbol with two (2) matching Play Symbols will win double the prize amount shown as dictated by the prize structure.

O. GAME 2: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

P. GAME 2: Tickets winning more than one (1) time will use as many LUCKY NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

Q. GAME 2: No matching LUCKY NUMBERS Play Symbols will appear on a Ticket.

R. GAME 2: YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 5 and \$5, 10 and \$10, 15 and \$15, 20 and \$20, 50 and \$50).

S. GAME 2: On all Tickets, a Prize Symbol will not appear more than four (4) times except as required by the prize structure to create multiple wins.

T. GAME 2: On Non-Winning Tickets, a LUCKY NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

U. GAME 2: The "3X" (WINX3) Play Symbol will never appear as a LUCKY NUMBERS Play Symbol.

V. GAME 2: The "3X" (WINX3) Play Symbol will win TRIPLE the prize for that Play

Symbol and will win as per the prize structure.

W. GAME 2: The "3X" (WINX3) Play Symbol will never appear more than once on a Ticket.

X. GAME 2: The "3X" (WINX3) Play Symbol will never appear on a Non-Winning Ticket.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "MEGA SLOTS" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and 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 \$50.00, \$100, \$250 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 "MEGA SLOTS" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and 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 "MEGA SLOTS" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "MEGA SLOTS" 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 "MEGA SLOTS" 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 8,280,000 Scratch Tickets in Scratch Ticket Game No. 1625. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1625 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	956,800	8.65
\$10	533,600	15.52
\$15	220,800	37.50
\$20	184,000	45.00
\$50	83,720	98.90
\$100	37,490	220.86
\$250	3,335	2,482.76
\$500	2,714	3,050.85
\$1,000	115	72,000.00
\$100,000	8	1,035,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.09. 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. 1625 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 Instant 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. 1625, 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-201505230

Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: December 1, 2015



Scratch Ticket Game Number 1695 "Card Suits"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1695 is "CARD SUITS". The play style is "beat score".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1695 shall be \$2.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1695.

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: 3 CARD SYMBOL, 4 CARD SYMBOL, 5 CARD SYMBOL, 6 CARD SYMBOL, 7 CARD SYMBOL, 8 CARD SYMBOL, 9 CARD SYMBOL, 10 CARD SYMBOL, J CARD SYMBOL, Q CARD SYMBOL, K CARD

SYMBOL, A CARD SYMBOL, 2 SYMBOL, \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, \$1,000 and \$25,000.

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. 1695 - 1.2D

PLAY SYMBOL	CAPTION
3 CARD SYMBOL	THR
4 CARD SYMBOL	FOR
5 CARD SYMBOL	FIV
6 CARD SYMBOL	SIX
7 CARD SYMBOL	SVN
8 CARD SYMBOL	EGT
9 CARD SYMBOL	NIN
10 CARD SYMBOL	TEN
J CARD SYMBOL	JAK
Q CARD SYMBOL	QEN
K CARD SYMBOL	KNG
A CARD SYMBOL	ACE
2 SYMBOL	DBL
\$2.00	TWO\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$30.00	THIRTY
\$50.00	FIFTY
\$100	ONE HUN
\$1,000	ONE THOU
\$25,000	25 THOU

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$16.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$30.00, \$50.00 or \$100.

H. High-Tier Prize - A prize of \$1,000 or \$25,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1695), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 1695-0000001-001.

K. Pack - A Pack of the "CARD SUITS" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "CARD SUITS" Scratch Ticket Game No. 1695.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "CARD SUITS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to ex-

pose 30 (thirty) Play Symbols. If YOUR CARD Play Symbol beats the DEALER'S CARD Play Symbol in any one HAND across, the player wins the PRIZE for that HAND. If YOUR CARD Play Symbol is a "2" Play Symbol, the player wins DOUBLE the PRIZE for that HAND. Card Ranking (highest to lowest): A, K, Q, J, 10, 9, 8, 7, 6, 5, 4, 3. Each HAND plays separately. 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 30 (thirty) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 30 (thirty) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 30 (thirty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 30 (thirty) 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 Pack-Scratch Ticket Number must

be printed in the Pack-Scratch 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 of either Play Symbols or Prize Symbols.

B. A Ticket will win as indicated by the prize structure.

C. A Ticket can win up to ten (10) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$25,000 and \$1,000 will each appear at least once, except on Tickets winning ten (10) times.

E. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

F. Ranks of cards in this game in order from highest to lowest: A, K, Q, J, 10, 9, 8, 7, 6, 5, 4, 3. Each HAND plays separately.

G. All YOUR CARD Play Symbols and DEALER'S CARD Play Symbols will consist of one (1) Play Symbol each.

H. There will be no ties between the YOUR CARD Play Symbol and the DEALER'S CARD Play Symbol in the same HAND.

I. There will be no more than two (2) matching YOUR CARD Play Symbols on a ticket, unless restricted by other parameters, play action or prize structure.

J. There will be no more than two (2) matching DEALER'S CARD Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

K. The "2" (DBL) Play Symbol will never appear as a DEALER'S CARD Play Symbol.

L. There will be no more than two (2) matching non-winning Prize Symbols on a Ticket.

M. The "2" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

N. The "2" (DBL) Play Symbol will win double the prize.

O. The "2" (DBL) Play Symbol will never appear more than once on a winning Ticket.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "CARD SUITS" Scratch Ticket Game prize of \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$16.00, \$20.00, \$30.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and 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 \$30.00, \$50.00 or \$100 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 "CARD SUITS" Scratch Ticket Game prize of \$1,000 or \$25,000, the claimant must sign the winning Scratch Ticket and 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 "CARD SUITS" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "CARD SUITS" 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 "CARD SUITS" 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 7,200,000 Scratch Tickets in Scratch Ticket Game No. 1695. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1695 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	748,800	9.62
\$5	364,800	19.74
\$6	172,800	41.67
\$10	230,400	31.25
\$15	19,200	375.00
\$16	57,600	125.00
\$20	38,400	187.50
\$30	7,260	991.74
\$50	3,720	1,935.48
\$100	1,255	5,737.05
\$1,000	16	450,000.00
\$25,000	7	1,028,571.43

\* The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.38. 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. 1695 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 Instant 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. 1695, 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-201505231  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: December 1, 2015



Scratch Ticket Game Number 1738 "Hit \$5,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1738 is "HIT \$5,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1738 shall be \$1.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1738.

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, HIT SYMBOL, \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, \$500 and \$5,000.

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.1738 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
<b>HIT SYMBOL</b>	<b>WIN\$10</b>
\$1.00	ONE\$
\$2.00	TWO\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUN
\$200	TWO HUN
\$500	FIV HUN
\$5,000	FIV THOU

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$1.00, \$2.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$5,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1738), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 1738-0000001-001.

K. Pack - A Pack of the "HIT \$5,000" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front 001 and 010 will be exposed.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "HIT \$5,000" Scratch Ticket Game No. 1738.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$5,000" Scratch Ticket Game is de-

terminated once the latex on the Scratch Ticket is scratched off to expose 11 (eleven) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. If a player reveals a "HIT" Play Symbol, the player wins \$10 instantly! 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 11 (eleven) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 11 (eleven) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 11 (eleven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 11 (eleven) 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 Pack-Scratch Ticket Number must

be printed in the Pack-Scratch 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 in a Pack will not have matching play data, spot for spot.

B. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

C. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

D. The "HIT" (WIN \$10) Play Symbol will only appear as dictated by the prize structure and will only appear with the \$10 Prize Symbol.

E. No matching non-winning Prize Symbols on a Ticket.

F. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 2 and \$2).

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$5,000" Scratch Ticket Game prize of \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$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 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 \$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 "HIT \$5,000" Scratch Ticket Game prize of \$5,000, the claimant must sign the winning Scratch Ticket and 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 "HIT \$5,000" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "HIT \$5,000" 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 "HIT \$5,000" 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 25,200,000 Scratch Tickets in Scratch Ticket Game No. 1738. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1738 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1	2,436,000	10.34
\$2	1,848,000	13.64
\$5	420,000	60.00
\$10	504,000	50.00
\$20	56,805	443.62
\$50	4,725	5,333.33
\$100	1,575	16,000.00
\$200	315	80,000.00
\$500	210	120,000.00
\$5,000	30	840,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.78. 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. 1738 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 Instant 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. 1738, 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-201505228  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: December 1, 2015



Scratch Ticket Game Number 1739 "Texa\$ Ca\$h Blowout"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1739 is "TEXA\$ CASH BLOWOUT". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1739 shall be \$5.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1739.

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, BLOWOUT SYMBOL, STAR SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$40.00, \$50.00, \$100, \$500, \$2,000 and \$100,000.

