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THE GOVERNOR

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

Appointments

Appointments for March 18, 2024

Appointed to the OneStar National Service Commission for a term to expire March 15, 2026, Jie Li of Austin, Texas (replacing Mary Grace Landrum of Houston, whose term expired).

Appointed to the OneStar National Service Commission for a term to expire March 15, 2026, James K. Senegal of Spring, Texas (Captain Senegal is being reappointed).

Appointed to the OneStar National Service Commission for a term to expire March 15, 2027, Marcos Delgado, Jr. of El Paso, Texas (Mr. Delgado is being reappointed).

Appointed to the OneStar National Service Commission for a term to expire March 15, 2027, Verlene S. Dickson of Amarillo, Texas (Sergeant Major Dickson is being reappointed).

Appointed to the OneStar National Service Commission for a term to expire March 15, 2027, Veronica M. "Ronnie" Hagerty, Ph.D. of Houston, Texas (Dr. Hagerty is being reappointed).

Appointed to the OneStar National Service Commission for a term to expire March 15, 2027, Daniel A. "Dan" Leal of Bastrop, Texas (Mr. Leal is being reappointed).

Appointed as the Independent Ombudsman for the Texas Juvenile Justice Department for a term to expire February 1, 2025, Robert S. "Sean" McClesky of San Antonio, Texas (replacing Jeffrey D. "JD" Robertson of Wimberley, whose term expired).

Appointments for March 19, 2024

Appointed as Presiding Judge of the Fifth Administrative Judicial Region for a term to expire four years from the date of qualification, Mary K. "Missy" Medary of Corpus Christi, Texas (Judge Medary is being reappointed).

Appointed as Presiding Judge of the Ninth Administrative Judicial Region for a term to expire four years from the date of qualification, Anahid E. "Ana" Estevez of Amarillo, Texas (Judge Estevez is being reappointed).

Appointments for March 20, 2024

Appointed to the Family Practice Residency Advisory Committee, for a term to expire August 29, 2026, Zoey Z. Wang of Houston, Texas (Ms. Wang is being reappointed).

Appointed to the Humanities Texas for a term to expire December 31, 2025, Stacey Neal Combest of Huntsville, Texas (Ms. Combest is being reappointed).

Appointed to the Humanities Texas for a term to expire December 31, 2025, Elizabeth S. Johnson of Harlingen, Texas (Ms. Johnson is being reappointed).

Appointed to the Humanities Texas for a term to expire December 31, 2025, Ellen K. Ramsey of Midland, Texas (Ms. Ramsey is being reappointed).

Appointed to the Board of Pilot Commissioners for Harris County Ports for a term to expire February 1, 2026, Bruce D. Oakley of Houston, Texas (Judge Oakley is being reappointed).

Greg Abbott, Governor

TRD-202401226



Proclamation 41-4099

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 17th day of March, 2024.

Greg Abbott, Governor

TRD-202401190



Proclamation 41-4100

TO ALL TO WHOM THESE PRESENTS SHALL COME:

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

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas, with the exception of Atascosa, Jasper, Lavaca, Newton, Orange, Sabine, San Augustine, Tyler, Wharton, and Wilson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Bandera, Bell, Bexar, Blanco, Burnet, Calhoun, Cameron, Comal, Comanche, Coryell, Culberson, Eastland, El Paso, Erath, Gillespie, Guadalupe, Hays, Hidalgo, Hudspeth, Jeff Davis, Kendall, Kerr, Lampasas, Llano, Maverick, McClellan, Medina, Presidio, Travis, Uvalde, Willacy, and Williamson Counties.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 17th day of March, 2024.

Greg Abbott, Governor

TRD-202401191



PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

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

TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 109. TRANSACTIONS EXEMPT FROM REGISTRATION

7 TAC §§109.1 - 109.8, 109.11, 109.13, 109.14, 109.17

The Texas State Securities Board proposes amendments to twelve rules in this chapter to make nonsubstantive changes. Specifically, the Board proposes amendments to §109.1, concerning Transactions Involving Existing Security Holders; §109.2, concerning Parent Subsidiary Transactions; §109.3, concerning Financial Institutions under the Texas Securities Act, §5.H; §109.4, concerning Securities Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors; §109.5, concerning Dealer Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors; §109.6, concerning Investment Adviser Registration Exemption for Investment Advice to Financial Institutions and Certain Institutional Investors; §109.7, concerning Secondary Trading Exemption under the Texas Securities Act, §5.O; §109.8, concerning Initial Offering Completed; §109.11, concerning Guarantee of Options; §109.13, concerning Limited Offering Exemptions; §109.14, concerning Oil, Gas, and Other Mineral Interests; and §109.17, concerning Banks under the Securities Act, §5.L. The amendments would be made pursuant to the agency's periodic review of its rules and make no substantive changes.

The references to sections of the Texas Securities Act (Act) in §§109.1 - 109.8, 109.11, 109.13, 109.14, and 109.17 would be updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. The captions of §§109.3, 109.7, and 109.17 would also be updated to refer to the codified version of the Act. The rest of the amendments would make other nonsubstantive and cleanup changes.

Section 109.1 would also be amended to replace the references to the term "Securities and Exchange Commission" with "SEC" and to abbreviate a cite to the Code of Federal Regulations found in subsection (d). SEC is already a defined term in §107.2, concerning Definitions. The Board has adopted an amendment to §107.2, concerning Definitions, to add "CFR" as a defined term, and the adoption notice for that amendment was submitted to the Texas Register concurrently with this proposal notice.

Sections 109.7(b), 109.8, 109.13, and 109.17 would also be amended to adjust the quotations to the Act in these provisions to be consistent with the codified Act.

Section 109.11 would also be amended to capitalize the term "Commissioner" for consistency.

Section 109.13 would also be amended to add a new definitions subsection in subsection (a) for use in this section, with the current text of that subsection being revised and reorganized into multiple paragraphs to incorporate the added definitions. Subsections (f), (g), and (h) of §109.13 would be renamed with more descriptive and precise captions.

The references to the term "Securities and Exchange Commission" found in §109.13(f)(1) and (l)(3) would also be replaced with "SEC," which is already a defined term in §107.2, concerning Definitions.

Section 109.13(l) would also be amended to add "of this subsection" to paragraphs (3), (4), and (5) of that subsection. Cross references in this section would also be corrected and conformed to the other proposed changes to this section.

Clint Edgar, Deputy Securities Commissioner, and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed rules are in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed rules.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed rules are in effect the public benefits expected as a result of adoption of the proposed rules will be (1) improved readability and clarity by updating terminology, quotations, and references; and (2) statutory compliance by ensuring the rules are current and accurate and that they conform to the codified version of the Act which would promote transparency and efficient regulation. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed rules will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rules as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed rules are in effect: they do not create or eliminate a government program; they do not require the creation or elimination of existing employee positions; they do not require an increase or decrease in future legislative appropriations to this agency; they do not require an increase or decrease in fees paid to this agency; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or negatively affect the state's economy. Additionally, the proposed amendments do not create

a new regulation, or expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed sections in the *Texas Register*. Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendments are proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022 (HB 4171). Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Additionally, §§109.3, 109.4, 109.8, and 109.14 are also proposed under the authority of the Texas Government Code, §4005.024, as also adopted by HB 4171, which provides that the Board may prescribe new exemptions by rule. Finally, §109.5 and §109.6 are also proposed under the authority of the Texas Government Code, §4004.001, as also adopted by HB 4171, which provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule.

The proposed amendments to §§109.4, 109.13, and 109.14 affect the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C. The proposed amendments to §§109.5, 109.6, and 109.14 affect Chapter 4004 of the Act. The proposed amendments to §§109.1 - 109.4, 109.7, 109.8, 109.11, 109.13, 109.14, and 109.17 affect Chapter 4005, Subchapter A of the Act.

§109.1. Transactions Involving Existing Security Holders.

(a) Section 4005.007 [Section 5-E] of the Act includes any offer and any transaction pursuant to any offer by the issuer of its "securities" to any one or more of its "existing security holders" even though such offer or transaction does not relate to all existing holders of such securities or to all existing holders of a class or series thereof.

(b) "Existing security holder" within the context of §4005.007 [section 5-E] does not include the following:

(1) - (2) (No change.)

(c) An employee's activities such as mailing reports, dividend notices, and revised prospectuses do not constitute "soliciting" within the context of §4005.007 [§5-E]. Furthermore, if an employee's job is fully justifiable even without soliciting existing security holders, occasional solicitations of existing security holders in this state will not affect the availability of §4005.007 [§5-E]. However, if an employee's primary job is to solicit existing security holders in this state either on a full-time or part-time basis, §4005.007 [§5-E] is not available.

(d) Where an open-end investment company adopts a plan pursuant to SEC [Securities and Exchange Commission] Rule 12b-1 (17 CFR §270.12b-1, as amended) [(47 Code of Federal Regulations §270.12b-1)] and funds are used to pay commissions or other remuneration for soliciting existing security holders in this state, §4005.007 [§5-E] is not available.