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. 1739 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
<b>BLOWOUT SYMBOL</b>	<b>WINALL</b>
<b>STAR SYMBOL</b>	<b>WIN\$100</b>

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$2,000 or \$100,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1739), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1739-0000001-001.

K. Pack - A Pack of the "TEXAS CASH BLOWOUT" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Scratch Ticket 001 and back of 075 while the other fold will show the back of Scratch Ticket 001 and front of 075.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "TEXAS CASH BLOWOUT" Scratch Ticket Game No. 1739.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "TEXAS CASH BLOWOUT" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 44 (forty-four) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "STAR" Play Symbol, the player wins \$100 instantly. If a player reveals a "BLOWOUT" Play Symbol, the player wins ALL 20 PRIZES instantly! 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 44 (forty-four) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 44 (forty-four) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 44 (forty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 44 (forty-four) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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. Players can win up to twenty (20) times on a Ticket in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play Symbol and Prize Symbol patterns. Two (2) Tickets have matching Play Symbol and Prize Symbol patterns if they have the same Play Symbols and Prize Symbols in the same spots.

C. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. Each Ticket will have four (4) different "WINNING NUMBERS" Play Symbols.

E. Non-winning "YOUR NUMBERS" Play Symbols will all be different.

F. Non-winning Prize Symbols will never appear more than three (3) times.

G. The "Star" (WIN\$100) and "Blowout" (WINALL) Play Symbols will never appear in the WINNING NUMBERS" Play Symbol spots.

H. The "Star" (WIN\$100) Play Symbol will only appear as dictated by the prize structure and its associated Prize Symbol shall always be \$100.

I. On Tickets that contain the "Blowout" (WINALL) Play Symbol, none of the "WINNING NUMBERS" Play Symbols will match any of the "YOUR NUMBERS" Play Symbols and the "Star" (WIN\$100) Play Symbol will not appear.

J. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

K. No prize amount in a non-winning spot will correspond with the "YOUR NUMBERS" Play Symbol (i.e., 10 and \$10).

### 2.3 Procedure for Claiming Prizes.

A. To claim a "TEXAS CASH BLOWOUT" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and 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 \$50.00, \$100 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 "TEXAS CASH BLOWOUT" Scratch Ticket Game prize of \$2,000 or \$100,000, the claimant must sign the winning Scratch Ticket and 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 "TEXAS CASH BLOWOUT" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "TEXAS CASH BLOWOUT" 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 "TEXAS CASH BLOWOUT" 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 7,200,000 Scratch Tickets in Scratch Ticket Game No. 1739. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1739 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	1,056,000	6.82
\$10	480,000	15.00
\$15	288,000	25.00
\$20	192,000	37.50
\$50	79,020	91.12
\$100	14,400	500.00
\$500	660	10,909.09
\$2,000	60	120,000.00
\$100,000	4	1,800,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.41. 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. 1739 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 Instant 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. 1739, 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-201505128  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: November 24, 2015



Scratch Ticket Game Number 1740 "Hit \$1,000,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1740 is "HIT \$1,000,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1740 shall be \$20.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1740.

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, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 10X SYMBOL, 20X SYMBOL, HIT SYMBOL, \$10.00, \$20.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000, \$100,000 and \$1MILL SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears

under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1740 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
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
10X SYMBOL	WINX10
20X SYMBOL	WINX20
HIT SYMBOL	WIN\$200

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$20.00.

G. Mid-Tier Prize - A prize of \$40.00, \$50.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$10,000, \$100,000 or \$1,000,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1740), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 1740-0000001-001.

K. Pack - A Pack of the "HIT \$1,000,000" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Scratch Ticket 001 and back of 025 while the other fold will show the back of Scratch Ticket 001 and front of 025.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "HIT \$1,000,000" Scratch Ticket Game No. 1740.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$1,000,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 55 (fifty-five) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If a player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. If a player reveals a "HIT" Play Symbol, the player wins \$200 instantly! 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 55 (fifty-five) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 55 (fifty-five) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 55 (fifty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 55 (fifty-five) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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 in a Pack will not have matching play data, spot for spot.

B. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

C. The \$10 Prize Symbol will only appear as dictated by the prize structure.

D. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

E. The "HIT" (WIN \$200) Play Symbol will only appear as dictated by the prize structure and will only appear with the \$200 Prize Symbol.

F. No matching WINNING NUMBERS Play Symbols on a Ticket.

G. The "10X" (WINX10) and "20X" (WINX20) Play Symbols will only appear as dictated by the prize structure.

H. No more than five (5) matching non-winning Prize Symbols on a Ticket.

I. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

J. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 40 and \$40).

### 2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$1,000,000" Scratch Ticket Game prize of \$20.00, \$40.00, \$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 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 \$40.00, \$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 "HIT \$1,000,000" Scratch Ticket Game prize of \$10,000, \$100,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and 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 "HIT \$1,000,000" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "HIT \$1,000,000" 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 "HIT \$1,000,000" 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 10,080,000 Scratch Tickets in Scratch Ticket Game No. 1740. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1740 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20	1,209,600	8.33
\$40	806,400	12.50
\$50	403,200	25.00
\$100	193,704	52.04
\$200	201,600	50.00
\$500	9,072	1,111.11
\$10,000	336	30,000.00
\$100,000	20	504,000.00
\$1,000,000	5	2,016,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.57. 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. 1740 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 Instant 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. 1740, 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-201505229

Bob Biard

General Counsel

Texas Lottery Commission

Filed: December 1, 2015



Scratch Ticket Game Number 1786 "Lucky Multiplier"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1786 is "LUCKY MULTIPLIER". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1786 shall be \$3.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1786.

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, MONEYBAG SYMBOL, \$3.00, \$5.00, \$6.00, \$10.00, \$20.00, \$40.00, \$100, \$500 and \$50,000.

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. 1786 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
<b>MONEYBAG SYMBOL</b>	<b>DBL</b>
\$3.00	THREE\$
\$5.00	FIVE\$
\$6.00	SIX\$
\$10.00	TEN\$
\$20.00	TWENTY
\$40.00	FORTY
\$100	ONE HUN
\$500	FIV HUN
\$50,000	50 THOU

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$3.00, \$5.00, \$6.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$40.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$50,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1786), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 1786-0000001-001.

K. Pack - A Pack of the "LUCKY MULTIPLIER" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of Ticket 001 and the back of Ticket 125. Configuration B will show the back of Ticket 001 and the front of Ticket 125.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "LUCKY MULTIPLIER" Scratch Ticket Game No. 1786.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "LUCKY MULTIPLIER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 28 (twenty-eight) Play Symbols. Each time the LUCKY NUMBER Play Symbol is revealed within a GAME, the player wins the PRIZE for that GAME. If a player reveals a "MONEYBAG" Play Symbol in a GAME, the player wins DOUBLE the PRIZE for that GAME. 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 28 (twenty-eight) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 28 (twenty-eight) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 28 (twenty-eight) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 28 (twenty-eight) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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. Tickets can win up to twenty one (21) times in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play and Prize Symbol patterns. Two (2) Tickets have matching Play Symbol and Prize Symbol patterns if they have the same Play Symbols and Prize Symbols in the same spots.

C. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. Non-winning Prize Symbols will never appear more than two (2) times.

E. The non-winning Play Symbols will all be different.

F. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

G. The "MONEYBAG" (DBL) Play Symbol will never appear in the "LUCKY NUMBER" Play Symbol spot.

15. The "MONEYBAG" (DBL) Play Symbol will only appear as dictated by the prize structure.

16. The "MONEYBAG" (DBL) Play Symbol will never appear more than once in a GAME.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY MULTIPLIER" Scratch Ticket Game prize of \$3.00, \$5.00, \$6.00, \$10.00, \$20.00, \$40.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and 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 \$40.00, \$100 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 "LUCKY MULTIPLIER" Scratch Ticket Game prize of \$50,000, the claimant must sign the winning Scratch Ticket and 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 "LUCKY MULTIPLIER" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "LUCKY MULTIPLIER" 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 "LUCKY MULTIPLIER" 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. 1786. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1786 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$3	672,000	8.93
\$5	384,000	15.63
\$6	240,000	25.00
\$10	144,000	41.67
\$20	96,000	62.50
\$40	29,850	201.01
\$100	16,000	375.00
\$500	300	20,000.00
\$50,000	4	1,500,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.79. 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. 1786 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 Instant 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. 1786, 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-201505129  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: November 24, 2015



Scratch Ticket Game Number 1790 "\$100,000 Mega Bingo"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1790 is "\$100,000 MEGA BINGO". The play style is "bingo".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1790 shall be \$5.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1790.