(e) Where an offering provides for a minimum investment and only a portion of such minimum is paid initially, §4005.007 [§5-E] is

not available for payments made subsequently to meet the required minimum investment.

§109.2. Parent Subsidiary Transactions.

Securities issued by a parent corporation for outstanding securities of a corporation in connection with a merger of such corporation into a wholly-owned or materially-owned (80%) subsidiary are exempt within the meaning of §4005.009 [§5-G] of the Act. The exemption also applies to the issuance of securities by the parent corporation in connection with a consolidation where the resulting new corporation is wholly-owned or materially-owned (80%) by the parent. Similarly, securities issued by a parent corporation for the purchase of assets for a wholly-owned or materially-owned (80%) subsidiary are exempt under §4005.009 [§5-G].

§109.3. Financial Institutions under the Texas Securities Act, §4005.011 [§5-H].

The term "savings institution," as used in the Texas Securities Act, §4005.011 [§5-H], includes any federally chartered credit union, savings and loan association, or federal savings bank, and any credit union or savings and loan association chartered under the laws of any state of the United States.

§109.4. Securities Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors.

(a) Availability. The exemption from securities registration provided by the Texas Securities Act, §4005.011 [§5-H], or this section is not available if the financial institution or other institutional investor named therein is in fact acting only as agent for another purchaser that is not a financial institution or other institutional investor listed in §4005.011 [§5-H] or this section. These exemptions are available only if the financial institution or other institutional investor named therein is acting for its own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the specific securities for which the seller is claiming the exemption.

(b) Sales to certain institutional investors. The State Securities Board, pursuant to the Act, §4005.024 [§5-F], exempts from the securities registration requirements of the Act, Chapter 4003, Subchapters A, B, and C [§7], the offer and sale of any securities to any of the following persons:

(1) - (3) (No change.)

(c) (No change.)

§109.5. Dealer Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors.

(a) Availability. The exemption from dealer and agent registration provided by the Texas Securities Act, §4004.001 [§5-H], or this section is not available if the financial institution or other institutional investor named therein is in fact acting only as agent for another purchaser that is not a financial institution or other institutional investor listed in §4005.011 [§5-H] or this section. These exemptions are available only if the financial institution or other institutional investor named therein is acting for its own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the specific securities for which the dealer or agent is claiming the exemption.

(b) Sales to certain institutional investors. The State Securities Board, pursuant to the Act, §4004.001 [§5-T and §12-C], exempts a person from the dealer and agent registration requirements of the Act, when the person sells or offers for sale any securities to any of the following persons:

(1) - (3) (No change.)

(c) (No change.)

§109.6. Investment Adviser Registration Exemption for Investment Advice to Financial Institutions and Certain Institutional Investors.

(a) Availability. The exemption from investment adviser and investment adviser representative registration provided by the Texas Securities Act, §4004.001 [§5-H], or this section is not available if the financial institution or other institutional investor named therein is in fact acting only as agent for another purchaser that is not a financial institution or other institutional investor listed in §4005.011 [§5-H] or this section. These exemptions are available only if the financial institution or other institutional investor named therein is acting for its own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the investment advisory services for which the investment adviser or investment adviser representative is claiming the exemption. For purposes of this section, an investment adviser or investment adviser representative that is providing investment advisory services to a corporation, general partnership, limited partnership, limited liability company, trust or other legal entity, other than a private fund (as that term is defined in §139.23 of this title (relating to Registration Exemption for Investment Advisers to Private Funds)), is not providing investment advisory services to a shareholder, general partner, member, other security holder, beneficiary or other beneficial owner of the legal entity unless the investment adviser provides investment advisory services to such owner separate and apart from the investment advisory services provided to the legal entity.

(b) Investment advice rendered to certain institutional investors. The State Securities Board, pursuant to the Act, §4004.001 [§5-F and §12-C], exempts from the investment adviser and investment adviser representative registration requirements of the Act, persons who render investment advisory services to any of the following:

(1) - (3) (No change.)

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

§109.7. Secondary Trading Exemption under the Texas Securities Act, §4005.019 [§5-Θ].

(a) When a withdrawal of an application for registration of securities is allowed and thereafter the applicant files for a secondary trading exemption under the Act, §4005.019 [§5-Θ], the Commissioner may, without a hearing, revoke or suspend the §4005.019 [§5-Θ] exemption. The applicant may either accept such action of the Commissioner or request a hearing under the Act, §4007.107 [§24].

(b) The language, ". . . at prices reasonably related to the current market price of the [such] securities at the time of the [such] sale," means that the market price of the security in the existing secondary market must have a basis supported by a substantial volume of bona fide sales transactions within or without this state. In the absence of a going market or where there have been only casual transactions, it shall be incumbent on the person filing the §4005.019 [§5-Θ] exemption notice to prove to the Commissioner that the securities will have a market price which has been fairly determined and justified at inception with reasonable assurance of continuity of the market into the future, pursuant to which the following criteria will be considered:

(1) - (7) (No change.)

(c) Sales of securities pursuant to the Securities Act, §4005.019 [§5-Θ], may be made by or through securities dealers acting either as principal or agent in the transaction for which the exemption is claimed.

(d) Financial information required pursuant to the Act, §4005.019(b)(9)(B)(ii) and (iii), [§5-Θ(9)(b) and (e)] must be prepared as certified financial statements (consolidated, if applicable) and shall include a balance sheet as of a date within 18 months of the date of

such sale and the related statements of income, changes in stockholders' equity, and changes in financial position for the three most recent fiscal years ending as of the balance sheet date, or for the period of the issuer's existence, if less than three years. Such financial statements should disclose dividends paid or declared by each class of stock, for each period for which an income statement is presented.

(e) The term "recognized securities manual" as used in the Texas Securities Act, §4005.019 [§5-Θ(9)(e)], is limited to Best Insurance Reports Life-Health, any Mergent's Manual, and the OTC Markets Group Inc. website (www.otcmarkets.com) for a company that is currently or has recently been quoted on the OTCQX or OTCQB markets. This designation encompasses both print and electronic data and includes periodic supplements to these publications. The information provided in the recognized securities manual must contain the information specified in subsection (d) of this section. All information provided must be current. The time for determining whether the entries are current is at the date of the particular sale, not the date the manual listings are published. If a listing is not continually updated, the exemption would not be available once the published balance sheet becomes more than 18 months old.

(f) The secondary trading exemption under the Act, §4005.019 [§5-Θ], is not available for the securities of an issuer formed in a manner that constitutes part of a scheme to violate or evade the securities registration provisions of the Act. Depending upon all the facts and circumstances, such a scheme may include the merger of a private corporation with a corporation which has no substantive operations or assets ("shell corporation") when as a result of the merger trading in the secondary market of the shares of the post-merger corporation may be at prices which bear no relationship to the underlying financial condition or operations of the post-merger corporation, and such trading may occur within two years of the date of such merger.

§109.8. Initial Offering Completed.

The phrase "initial offering of the [such] securities has been completed," used in §4005.020 [section 5-P] of the Act, means that any nonexempt public distribution of such securities has been completely sold to the public.

§109.11. Guarantee of Options.

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

(d) In lieu of the three requirements in subsections (a) - (c) [(a)-(e)] of this section, the section 4005.023(b)(1) and (b)(2) [section 5-S(4)] guarantee requirements will be satisfied if the option is issued by a clearing corporation recognized by the State Securities Board as satisfying all the following standards.

(1) - (2) (No change.)

(3) The clearing corporation must be registered as a national clearing agency under the Securities Exchange Act of 1934, as amended, and must file with the Commissioner [eommissioner] a copy of the prospectus respecting such option currently being delivered pursuant to the requirements of the Securities Act of 1933, as amended, and further must agree to promptly file with the Commissioner [eommissioner] a copy of any amendments of such prospectus.

(4) - (5) (No change.)

(e) (No change.)

§109.13. Limited Offering Exemptions.

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. [Public solicitation, well-informed, and sophisticated investor. The offer for sale or sale of the securities of the issuer would not

involve the use of public solicitation under the Act, §5-I, if the issuer, after having made a reasonable factual inquiry has reasonable cause to believe, and does believe, that the purchasers of the securities are sophisticated, well-informed investors or well-informed investors who have a relationship with the issuer or its principals, executive officers, or directors evincing trust between the parties (namely close business association, close friendship, or close family ties); and such purchasers acquire the securities as ultimate purchasers and not as underwriters or conduits to other beneficial owners or subsequent purchasers. The use of a registered dealer in a sale otherwise meeting the requirements of §5-I does not necessarily mean that the transaction involves the use of public solicitation. The offer without advertising to a person who did not come within the class of persons described in this subsection does not alone result in public solicitation if the issuer had a reasonable cause to believe and did believe that such person fell within the class of persons described, and that such offer was not made indiscriminately.]

(1) Private Offering Exemptions. The term "Private Offering Exemptions" refers to §4005.012 and §4005.013 of the Act. [The term "well-informed" could be satisfied through the dissemination of printed material to each purchaser prior to his or her purchase, which by a fair and factual presentation discloses the plan of business, the history, and the financial statements of the issuer, including material facts necessary in order that the statements made, in the light of circumstances under which they are made, not be misleading.]

(2) Limited Offering Exemptions. The term "Limited Offering Exemptions" refers to the two limited offering exemptions found in subsections (a)(1) and (a)(2) of §§4005.012 of the Act. The term "Limited Offering Exemption (a)(1)" refers to the exemption in subsection (a)(1) of §4005.012 of the Act, and the term "Limited Offering Exemption (a)(2)" refers to the exemption in subsection (a)(2) of §4005.012 of the Act. [In determining who is a sophisticated investor at least the following factors should be considered:]

{(A) The financial capacity of the investor, to be of such proportion that the total cost of that investor's commitment in the proposed investment would not be material when compared with his total financial capacity. It may be presumed that if the investment does not exceed 20% of the investor's net worth (or joint net worth with the investor's spouse) at the time of sale that the amount invested is not material.}

{(B) Knowledge of finance, securities, and investments, generally. This criteria may be met by the investor's purchaser representative if such purchaser representative has such knowledge, so long as such purchaser representative:}

{(i) has no business relationship with the issuer;}

{(ii) represents only the investor and not the issuer;}

and]

{(iii) is compensated only by the investor.}

{(C) Experience and skill in investments based on actual participation. This criteria may be met by the investor's purchaser representative if such purchaser representative has such experience and skill, so long as such purchaser representative:}

{(i) has no business relationship with the issuer;}

{(ii) represents only the investor and not the issuer;}

and]

{(iii) is compensated only by the investor.}

(3) Registration Sections. The term "Registration Sections" refers to Subchapters A, B, and C of Chapter 4003 of the Act.

(4) Public solicitation. The offer for sale or sale of the securities of the issuer would not involve the use of public solicitation under the Private Offering Exemptions if the issuer, after having made a reasonable factual inquiry has reasonable cause to believe, and does believe, that the purchasers of the securities are sophisticated, well-informed investors or well-informed investors who have a relationship with the issuer or its principals, executive officers, or directors evincing trust between the parties (namely close business association, close friendship, or close family ties), and such purchasers acquire the securities as ultimate purchasers and not as underwriters or conduits to other beneficial owners or subsequent purchasers. The use of a registered dealer in a sale otherwise meeting the requirements of either §4005.0012 or §4005.013 does not necessarily mean that the transaction involves the use of public solicitation. The offer without advertising to a person who did not come within the class of persons described in this subsection does not alone result in public solicitation if the issuer had a reasonable cause to believe and did believe that such person fell within the class of persons described, and that such offer was not made indiscriminately.

(5) Well informed. The term "well-informed" could be satisfied through the dissemination of printed material to each purchaser prior to his or her purchase, which by a fair and factual presentation discloses the plan of business, the history, and the financial statements of the issuer, including material facts necessary in order that the statements made, in the light of circumstances under which they are made, not be misleading.

(6) Sophisticated investor. In determining who is a sophisticated investor at least the following factors should be considered.

(A) The financial capacity of the investor, to be of such proportion that the total cost of that investor's commitment in the proposed investment would not be material when compared with his total financial capacity. It may be presumed that if the investment does not exceed 20% of the investor's net worth (or joint net worth with the investor's spouse) at the time of sale that the amount invested is not material.

(B) Knowledge of finance, securities, and investments, generally. This criteria may be met by the investor's purchaser representative if such purchaser representative has such knowledge, so long as such purchaser representative:

(i) has no business relationship with the issuer;

(ii) represents only the investor and not the issuer;

and

(iii) is compensated only by the investor.

(C) Experience and skill in investments based on actual participation. This criteria may be met by the investor's purchaser representative if such purchaser representative has such experience and skill, so long as such purchaser representative:

(i) has no business relationship with the issuer;

(ii) represents only the investor and not the issuer;

and

(iii) is compensated only by the investor.

(b) Advertisements. The term "advertisements" does not include the use of the type of printed material as set out in subsection (a) of this section under the discussion of the term "well-informed." Further, the main concept to be considered in a definitional analysis of the term "advertisements," as it is used in the Private Offering Exemptions [§5-I,] is the method of use of the printed material. The following circumstances, though not intended to be exclusive, will be considered

in determining whether the method of use of any printed material is within the limits of the Private Offering Exemptions [§5-I]:

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

(c) Number of security holders or purchasers of securities. In computing the number of purchasers or security holders for the Private Offering Exemptions [§5-I], the following criteria shall be used.

(1) (No change.)

(2) There shall be counted as one purchaser or security holder any corporation, partnership, association, joint stock company, trust, or unincorporated association, organized and existing other than for the purpose of acquiring securities of the issuer for which the exemption is claimed under the Private Offering Exemptions [§5-I].

(3) Any general partner of a limited partnership who is subject to general liability for the obligations of the limited partnership and actively engages in the control and management of the business and affairs of the limited partnership or of the managing general partner of the partnership shall not be counted as a purchaser or security holder for purposes of the Private Offering Exemptions [§5-I].

(4) The Limited Offering Exemptions [exemptions contained in the Act, §5-I(a) and (e)], as interpreted in subsections (a) - (j) of this section may not be combined with the exemptions promulgated pursuant to the Act, §4005.024 [§5-F], contained in subsections (k) and (l) of this section to exceed sales to 35 unaccredited investors in a 12-month period.

(5) "Security holders" or "purchasers of securities," as those terms are used in the Limited Offering Exemptions [Aet, §5-I(a) and 5-I(e)], do not include holders of any options granted pursuant to a plan that falls within the exemption for compensatory or benefit plans provided by §4005.013 of the Act[, §5-I(b)].

(d) Total number of security holders. The phrase "the total number of security holders of the issuer" in the Limited Offering Exemption (a)(1) [§5-I(a)] includes all security holders of the issuer without regard to their places of residence (within or without the State of Texas) and without regard to where they acquired the securities. In determining the number of persons for purposes of the Limited Offering Exemption (a)(2) [§5-I(e)], prior sales to persons residing outside the State of Texas and prior sales to Texas residents consummated outside the State of Texas shall be included unless such sales were made in compliance with §139.7 of this title (relating to Sale of Securities to Nonresidents).

(e) Other exemptions. The phrase "exempt under another provision of this subchapter [other provisions of this §5]" in §4005.012(b)(1) [§5-I(e)] means exempt under any provisions of the Act, other than the Limited Offering Exemption subsection (a)(1) of this section [§5-I(a)], and subsections (k) and (l) of this section.

(f) Compensation plans and contracts exemption found in §4005.013 of the Act [Compensatory or benefit plans].

(1) No public solicitation or advertisement under §4005.013 of the Act [§5-I] occurs by the distribution to eligible persons of a prospectus filed under the Securities Act of 1933 with the SEC [Securities and Exchange Commission] for the plan or any other material required or permitted to be distributed by the Securities Act of 1933 in connection with such plan when the securities under the plan are sold or distributed in a transaction otherwise meeting the requirements of §4005.013 [§5-I(b)].

(2) Insurance agents who are exclusive agents of the issuer or its subsidiary or derive more than 50% of their annual income from

the issuer or its subsidiary are deemed "employees" as that term is used in §4005.013 [§5-I(b)].

(g) Sales made under §4005.013 of the Act. [Compensatory or benefit plan sales.] Only the employer and its participating subsidiaries, parents, or subsidiaries of such parents, if any, may offer or sell securities in connection with the employee plan without registration as dealers. For purposes of §4005.013 of the Act. [§5-I(b)], the term "issuer" includes a general partner of a limited partnership with respect to a security sold or distributed by such limited partnership in a transaction otherwise meeting the requirements of §4005.013 of the Act [§5-I(b)]. An employee of the issuer or its participating subsidiary who aids in offering or selling such securities in connection with the plan is not required to be registered as an agent provided the employee meets all of the following conditions:

(1) - (3) (No change.)

(h) Section 4005.013 [Compensatory or benefit] plans for counting purposes. A noncontributory stock ownership plan or stock ownership trust that holds securities of the issuer for the benefit of the participants in that issuer's plan shall be counted as one security holder under the Limited Offering Exemption in (a)(1) of this section [§5-I(a)]. Plan participants in such a stock ownership plan or trust will not be deemed security holders of the issuer for purposes of counting security holders under the Limited Offering Exemption in (a)(1) of this section [§5-I(a)] solely because of their participation in the plan or trust. However, participants receiving distributions of securities from the plan or trust will be deemed security holders of the issuer on receipt of securities of the issuer from the plan or trust.

(i) Notices. There is no notice filing requirement for sales made under the Private Offering Exemptions [the Act, §5-I(a), (b), or (e)].

(j) (No change.)