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: STACK OF BILLS SYMBOL, DOLLAR SIGN SYMBOL, GOLD BAR SYMBOL, MONEY BAG SYMBOL, COIN SYMBOL, BELL SYMBOL, B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75 and FREE.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears

under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol Captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1790 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
STACK OF BILLS SYMBOL	BILLS
DOLLAR SIGN SYMBOL	MONEY
GOLD BAR SYMBOL	GOLD BAR
MONEY BAG SYMBOL	BAG
COIN SYMBOL	COIN
BELL SYMBOL	BELL
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
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61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
FREE	

E. Serial Number - A unique 13 (thirteen) 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. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$100,000.

I. Bar Code - A 24 (twenty-four) 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1790), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1790-0000001-001.

K. Pack - A Pack of the "\$100,000 MEGA BINGO" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Scratch Ticket 001 and back of 075 while the other fold will show the back of Scratch Ticket 001 and front of 075.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "\$100,000 MEGA BINGO" Scratch Ticket Game No. 1790.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$100,000 MEGA BINGO" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 176 (one hundred seventy-six) Play Symbols. The player must scratch the "CALLER'S CARD" area to reveal 16 Bingo Numbers and scratch the "BONUS BOX" to reveal BONUS Bingo Numbers and Play Symbols. The player scratches only those Bingo Numbers on the six (6) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers and "BONUS BOX" Bingo Numbers. The player must also scratch the "FREE" spaces. If the player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line; all Bingo Numbers in all four (4) corners; or all Bingo Numbers to complete an "X" [eight (8) Bingo Numbers plus the "FREE" space] on the same "BINGO CARD", the player wins the prize in the corresponding prize legend for that "BINGO CARD". Note: Only the highest prize per "BINGO CARD" will be paid.

BONUS BOX: The player must scratch the "BONUS BOX" to reveal the Bonus Bingo Numbers and Play Symbols. If a player reveals 2 matching Play Symbols, the player wins \$50 instantly. If a player reveals 3 matching Play Symbols, the player wins \$100 instantly. Only the highest prize paid. 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 176 (one hundred seventy-six) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption; Crossword and Bingo style games do not typically have Play Symbol Captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 176 (one hundred seventy-six) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 176 (one hundred seventy-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 176 (one hundred seventy-six) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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. A Ticket can win up to four (4) times in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play Symbol patterns. Two (2) Tickets have matching Play Symbol patterns if they have the same Play Symbols in the same spots.

C. BINGO: No individual "BINGO CARD" will win more than one (1) prize (i.e., only highest prize paid per "BINGO CARD").

D. BINGO: All "BINGO CARDS" will be different on a Ticket. Two cards are matching if they have the same Play Symbols in the same positions.

E. BINGO: The Bingo Numbers within the "CALLERS CARD" and "BONUS BOX" will all be different.

F. BINGO: All Tickets will have all of the "CALLER'S CARD" Bingo Numbers within the "CALLER'S CARD" and "BONUS BOX" reveal a number in at least one "BINGO CARD".

G. BINGO: There will be one (1) "FREE" Play Symbol fixed in the center of each "BINGO CARD".

H. BINGO: The number range used for each letter (B, I, N, G, O) will be as follows: B (01-15), I (16-30), N (31-45), G (46-60), O (61-75).

I. BONUS BOX: All games will contain three (3) "BONUS BOX" Play Symbols.

J. BONUS BOX: Only the highest prize paid.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "\$100,000 MEGA BINGO" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$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 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 "\$100,000 MEGA BINGO" Scratch Ticket Game prize of \$100,000, the claimant must sign the winning Scratch Ticket and 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 "\$100,000 MEGA BINGO" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "\$100,000 MEGA BINGO" 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 "\$100,000 MEGA BINGO" 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 20,400,000 Scratch Tickets in Scratch Ticket Game No. 1790. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1790 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	2,176,000	9.38
\$10	1,088,000	18.75
\$15	1,360,000	15.00
\$20	408,000	50.00
\$25	136,000	150.00
\$50	103,530	197.04
\$100	74,800	272.73
\$200	8,500	2,400.00
\$500	170	120,000.00
\$100,000	12	1,700,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.81. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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. 1790 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 Instant 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. 1790, 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-201505234

Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: December 1, 2015

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**Public Utility Commission of Texas**

Announcement of Application for Amendment to a  
 State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on November 24, 2015, to amend a state-issued certificate of franchise authority, pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Cebridge Acquisition, L.P. d/b/a Suddenlink Communications for Amendment to its State-Issued Certificate of Franchise Authority, Project Number 45384.

The requested amendment is to expand the service area footprint to include the municipal boundaries of South Mountain, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas 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 telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Project Number 45384.

TRD-201505233  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: December 1, 2015



#### Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on November 18, 2015, pursuant to the Texas Water Code.

Docket Style and Number: Application of Lonzo Gale dba Lass Water Company and City of Sherman For Sale, Transfer, or Merger of Facilities and Certificate Rights in Grayson County, Docket Number 45354.

The Application: Lonzo Gale dba Lass Water Company (Lass Water Company) and the City of Sherman filed an application for sale, transfer, or merger of facilities and certificate rights in Grayson County. Specifically, the City of Sherman seeks approval to acquire a portion of the water assets of Lass Water Company. Lass Water Company's water Certificate of Convenience and Necessity (CCN) No. 12258 will be amended and the assets will be transferred to the City of Sherman. All customers will be charged different rates than they were charged before the transaction.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 45354.

TRD-201505120  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: November 23, 2015



#### Notice of Application for Service Area Exception

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on November 23, 2015, to amend a certificated service area for a service area exception in Wood County, Texas.

Docket Style and Number: Application of Wood County Electric Cooperative, Inc. to Amend an Electric Certificate of Convenience and Necessity for a Service Area Exception in Wood County. Docket Number 45376.

The Application: Wood County Electric Cooperative, Inc. (WCEC) filed an application for a service area boundary exception to allow WCEC to provide service to a specific customer located within the certificated service area of Upshur Rural Electric Cooperative Company (URECC). URECC has provided an affidavit of relinquishment for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than December 18, 2015, 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 telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45376.

TRD-201505219  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: December 1, 2015



#### Notice of Application for Service Area Exception

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on November 20, 2015, to amend a certificated service area for a service area exception within Wood County, Texas.

Docket Style and Number: Application of Wood County Electric Cooperative, Inc. to Amend an Electric Certificate of Convenience and Necessity for a Service Area Exception in Wood County. Docket Number 45368.

The Application: Wood County Electric Cooperative, Inc. (WCEC) filed an application for a service area boundary exception to allow WCEC to provide service to a specific customer located within the certificated service area of Upshur Rural Electric Cooperative Company (URECC). URECC has provided an affidavit of relinquishment for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than December 18, 2015, 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 telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45368.

TRD-201505220  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: December 1, 2015



#### Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on November 20, 2015, to amend a certificate of convenience and necessity for a proposed transmission line in Andrews and Martin Counties, Texas.

Docket Style and Number: Application of Oncor Electric Delivery Company LLC to Amend its Certificate of Convenience and Necessity for the McKenzie Draw - Texaco Mabee 138-kV Transmission Line in Andrews and Martin Counties, Docket Number 45323.

The Application: The application of Oncor Electric Delivery Company, LLC (Oncor) for a proposed 138-kV transmission line is designated as the McKenzie Draw-Texaco Mabee Transmission Line Project. The facilities include construction of a new 138-kV double-circuit transmission line connecting the proposed Oncor McKenzie Draw Switching Station to be located in Martin County approximately 26.5 miles northwest of Midland, Texas on the west side of U.S. Highway 349, and Oncor's existing Texaco Mabee 138-kV Substation located in Andrews County approximately 17 miles northwest of Midland, Texas.

The total estimated cost for the project is approximately \$21,665,125. The proposed project is presented with one route and is estimated to be approximately 15 miles in length. Any of the routes or route segments presented in the application could, however, be approved by the commission.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas 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. The deadline for intervention in this proceeding is January 4, 2016. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45323.

TRD-201505125  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: November 23, 2015

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**Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line**

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on November 24, 2015, to amend a certificate of convenience and necessity for a proposed transmission line in Dawson County, Texas.

Docket Style and Number: Application of Lyntegar Electric Cooperative, Inc. to Amend its Certificate of Convenience and Necessity for the North Lamesa 138-kV Transmission Line in Dawson County, Docket Number 45325.

The Application: The application of Lyntegar Electric Cooperative, Inc. for a proposed 138-kV transmission line located northwest of the city of Lamesa in Dawson County is designated as the North Lamesa 138-kV Transmission Line Project. The facilities include construction of a new 138-kV transmission line leading east and northeast from the existing West Lamesa Substation at the southwest end of the project area, to the proposed new North Lamesa Substation at the east end of the project area. The total estimated cost for the project ranges from approximately \$6,578,585 to \$7,356,518 depending on the route chosen.