(k) Limited offering exemption coordinating with SEC Regulation D, Rule 506. In addition to sales made under the Private Offering Exemptions [Texas Securities Act, §5-I], the State Securities Board, pursuant to the Act, §4005.024 [§5-F], exempts from the registration requirements of the Registration Sections [Aet, §7], any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D (17 C.F.R. §§230.500-230.508, as amended), Rule 506, including any offer or sale made exempt by application of Rule 508(a), and which satisfies the following further conditions and limitations.

(1) - (5) (No change.)

(6) When an offering is made in compliance with Regulation D of the SEC and the offering will be made by or through a registered securities dealer, the issuer and its directors, officers, agents, and employees may make themselves available to answer questions from offerees, as required by Rule 502(b)(2)(v) of Regulation D, without being required to register as securities dealers or agents under Chapter 4004 of the Act[, §12].

(l) Intrastate limited offering exemption. In addition to sales made under the Private Offering Exemptions [Texas Securities Act, §5-I], the State Securities Board, pursuant to the Act, §4005.024 [§5-F], exempts from the registration requirements of the Registration Sections [Aet, §7], any offer or sale of any securities by the issuer itself, or by a registered dealer acting as agent for the issuer provided all offers and sales are made pursuant to an offering made and completed solely within this state and all the conditions in paragraphs (1) - (11) of this subsection are satisfied.

(1) The sale is made, without the use of any public solicitation or advertisements, as set forth in subsections [subsection] (a) and [subsection] (b) of this section to:

(A) (No change.)

(B) other well-informed investors who are "accredited investors" as defined in §107.2 of this title (relating to Definitions). (For purposes of this subsection, the term "well informed" shall have the same meaning as set out in subsection (a)(5) [(a)(4)] of this section, and the term "Private Offering Exemptions" ["5-F"] in such subsection shall include sales made pursuant to this subsection.)

(2) (No change.)

(3) The prohibitions of subparagraphs (A) - (C) of paragraph (2) of this subsection shall not apply if the party subject to the disqualifying order is duly licensed to conduct securities-related business in the state in which the administrative order or judgment was entered against such party or, if the order or judgment was entered by federal authorities, the prohibitions of subparagraphs (A) - (C) of paragraph (2) of this subsection shall not apply if the party subject to the disqualifying order is duly licensed to conduct securities-related business by the SEC [Securities and Exchange Commission]. Any disqualification caused by paragraph (2) of this subsection is automatically waived if the state or federal authorities which created the basis for disqualification determine upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

(4) For purposes of paragraphs (2) and (3) of this subsection only, "issuer" includes any directors, executive officers, general partners, or beneficial owners of 10% or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote and/or the power to dispose or direct the disposition of such securities), and "registered dealer" shall include any partners, directors, executive officers, or beneficial owner of 10% or more of any class of the equity securities of the registered dealer (beneficial ownership meaning the power to vote or direct the vote and/or the power to dispose or direct the disposition of such securities).

(5) Upon application, and for good cause shown, the Commissioner may waive a disqualification contained in paragraph (2) of this subsection.

(6) The offering complies with subsections (a) - (d) and (j) of this section. However, persons who are "accredited investors" as defined in §107.2 of this title are deemed to be "sophisticated" as defined in subsection (a)(6) [(a)(2)] of this section.

(7) This subsection may not be combined with either of the Limited Offering Exemptions [the Securities Act, §5-I(a) or §5-I(e)], or subsection (k) of this section to make sales to more than 35 unaccredited security holders during a 12-month period. Except for accredited investors who became security holders pursuant to this subsection, security holders who purchase in sales made in compliance with this subsection are included in the count of security holders under the Limited Offering Exemption subsection (a)(1) of this section [under §5-I(a)] or purchasers under the Limited Offering Exemption subsection(a)(2) of this section [§5-I(e)], but this subsection may be used to exceed the numbers of security holders or purchasers allowed by such sections over an extended period of time.

(8) - (9) (No change.)

(10) Accredited investor security holders who purchase in sales made under this exemption are not counted as security holders under the Limited Offering Exemption subsection (a)(1) of this section [§5-I(a)] or purchasers under the Limited Offering Exemption (a)(2) [§5-I(e)] in determining whether any other sales to other security hold-

ers or purchasers are exempt under the Private Offering Exemptions [§5-I]. That is to say, this exemption for sales to accredited investors is cumulative with and in addition to the Private Offering Exemptions [exemptions contained in §5-I], and sales made under paragraph (1)(B) of this subsection are not considered in determining whether sales made in reliance on the exemptions contained in the Private Offering Exemptions [§5-I] would be within the numerical limits on the number of security holders or purchasers contained in the Private Offering Exemptions [§5-I].

(11) (No change.)

§109.14. Oil, Gas, and Other Mineral Interests.

(a) It is the intent of the State Securities Board that §109.13(a) - (c) and (j) of this title (relating to Limited Offering Exemptions) apply to transactions made pursuant to the Securities Act, §4005.021 [§5-Q], and that the terms defined in §109.13(a) - (c) and (j) of this title [(relating to Limited Offering Exemptions)] have the same meanings for purposes of §4005.021 [§5-Q] as they do for exemptions set forth in §4005.012 and §4005.013 of the Securities Act[, §5-I].

(b) For the purposes of §4005.021 [§5-Q], an employee of the owner of an oil, gas, or mineral lease, fee, or title may aid such owner/employer in selling interests in such lease, fee, or title and will not be considered an agent required to be licensed under the Act provided all the following conditions are satisfied:

(1) - (3) (No change.)

(c) In addition to sales made under the Securities Act, §4005.021 [§5-Q], the State Securities Board, pursuant to the Act, §4005.024 [§5-F], exempts from the registration requirements of the Act, Chapter 4003, Subchapters A, B, and C [§7], the sale of interests in and under oil, gas, and mining leases, fees, or titles, or contracts relating thereto (hereinafter called securities), by the owner itself, or by a registered dealer acting as agent for the owner, provided all of the conditions of §109.13(k) or (l) of this title [(relating to Limited Offering Exemptions)] are met. The purpose of this subsection is to provide a mechanism which will allow for sales of the securities listed herein to accredited investors where the conditions of §109.13(k) or (l) of this title [(relating to Limited Offering Exemptions)] are met.

(d) Exemption for transactions among persons in the oil and gas industry.

(1) In addition to offers and sales made pursuant to the Act, §4005.021 [§5-Q], the State Securities Board, pursuant to the Act, §4005.024 [§5-F], exempts from the securities registration requirements of the Act, Chapter 4003, Subchapters A, B, and C [§7], and the dealer and agent registration requirements of the Act, Chapter 4004 [§12 and §18], the offer and sale of any interest in or under an oil, gas, or mining lease, fee, or title, or payments out of production in or under such leases, fees, or titles or contracts relating thereto by the owner or an agent for the owner when such offer or sale is made to persons and/or companies each of whom the owner or owner's agent shall have reasonable cause to believe and does believe meets the following criteria:

(A) - (C) (No change.)

(2) (No change.)

(3) For purposes of this rule, an "agent for the owner" includes the following:

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

(C) persons who meet the dealer registration requirements of Chapter 4004 of the Securities Act[, §12]; and

(D) (No change.)

(4) (No change.)

(e) Any person who acts as an agent of an owner or a purchaser in connection with a sale of an interest described in subsection (d) of this section to a person who does not meet the criteria set forth in subsection (d)(1)(A) - (C) of this section will not be exempt from the dealer registration requirements of Chapter 4004 of the Act[; §12.] unless another exemption is available.

§109.17. *Banks under the Securities Act, §4005.016 [§5-L].*

(a) The phrase "a [any] savings and loan association organized and subject to regulation under the laws of this State" shall include any Texas state chartered savings bank.

(b) The phrase "a [any] federal savings and loan association" shall include any federally chartered savings bank.

(c) The phrase "a [any] bank organized and subject to regulation [; ;] under the laws of . . . [any State or territory of the United States]" shall include any Texas state chartered limited banking association.

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 March 18, 2024.

TRD-202401195

Travis J. Iles

Securities Commissioner

State Securities Board

Earliest possible date of adoption: April 28, 2024

For further information, please call: (512) 305-8303



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

SUBCHAPTER B. AMY YOUNG BARRIER REMOVAL PROGRAM

10 TAC §§26.20 - 26.28

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund Rule, Subchapter B, Amy Young Barrier Removal Program. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption

making changes to an existing activity, administration of the Amy Young Barrier Removal Program.

2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The proposed repeal does not require additional future legislative appropriations.

4. The proposed repeal does not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration the Texas Housing Trust Fund.

7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The proposed repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed chapter would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed chapter.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has also determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 29, 2024, to May 2, 2024, to receive input on the proposed repealed chapter. Written comments may

be submitted to the Texas Department of Housing and Community Affairs, Attn: Erin Mikulenska, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email erin.mikulenska@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Central time, May 2, 2024.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed chapter affects no other code, article, or statute.