The proposed project is presented with two alternate routes and is estimated to be approximately 9.8 to 11.7 miles in length. Any of the routes or route segments presented in the application could, however, be approved by the commission.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas 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. The deadline for intervention in this proceeding is January 8, 2016. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay

Texas by dialing 7-1-1. All comments should reference Docket Number 45325.

TRD-201505232  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: December 1, 2015

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**Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application to amend water and sewer certificates of convenience and necessity (CCN) in Burnet County.

Docket Style and Number: Application of City of Cottonwood Shores to Amend its Certificates of Convenience and Necessity in Burnet County, Docket Number 45369.

The Application: City of Cottonwood Shores filed an application to amend its water CCN No. 13185 and sewer CCN No. 21051 in Burnet County.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas 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. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45369.

TRD-201505251  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: December 2, 2015

◆ ◆ ◆  
**Texas Racing Commission**

**Notice of Deadline**

Pursuant to §3.13 of the Texas Racing Act, Texas Revised Civil Statutes Ann. Art. 179e, and Title 16, Texas Administrative Code, §309.299, the Executive Director for the Texas Racing Commission provides notice that January 22, 2016, is the deadline to request Commission recognition as the horsemen's representative organization.

Section 3.13 of the Texas Racing Act authorizes the Commission to recognize an organization to represent members of a segment of the racing industry, including owners, breeders, trainers, kennel operators, or other persons involved in the racing industry. In 16 TAC §309.299, the Commission has adopted criteria for being recognized as the organization to represent horse owners and trainers. This organization will be responsible for negotiating with each licensed racetrack regarding the racetrack's live racing programs, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, and the importing of simulcast signals during live race meetings.

To be eligible for recognition as the horsemen's representative organization, each officer and director of the organization during the two-year term of the recognition must be licensed by the Commission as an owner or trainer. The Commission will also review the experience and

qualifications of the organization's directors, executive officers, and management personnel, the organization's benevolence programs, and the degree to which the organization's membership represents a fair and equitable cross-section of the horse owners and trainers participating at each of the racetracks in this state. The organization is subject to audit by the Texas Racing Commission.

To request recognition, an organization must file a written request on a form prescribed by the Executive Director. To obtain a copy of the form or for more information, interested persons should contact Mark Fenner, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, (512) 833-6699, FAX (512) 833-6907.

TRD-201505157  
Mark Fenner  
General Counsel  
Texas Racing Commission  
Filed: November 24, 2015



## Teacher Retirement System of Texas

Report of Fiscal Transactions, Accumulated Cash and Securities, and Rate of Return on Assets and Actuary's Certification of Actuarial Valuation and Actuarial Present Value of Future Benefits

*(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the reports referred to in this document are not included in the print version of the Texas Register. The reports are available in the on-line version of the December 11, 2015, issue of the Texas Register.)*

Section 825.108(a) of the Government Code requires the Teacher Retirement System of Texas (TRS) to publish a report in the *Texas Register* no later than December 15 of each year containing the following information: (1) the retirement system's fiscal transactions for the preceding fiscal year; (2) the amount of the system's accumulated cash and securities; and (3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

In addition, §825.108(b) of the Government Code requires TRS to publish a report in the *Texas Register* no later than March 1 of each year containing the balance sheet of the retirement system as of August 31 of the preceding fiscal year and containing an actuarial valuation of the system's assets and liabilities, including the extent to which the system's liabilities are unfunded.

TRS has published the current reports in the on-line version of this issue as required by §825.108(a) and (b) of the Government Code.

These reports include the actuarial valuation of the Texas Public School Retired Employees Group Benefits Program (TRS-Care) dated August 31, 2015. This actuarial valuation was prepared for the purposes of complying with the requirements of Statements 43 and 45 of the Governmental Accounting Standards Board (GASB) and chapter 2266 of the Government Code, including Subchapter C of that chapter relating to Other Postemployment Benefits.