§26.20. *Amy Young Barrier Removal Program Purpose.*

§26.21. *Amy Young Barrier Removal Program Definitions.*

§26.22. *Amy Young Barrier Removal Program Geographic Dispersion.*

§26.23. *Amy Young Barrier Removal Program Administrative Requirements.*

§26.24. *Amy Young Barrier Removal Program Reservation System Requirements.*

§26.25. *Amy Young Barrier Removal Program Household Eligibility Requirements.*

§26.26. *Amy Young Barrier Removal Program Property Eligibility Requirements.*

§26.27. *Amy Young Barrier Removal Program Construction Requirements.*

§26.28. *Amy Young Barrier Removal Program Project Completion Requirements.*

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 March 15, 2024.

TRD-202401163

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 28, 2024

For further information, please call: (512) 483-1148



10 TAC §§26.20 - 26.28

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 26, Texas Housing Trust Fund Rule, Subchapter B, Amy Young Barrier Removal Program, §§26.20 - 26.28. The purpose of the proposed new chapter is to implement a more germane rule and better align administration to state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed rule does not create or eliminate a government program, but relates to the re adoption of this rule which makes changes to administration of the Texas Housing Trust Fund.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed new rule changes do not require additional future legislative appropriations.
4. The proposed new rule changes will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.
5. The proposed new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed new rule will not expand or repeal an existing regulation.
7. The proposed new rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this proposed new rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.111.

1. The Department has evaluated this proposed new rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. There are approximately 20 rural communities currently participating in the Texas Housing Trust Fund that are subject to the proposed new rule for which no economic impact of the rule is projected during the first year the rule is in effect.
3. The Department has determined that because the proposed new rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed new rule does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the proposed new rule will be in effect the proposed

rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that participation in the programs funded with the Texas Housing Trust Fund is at the discretion of the eligible subrecipients, there are no "probable" effects of the proposed new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the proposed new rule is in effect, the public benefit anticipated as a result of the rule will be a more germane rule that better aligns administration to state requirements. There will not be any economic cost to any individuals required to comply with the proposed new rule because the processes described by the rule have already been in place through the rule found at this chapter being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has also determined that for each year of the first five years the proposed new rule is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 29, 2024, to May 2, 2024, to receive input on the proposed new chapter. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Erin Mikulenka, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220, or email erin.mikulenka@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Central time, May 2, 2024.

STATUTORY AUTHORITY. The new chapter is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new chapter affects no other code, article, or statute.

§26.20. Amy Young Barrier Removal Program Purpose.

The Amy Young Barrier Removal Program (the Program or AYBRP) provides one-time grants in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grant limits per household will be identified in the Notice of Funding Availability (NOFA). Grants are for home modifications that increase accessibility and eliminate substandard conditions.

§26.21. Amy Young Barrier Removal Program Definitions.

The following words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26, Subchapter A of this title (relating to General Guidance).

(1) Administrative Fee--Funds equal to 10% of the Project Costs (combined Hard and Soft Costs) paid to an Administrator upon completion of a project.

(2) Hard Costs--Site-specific costs incurred during construction, including, but not limited to: general requirements, building permits, jobsite toilet rental, dumpster fees, site preparation, demolition, construction materials, labor, installation equipment expenses, etc.

(3) Household Assistance Contract--A written agreement between the Department and Administrator that memorializes the term of the commitment of funds for a specific activity.

(4) Low-Income--Household income calculated in accordance with the Program Manual that does not exceed the greater of 80% of the Area Median Family Income or 80% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

(5) Project Costs--Program funds (combined Hard and Soft Costs) that directly assist a Household.

(6) Reservation System Participant (RSP)--Administrator who has executed a written Agreement with the Department that allows for participation in the Reservation System.

(7) Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs.

§26.22. Amy Young Barrier Removal Program Geographic Dispersion.

(a) The process to promote geographic dispersion of program funds is as described in this subsection:

(1) For a published period not less than 30 days and in accordance with the NOFA, each state region will be allocated funding amounts for its rural and urban subregions. During this initial period, these funds may be reserved only for Households located in these rural and urban subregions;

(2) After the initial release of funds under paragraph (1) of this subsection, each state region will combine any remaining funds from its rural and urban subregions into one regional balance for a second published period not to exceed 90 calendar days. During this second period, these funds may be reserved only for Households located in that state region; and

(3) After no more than 180 calendar days following the initial release date, any funds remaining across all state regions will collapse into one statewide pool. For as long as funds are available, these funds may be reserved for any Households anywhere in the state on a first-come, first-served basis.

(b) If any additional funds beyond the original program allocations that derive from Texas HTF loan repayments, interest earnings, deobligations, and/or other Texas HTF funds in excess of those funds required under Rider 8 or the Department's appropriation made under the General Appropriations Act may be reprogrammed at the discretion of the Department.

§26.23. Amy Young Barrier Removal Program Administrative Requirements.

(a) To participate in the Program, an eligible participant must first be approved as an Administrator by the Department through the submission of a Reservation System Access Application. Eligible participants include, but are not limited to: Colonia Self-Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; Coun-

cils of Government; Units of Local Government; Nonprofit Organizations; Local Mental Health Authorities; and Public Housing Authorities. An eligible participant may be further limited by NOFA.

(b) The Department will produce an Application to satisfy the requirements for an eligible participant to apply to become an AYBR Administrator. The application will be available on the Department's website. Applications to access the Reservation System will include, at a minimum, criteria listed in paragraphs (1) - (7) of this subsection.

(1) A Nonprofit Organization must submit a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective throughout the term of the RSP Agreement to access the Reservation System.

(2) A private Nonprofit Organization must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the State of Texas.

(3) The Applicant must demonstrate at least two years of capacity and experience in housing rehabilitation in Texas. The Applicant will be required to provide a summary of experience that must describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing rehabilitation. It must also describe organizational knowledge and experience in serving Persons with Disabilities.

(4) The Applicant must provide evidence of adherence to applicable financial accountability standards, demonstrated by an audited financial statement by a Certified Public Accountant for the most recent fiscal year. For a Nonprofit Organizations that does not yet have audited financial statements, the Department may accept a resolution from the Board of Directors that is signed and dated within the six months preceding the Application and that certifies that the procedures used by the organization conform to the requirements in 10 TAC §1.402 (relating to Cost Principles and Administrative Requirements), and that the organization has adopted generally accepted accounting procedures that conform to Governmental Accounting Standards Board (GASB) or the Financial Accounting Standards Board (FASB), as applicable.

(5) The Applicant must submit a resolution from the Applicant's direct governing body that authorizes the submission of the Application and is signed and dated within the six months preceding the date of application submission. The resolution must include the name and title of the individual authorized to execute an RSP Agreement.

(6) The Applicant's history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter C, §1.302 and §1.303, (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter, and Executive Director Review, respectively). Access to funds may be subject to terms and conditions.

(7) If applicable, the Applicant must submit copies of executed contracts with consultants or other organizations that are assisting in the implementation of the applicant's AYBR Program activities. The Applicant must provide a summary of the consultant or other organization's experience in housing rehabilitation and/or serving Persons with Disabilities.

(c) Administrators must follow the processes and procedures as required by the Department through its governing statute (Chapter 2306 of the Government Code), Administrative Rules (Texas Administrative Code, Title 10, Part 1), Reservation Agreement, Program Manual, forms, and NOFA.

§26.24. Amy Young Barrier Removal Program Reservation System Requirements.

(a) Terms of Agreement. The term of an RSP Agreement will not exceed the lesser of 36 months, or the term limitation defined in the NOFA. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this chapter in effect as of the date of submission by the Administrator.

(b) Limit on Number of Reservations. The limitation on the number of Reservations will be established in the NOFA.

(c) Administrator must remain in good standing with the Department and the state of Texas. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

(d) Reservations will be processed in the order submitted on the Reservation System. Submission of a Reservation consisting of support documentation on behalf of a Household does not guarantee funding.

(e) Reservations may be submitted in stages, and shall be processed through each stage as outlined in the Program Manual. All stages must be completed on or before the expiration of the Household Assistance Contract.

(f) Administrator must submit a substantially complete request for each stage of the Reservation as outlined in the Program Manual. Administrators must upload all required information and verification documentation in the Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of 14 calendar days beginning at the start of the first day following the date the Administrator is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests shall not constitute a Reservation of Funds.

(g) If a Household is determined to be eligible for assistance from the Department, the Department will issue a Household Assistance Contract reflecting the maximum award amount permitted under the NOFA in Project Costs and an Administrative Fee equal to 10% of the combined Hard and Soft costs in the Contract System on behalf of the Household, funding permitting. The term of the Household Assistance Contract may not exceed 12 months unless amended in accordance with this Subchapter.

(h) Amendments to Household Assistance Contracts may be considered by the Department provided the approval does not conflict with the state regulations governing use of these funds, or impact obligation or expenditure deadlines. The Executive Director's authorized designee may approve an amendment that:

(1) extends the term of a Household Assistance by not more than three months;

(2) extends the draw period by not more than three months after the expiration of the Household Assistance Contract; or

(3) increases Project funds within the limitations set forth in this Chapter.

(i) The Executive Director may approve amendments to a Household commitment contract, except amendments to extend the contract term of a Household Assistance contract by more than 12 months.

§26.25. Amy Young Barrier Removal Program Household Eligibility Requirements.

(a) At least one Household member shall meet the definition of Persons with Disabilities.

(b) The assisted Household must be qualified as Low-Income.

(c) The assisted Household's liquid assets shall not exceed \$25,000. Liquid assets are considered to be cash deposited in checking or savings accounts, money markets, certificates of deposit, mutual funds, or brokerage accounts; the net value of stocks or bonds that may be easily converted to cash; and the net cash value calculated utilizing the appraisal district's market value for any real property that is not a principal residence. Funds in tax deferred accounts for retirement or education savings, including but not limited to Individual Retirement Accounts, 401(k)s, 529 plans, and whole life insurance policies are excluded from the liquid assets calculation.

(d) The Household may be ineligible for the program if there is debt owed to the State of Texas, including a tax delinquency; a child support delinquency; a student loan default; or any other delinquent debt owed to the State of Texas.

§26.26. Amy Young Barrier Removal Program Property Eligibility Requirements.

(a) Owner-occupied homes are eligible for Program assistance. In owner-occupied homes, the owner of record must reside in the home as their permanent residence unless otherwise approved by the Department. If the property is family-owned and the owner of record is deceased or not a Household member, the Department may deem the property renter-occupied unless satisfactory documentation is provided to the Department that confirms otherwise.

(b) Certain rental units are eligible for Program assistance and must meet the following requirements:

(1) In rental units, all Household occupants, including the Person with Disability, must be named on the Program intake application and household income certification.

(2) The owner of record for the property shall provide a statement allowing accessibility modifications to be made to the property.

(c) The following rental properties are ineligible for Program assistance:

(1) Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;

(2) Rental units in properties that are financed with any federal funds or that are subject to 10 TAC Chapter 1, Subchapter B, §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973);

(3) Rental units that have substandard and unsafe conditions identified in the initial inspection. Program funds may not be used to correct substandard or unsafe conditions in rental units, but may be used for accessibility modifications only after the substandard and unsafe conditions have been corrected at the property owner's expense; or

(4) Rental units owned by a property owner who is delinquent on property taxes associated with the property occupied by the Household.

§26.27. Amy Young Barrier Removal Program Construction Requirements.

(a) Inspections.

(1) Initial inspection arranged by the Administrator is required and must identify the accessibility modifications needed by the

Person with Disability; assess and document the condition of the property; and identify all deficiencies that constitute life-threatening hazards and unsafe conditions.

(2) Final inspection arranged by the Administrator is required and must verify, assess, and document that all construction activities have been repaired, replaced, and/or installed in a professional manner consistent with all applicable building codes and Program requirements, and as required in the Work Write-Up as described in subsection (e) of this section.

(b) A Manufactured Housing Unit may be eligible for Program assistance if it was constructed on or after January 1, 1995. The Department may allow Manufactured Housing Units older than January 1, 1995, to receive only exterior accessibility modifications (i.e., ramps, handrails, concrete flatwork) as long as the Administrator can verify that the unit itself will be free of hazardous and unsafe conditions.

(c) Construction standards.

(1) Administrator must follow all applicable sections of local building codes and ordinances, pursuant to Section 214.212 of the Local Government Code. Where local codes do not exist, the 2015 International Residential Code (IRC), including Appendix J for Existing Buildings and Structures, is the applicable code for the Program.

(2) Accessibility modifications shall be made with consideration to 2010 American Disability Act (ADA) Standards, but may vary from the ADA Standards in order to meet specific accessibility needs of the household as requested and agreed to by the assisted household.

(3) Administrators must adhere to Chapter 21 of this title, (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities).

(4) Administrators and subcontractors must honor a twelve-month warranty on all completed items in their scope of work.

(d) Life-threatening hazards and unsafe conditions.

(1) Administrators may make repairs to eliminate life-threatening hazards and correct unsafe conditions in the Single-Family Housing as long as no more than 25% of the Project Hard Costs budget is utilized for this purpose, unless otherwise approved by the Department.

(2) Life-threatening hazards and unsafe conditions include, but are not limited to: faulty or damaged electrical systems; faulty or damaged gas-fueled systems; faulty, damaged or absent heating and cooling systems; faulty or damaged plumbing systems, including sanitary sewer systems; faulty, damaged or absent smoke, fire and carbon monoxide detection/alarm systems; structural systems on the verge of collapse or failure; environmental hazards such as mold, lead-based paint, asbestos or radon; serious pest infestation; absence of adequate emergency escape and rescue openings and fire egress; and the absence of ground fault circuit interrupters (GFCI) and arc fault circuit interrupters (AFCI) in applicable locations.

(3) If the work write-up addresses any of the following line items, the percentage of Project Hard Costs devoted to eliminating substandard, unsafe conditions may only exceed 25% by the amount of the following line item's cost: emergency escape, rescue openings and fire egress; ground fault circuit interrupters (GFCI); arc fault circuit interrupters (AFCI); and smoke, fire, and carbon monoxide detection/alarm systems. The combination of these line items plus the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

(4) All areas and components of the Single-Family Housing Unit must be free of life-threatening hazards and unsafe conditions at project completion.

(e) Work-Write Ups. The Department shall review work-write ups (also referred to as "scope of work") and cost estimates prior to the Administrator soliciting bids.

(f) Bids. The Department shall review all line item bids Administrator selects for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. An Administrator seeking a change order must obtain written Department approval prior to the commencement of any work related to the proposed change. Failure to get prior Departmental approval may result in disallowed costs.

§26.28. Amy Young Barrier Removal Program Project Completion Requirements.

(a) The Administrator must complete all construction activities prior to the expiration of the Household Assistance Contract and the Administrator must submit the Project and Administrative Draw Request, with required supporting documentation, in the Housing Contract System for reimbursement by the Department not more than 60 calendar days after expiration of the Household Assistance Contract.

(b) The Administrator must submit evidence with the final Draw that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents.

(c) The Administrator must provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price.

(d) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative Draw Request per Department instructions. Interim Draws may not be permitted. The Department reserves the right to delay Draw approval in the event that the Household expresses dissatisfaction with the work completed in order to resolve any outstanding conflicts between the Household and the Administrator and its subcontractors.

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 March 15, 2024.

TRD-202401164

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 28, 2024

For further information, please call: (512) 483-1148



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 67. AUCTIONEERS

16 TAC §§67.21, 67.40, 67.65, 67.66, 67.70, 67.71, 67.90

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 67, §§67.21, 67.40, 67.65, 67.70, and 67.71, and proposes new rules at §67.66 and §67.90, regarding the Auctioneers program. These proposed changes are referred to as the "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 67, implement Texas Occupations Code, Chapter 1802, Auctioneers.

The proposed rules implement House Bill (HB) 4416, 88th Legislature, Regular Session (2023). This bill addresses concerns identified in the department's study of the Auctioneers program mandated by HB 1560, 87th Legislature, Regular Session (2021). Notably, HB 4416 removes the requirement that an associate auctioneer be employed by a licensed auctioneer. Additionally, the bill enhances consumer safety by requiring the auctioneer and client to sign a written contract and agree in writing to an inventory of property before an auction. HB 4416 also changes provisions in Chapter 1802 regarding the Auctioneer Education and Recovery Fund to raise the cap on claims against an auctioneer arising from a single auction, and to allow an aggrieved party to receive greater compensation for claims against an auctioneer.

The proposed rules also incorporate changes and updates recommended by the department to accurately reflect the current operation of auctioneer regulation.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the Auctioneer Advisory Board at its meeting on March 5, 2024. The Advisory Board did not make any changes to the proposed rules. The Advisory Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §67.21(2) to remove the requirement that an associate auctioneer be employed by a licensed auctioneer.

The proposed rules amend §67.40(b) to change the date on which the department will determine the amount necessary to replenish the Auctioneer Education and Recovery Fund.

The proposed rules amend §67.40(d) to state that if an auctioneer owes an aggrieved party more than \$15,000 for claims related to a single auction, the auctioneer must pay any amount over \$15,000.

The proposed rules amend §67.40(e) to increase the total maximum payment from the recovery fund for claims arising from a single auction to \$100,000.

The proposed rules add §67.40(f) to state that any damages arising from a single auction in excess of \$100,000 must be prorated among all aggrieved parties, with damages in excess of \$100,000 to be paid directly by the auctioneer.

The proposed rules reletter the previous §67.40(f) to §67.40(g).

The proposed rules reletter the previous §67.40(g) to §67.40(h).

The proposed rules add §67.40(i) to state that the department may revoke a person's auctioneer or associate auctioneer li-

cense if a payment from the recovery fund has been made and the licensee has not repaid the department.