TRD-201505119  
Brian K. Guthrie  
Executive Director  
Teacher Retirement System of Texas  
Filed: November 20, 2015



## Texas State University System

## Notice of Request for Qualifications

### Indefinite Quantity Facilities Design and Construction

#### Program Management Services

The Texas State University System (TSUS), invites consultants experienced in providing program management services for planning, design and construction of facilities for Owner's System Office ("System Office") and its component institutions ("Components") on an hourly fee basis as needed by the Owner. Such services are expected to be required but are not limited to pre-project planning, estimating, programming, design, bid and construction phases of the project delivery process or any other service that is beneficial in the delivery of facilities. The Consultant will render these services both to the System Office and directly to a Component as needed, with no minimum or maximum amount of services specified. In particular, the Consultant must be prepared to assign at least one person with significant project planning and management experience to be available as needed to support the oversight efforts of the System Office. A contract with the selected firm will be issued as an indefinite quantity contract with a term expiring on August 31, 2018, and an option for the Owner to extend the contract for one additional year. The total value of the Contract will not exceed \$2,000,000; however, the Owner reserves the right to increase this limit with appropriate internal authorization.

Any firm intending to respond to this notice should obtain the Request for Qualifications No. 758-16-00035 and follow the instructions for responding contained therein. A copy of the RFQ may be downloaded from the *Electronic Business Daily* at <http://esbd.cpa.state.tx.us/>. Select "TX STATE UNIV SYST. BOARD OF REGENTS-758" from the drop-down menu.

The deadline for proposals is December 16, 2015, 3:00 p.m. (CST). The award date is anticipated to be on or before January 22 2016. TSUS reserves the right to accept or reject any or all proposals submitted. TSUS is under no legal or other obligation to execute a contract or agreement on the basis of this notice or the distribution of an RFQ. Neither this notice nor the RFQ commits TSUS to pay for any costs incurred prior to the award of a contract or agreement.

As provided in Texas Government Code, §22.54.028(c), The Chancellor, as chief executive officer of TSUS, has found that the consulting services sought pursuant to this notice are both reasonable and necessary to TSUS and its components. The System Office of TSUS, with a very limited staff, has the responsibility of managing \$500 million or more in construction projects at any given time at up to nine different locations. The Chancellor finds that System Office personnel can manage these projects in a cost-effective manner by utilizing the planning and construction expertise of consultants on an as-needed basis only. The alternative is to hire a permanent, full-time salaried employee and to pay benefits and other administrative costs occasioned by such a hire. The proposed structure (hiring a consultant for the duration of the task only) will allow TSUS to have the benefit of expertise that it could not reasonably expect to find in a salaried employee and to pay only for the services that it needs to support existing staff's administrative efforts. Moreover, staffing in the planning and construction area at the component institutions differs widely, and the Chancellor finds that the proposed consulting arrangement will be cost effective in providing assistance to components on an as-needed basis.

TRD-201505235  
Peter E. Graves  
Vice Chancellor for Contract Administration  
Texas State University System  
Filed: December 1, 2015



## Workforce Solutions Borderplex

### Request for Proposals #PY15-700-100a (Re-Release)

Workforce Solutions Borderplex is soliciting proposals from qualified vendor(s) for Fiscal Auditing Services. The Request for Proposals (RFP) #PY15-700-100A may be requested in writing or picked up in person after 9:00 a.m. MST on Wednesday, November 25, 2015, at the WSB's offices located at 300 E. Main, Suite 800, El Paso, Texas 79901. The RFP will also be available online at [www.borderplexjobs.com](http://www.borderplexjobs.com).

Questions may be submitted via email to [procurement@borderplexjobs.com](mailto:procurement@borderplexjobs.com) no later than 5:00 p.m. MST on December 10, 2015. Prospective bidders may submit a Notice of Intent to Bid no later than December 21, 2015, 4:00 p.m. Proposals to this RFP must be physically received by the Purchasing Department no later than 5:00 p.m. MST on Thursday, January 14, 2016.

Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: 711 (Voice/Voz) or 1-800-735-2989 (TTY) Igualdad de oportunidades de Empleo/Programas. Equipo auxiliar y servicios de apoyo están disponibles para personas con discapacidad al ser requeridos. Relay Texas: 711.

TRD-201505126  
Alondra McDuffie  
Purchasing Assistant  
Workforce Solutions Borderplex  
Filed: November 23, 2015



## How to Use the Texas Register

**Information Available:** The 14 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.

**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.

**Review of Agency Rules** - notices of state agency rules review.

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 40 (2015) is cited as follows: 40 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 "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION

#### Part 4. Office of the Secretary of State

#### Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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