The proposed rules reletter the previous §67.40(h) to §67.40(j).

The proposed rules add §67.65(d) to state that the presiding officer must consider where potential advisory board members reside when making appointments to the advisory board.

The proposed rules add §67.66(a) to state that advisory board members serve six-year terms that expire on September 1 of odd-numbered years.

The proposed rules add §67.66(b) to state that advisory board members may not serve more than two consecutive terms.

The proposed rules add §67.66(c) to state that, in the event of a vacancy on the advisory board, the presiding officer of the commission, after receiving the commission's approval, must appoint a replacement to serve the remainder of the vacated term.

The proposed rules add §67.70(b)(4) to state that an auctioneer must have a written contract in place, with all terms and signed by both the auctioneer and client, before an auction.

The proposed rules add §67.70(b)(5) to state that before an auction, the auctioneer and client must agree in writing to an itemized inventory of property on a form prescribed by the department.

The proposed rules renumber the previous §67.70(b)(4) to §67.40(b)(6).

The proposed rules renumber the previous §67.70(b)(5) to §67.40(b)(7) and add "inventories of property" to the list of documents auctioneers must retain.

The proposed rules renumber the previous §67.70(b)(6) to §67.40(b)(8).

The proposed rules renumber the previous §67.70(b)(7) to §67.40(b)(9).

The proposed rules renumber the previous §67.70(b)(8) to §67.40(b)(10).

The proposed rules renumber the previous §67.70(b)(9) to §67.40(b)(11).

The proposed rules amend §67.71(a) to remove the requirement that an associate auctioneer be employed by a licensed auctioneer.

The proposed rules add §67.90 to state that a violation of the laws, rules, or an order of the department's executive director or commission are grounds for administrative penalties or license sanctions.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, enforcing or administering the proposed rule does not have foreseeable implications relating to costs or revenues of state or local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, the public will benefit from increased protection of consumers who do business with an auctioneer, more thorough documentation of auction-related transactions, and eliminating a license barrier for associate auctioneers. Increased cap amounts on claims against an auctioneer arising from a single auction will offer a greater opportunity for consumers to be fully compensated for any losses suffered. New rules requiring a written, signed contact in addition to a written, itemized inventory of property before an auction will equip consumers with clear evidence of the parameters of their auction. The removal of the requirement that an associate auctioneer have an employee-employer relationship with a sponsoring auctioneer should allow those attempting to enter the industry more and easier access to licensees.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there could be additional costs to persons who are required to comply with the proposed rules. As the proposed rules raise the total amount that can be paid from the Auctioneer Education and Recovery Fund for all claims arising from a single auction from \$30,000 to \$100,000, this could result in an increase in renewal fees required to be paid by license holders in order to replenish the Fund. While we cannot presently provide an estimate of the potential fee increase, Chapter 1802 of the Occupations Code caps this number at \$50.

Additionally, the proposed rules require an auctioneer to provide a written contract and an itemized inventory of property when agreeing to provide services to a client. This requirement should not result in more than a negligible cost to license holders.

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

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

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

The proposed rules have a fiscal note that imposes a cost on regulated persons. However, because the proposed rules are necessary to implement legislation, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

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

4. The proposed rules require an increase or decrease in fees paid to the agency. In years when the Auctioneer Education and Recovery Fund is below the statutory minimum of \$350,000, the department will be required to increase license renewal fees based on the amount required to be replenished.

5. The proposed rules create new regulations. The proposed rules add provisions required by HB 4416 regarding the need for a written contract and inventory of property.

6. The proposed rules expand, limit, or repeal an existing regulation. The regulation regarding license requirements for associate auctioneers has been expanded to allow for applicants to have a greater opportunity to become licensed. Regulations regarding the Auctioneer Education and Recovery Fund have been expanded to increase the potential amount of recovery by aggrieved parties. Regulations regarding recordkeeping have been expanded to now include written contracts and inventories of property to be sold.

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

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENTS

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

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 1802, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 1802. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is House Bill 4416, 88th Legislature, Regular Session (2023).

§67.21. License Requirements--Associate Auctioneers.

An applicant for licensure as an associate must:

(1) submit a completed application along with required fees;

(2) ~~work~~ ~~[be employed]~~ under the direct supervision of an auctioneer licensed under this chapter; and

(3) either be a citizen of the United States or a legal alien.

§67.40. Auctioneer Education and Recovery Fund.

(a) (No change.)

(b) The necessity for assessing the fee will be determined by the department based on the Fund balance on each August ~~[December]~~ 31st. The fee shall be paid in addition to the renewal fee. The renewal notice sent by the department will reflect the fee due to the Fund.

(c) (No change.)

(d) If the department determines, either through an ~~[with the]~~ agreement ~~with~~ ~~[of]~~ the auctioneer ~~[and claimant]~~ or after ~~[at]~~ a hearing held on a disputed amount, that the auctioneer owes to a single ~~[the]~~ aggrieved party ~~[person]~~ damages greater than the maximum of \$15,000 for all claims arising from a single auction ~~[allowed under the Act]~~, the auctioneer must pay the amount not paid by the department to the aggrieved party. ~~[If the department determines that the auctioneer owes damages to more than one aggrieved person arising out of one auction at one location, and the sum of all damages owed exceeds \$30,000, the department shall prorate \$30,000 from the Fund among the aggrieved persons, and the auctioneer must pay the amount not paid to each of the aggrieved persons.]~~

(e) The total payment from the Fund of claims against an auctioneer arising from a single auction may not exceed \$100,000 ~~[\$30,000]~~. If additional claims are filed before the auctioneer has reimbursed the Fund and repaid any amounts due an aggrieved party, the department shall hold a hearing to determine if the additional claims must be satisfied by the auctioneer before the department issues or renews a license, whether probated or not.

(f) If there is a determination, either by the department or after a hearing, that the auctioneer owes damages to more than one aggrieved party arising out of one auction at one location, and the sum of all damages owed exceeds \$100,000, the department shall prorate \$100,000 from the Fund among the aggrieved parties, and the auctioneer must pay the amount not paid to each of the aggrieved parties.

(g) [(#)] If a claim is paid against an auctioneer, and the auctioneer cannot immediately reimburse the Fund, the executive director may allow the auctioneer to sign an agreement with the department to reimburse the Fund at the applicable rate described below plus the interest accrued on the unpaid principal during the prior month at the rate of 8 percent per year.

(h) [(#)] If an amount is due an aggrieved party, and the auctioneer cannot immediately pay the aggrieved party, the executive director may allow the auctioneer to sign an agreement with the party to reimburse the aggrieved party at the applicable rate described below plus the interest accrued on the unpaid principal during the prior month at the rate of 8 percent per year.

(i) The department may revoke, or deny the renewal of, the license of an auctioneer or associate auctioneer if:

(1) the department makes a payment from the Fund arising out of the actions of the license holder; or

(2) the license holder has not repaid the department the entire amount paid from the Fund, including interest.

(j) [(#)] Reimbursement of the principal owed is to be paid in monthly installments determined by agreement between the depart-

ment and the auctioneer with consideration given to input from any aggrieved party. If an agreement is not reached, monthly installments shall be determined as a percentage of the initial principal amount according to the following schedule:

- (1) \$0.01 - \$500.00--20%
- (2) \$500.01 - \$1,000--10%
- (3) \$1,000.01 - \$3,000.00--5%
- (4) \$3,000.01 and over--3%

§67.65. *Auctioneer Advisory Board.*

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

(d) In appointing advisory board members, the presiding officer of the commission shall consider the geographical diversity of the members.

§67.66. *Terms; Vacancies.*

(a) Members of the advisory board serve six-year terms. The terms expire on September 1st of each odd-numbered year.

(b) Members may not serve more than two consecutive terms.

(c) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

§67.70. *Auctioneer Standards of Practice.*

(a) (No change.)

(b) Recordkeeping

(1) - (3) (No change.)

(4) An auctioneer who agrees to provide services to a party shall provide a written contract with the terms of the agreement. The contract and all terms must be agreed and signed before any auction occurs.

(5) Each contract for the services of an auctioneer must include information required by the commission by rule.

(6) Before any auction, the auctioneer and party must agree in writing to an itemized inventory of property to be sold or offered for sale by the auctioneer at auction. An amendment to the inventory must be in writing and signed by both parties.

(7) [(4)] The records for each auction must state the name(s) and address of the owners of the property auctioned, the date of the sale, the name of the auctioneer and clerk of the sale, the gross proceeds, the location and account number of the auctioneer's trust or escrow account, an itemized list of all expenses charged to the consignor or seller, a list of all purchasers at the auction and a description and selling price for each item sold.

(8) [(5)] The auctioneer shall keep, as part of the records for each auction, all documents relating to the auction.^[3] These documents shall include, but are not limited to, settlement sheets, written contracts, inventories of property, copies of advertising and clerk sheets.

(9) [(6)] These documents include records and documents online.

(10) [(7)] Each licensed auctioneer must:

(A) (No change.)

(B) Deposit all proceeds from an auction into the trust or escrow account within seventy-two (72) hours of the auction unless

the owner or consignor of the property auctioned is paid immediately after the sale or the written contract stipulates other terms, such as sight drafts.

(C) - (D) (No change.)

(11) [(8)] A licensed auctioneer shall cooperate with the department in the performance of an investigation. This includes, but is not limited to, responding to requests from the department, including producing requested documents or other information, within thirty (30) days of request.

(12) [(9)] The failure of a licensed auctioneer to timely pay a consignor may subject the licensed auctioneer to a claim under the Auctioneer Education and Recovery Fund.

(c) (No change.)

§67.71. *Requirements--Sponsoring Auctioneer.*

(a) An Associate Auctioneer must work under the direct supervision of a licensed Auctioneer to maintain licensure [There must be a legitimate employee-employer relationship between an associate auctioneer and the sponsoring auctioneer or between the associate and an auction company operated by a licensed auctioneer that employs the sponsoring auctioneer].

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

§67.90. *Administrative Penalties and Sanctions.*

If a person or entity violates any provision of Texas Occupations Code, Chapter 1802, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Occupations Code, Chapter 1802; Texas Occupations Code, Chapter 51; and any associated rules.

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 March 15, 2024.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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



CHAPTER 114. ORTHOTISTS AND PROSTHETISTS

16 TAC §§114.1, 114.70, 114.90

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 114, §§114.1, 114.70, and 114.90 regarding the Orthotists and Prosthetists program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 114, implement Texas Occupations Code, Chapter 605, Orthotists and Prosthetists.

The proposed rules are necessary to implement Senate Bill (SB) 490, 88th Legislature, Regular Session, which requires certain health care providers to provide itemized bills. SB 490 added

new Chapter 185 to the Health and Safety Code to address this issue. The term "health care provider" is generally defined under Health and Safety Code §185.001(2) to include a facility licensed, certified, or otherwise authorized to provide health care services or supplies in this state in the ordinary course of business. Section 185.003 requires appropriate licensing authorities to take disciplinary action against providers who violate the requirements of Chapter 185 as if the provider violated an applicable licensing law.

The Department regulates numerous health care professions. Because the definition of term "health care provider" is restricted in the bill to regulated facilities, however, SB 490 appears to directly impact only those health care professions for which facilities are regulated. The Department regulates the professions of orthotics and prosthetics under Occupations Code Chapter 605, the Orthotics and Prosthetics Act (the Act). Under §605.260 of the Act, orthotic and prosthetic facilities are required to be accredited by the Department. Because these accredited facilities constitute health care providers under Health and Safety Code §185.001(2), the Department is required to treat a violation by an accredited facility of the itemized billing requirements as a violation of the Department's licensing statutes. The proposed rules therefore provide that accredited facilities must comply with Health and Safety Code, Chapter 185, and that failure to do so is a basis for disciplinary action under both the Act and the enforcement provisions of Occupations Code, Chapter 51.

In addition to implementing SB 490, the proposed rules make non-substantive changes for purposes of clarity and consistency with the format of other rule chapters administered by the Department. These changes include the addition of clarifying language concerning the authority for and applicability of the rules, the addition and revision of headings, and the deletion of unnecessary language.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the Orthotists and Prosthetists Advisory Board at its meeting on February 27, 2024. The Advisory Board made the following changes to the proposed rules: language was added to the new subsection (e) of the rule at 16 TAC §114.70 to highlight key statutory requirements for itemized billing. The Advisory Board voted and recommended that the proposed rules with changes be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §114.1, Authority. The heading is modified to "Authority and Applicability" and the rule is divided into two subsections to separately address each topic. The existing rule text is incorporated into new subsection (a) and language is inserted to clarify the statutory authority for the rule chapter and to include a reference to the new Health and Safety Code Chapter 185. New subsection (b) is added to clarify that the rules in 16 TAC, Chapter 60, Procedural Rules of the Commission and the Department, and the rules in 16 TAC, Chapter 100, General Provisions for Health-Related Programs, apply to the Orthotists and Prosthetists program in addition to the rules in Chapter 114.

The proposed rules amend §114.70, Responsibilities of Licensees. The heading is modified to "Responsibilities of Licensees and Accredited Facilities" to more accurately reflect the scope of the rule. New subsection (e) is inserted to set forth the requirement of accredited facilities to comply with Health and Safety Code Chapter 185 and that failure to do so is a basis

for enforcement action. Paragraphs (e)(1) through (e)(3) outline the required components of the bills.

The proposed rules amend §114.90, Professional Standards and Basis for Disciplinary Action. A new subheading, "Enforcement Actions," is added to subsection (a) to improve readability. Redundant verbiage concerning the authority for the rule is removed. Clarifying changes are made to the syntax of subsections (a)(1) and (a)(2). Subsection (a)(2) is revised to reflect that the sources of the Department's enforcement authority under Chapter 114 may include a variety of statutes not specifically listed, as reflected in the revised §114.1. Lastly, a new subheading, "Fraud, misrepresentation, or concealment" is added to subsection (b) to improve readability.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, enforcing or administering the proposed rule does not have foreseeable implications relating to costs or revenues of state or local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefits will be the provision of additional transparency for consumers concerning services billed and the clarification of the existing rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

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

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the pro-

posed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules expand a regulation by adding compliance with the itemized billing requirements of new Health and Safety Code, Chapter 185, as a stated responsibility of accredited facilities, and non-compliance with these requirements as a basis for disciplinary action.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENTS

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

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 605, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 605. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is Senate Bill 490, 88th Legislature, Regular Session (2023).

§114.1. Authority and Applicability.

(a) This chapter is promulgated under the authority of Texas Occupations Code, Chapters 51 and 605. Specific provisions within

this chapter also implement the statutory requirements under Texas Occupations Code, Chapters 53, 112, and 116; Texas Health and Safety Code, Chapter 185; and other applicable statutes.

(b) In addition to this chapter, the rules under 16 TAC Chapter 60, Procedural Rules of the Commission and the Department, and 16 TAC Chapter 100, General Provisions for Health-Related Programs, are applicable to the Orthotists and Prosthetists program.

§114.70. Responsibilities of Licensees and Accredited Facilities.

(a) Persons to whom a license has been issued shall return the license to the department upon the surrender, revocation or suspension of the license.

(b) All applicants, licensees, registrants and accredited facilities shall notify the department of any change(s) of name or mailing address. Accredited facilities shall notify the department of any change(s) in the facility name, the name of the safety manager and the practitioner in charge, the mailing address and physical address. Written notification to the department and the appropriate fee shall be submitted to the department within thirty (30) days after a change is effective. Changes in a facility's physical location or ownership require a new application for accreditation.

(c) Name changes. Before the department will issue a new license certificate and identification card, notification of name changes must be received by the department. Notification shall include a copy of a marriage certificate, court decree evidencing the change, or a Social Security card reflecting the licensee's or registrant's new name.

(d) Consumer complaint information notices. All licensees, registrants and accredited facilities, excluding facilities that a licensee visits to treat patients, such as hospitals, nursing homes or patients' homes, shall prominently display a consumer complaint notice or sign in a waiting room or other area where it shall be visible to all patients. Lettering shall be at least one-fourth inch, or font size 30, in height, with contrasting background, containing the department's name, website, mailing address, and telephone number for the purpose of directing complaints to the department regarding a person or facility regulated or requiring regulation under the Act. Script or calligraphy prints are not allowed. The notice shall be worded as specified by the department.

(e) Itemized billing. A facility must provide itemized billing in accordance with Health and Safety Code, Chapter 185. Failure of a facility to do so is a ground for enforcement action under Occupations Code, Chapters 51 and 605, and these rules. The itemized bill must, in addition to any other requirement of Health and Safety Code, Chapter 185, include:

(1) a plain language description of each distinct health care service or supply provided to the patient;

(2) if the facility sought or is seeking reimbursement from a third party, any billing code submitted to the third party and the amounts billed to and paid by that third party; and

(3) the amount due from the patient for each service and supply provided to the patient.

§114.90. Professional Standards and Basis for Disciplinary Action.

(a) Enforcement Actions. [General. This section is authorized under the Act and Chapter 51 of the Texas Occupations Code.]

(1) If a person or entity violates any provision of Texas Occupations Code, Chapters 51 or [.] 605, [or] any other applicable statute [provision], this chapter, or a rule or order issued by the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of the Texas Occupations Code and the associated rules.

(2) The enforcement authority granted under Texas Occupations Code, Chapters 51 or [and] 605, any other applicable statutes, and any associated rules may be used to enforce the Texas Occupations Code and this chapter.

(b) **Fraud, misrepresentation, or concealment.** A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed when a license is obtained by fraud, misrepresentation, or concealment of a material fact, which includes, but is not limited to, the following:

(1) committing fraud, misrepresentation, or concealment of a material fact submitted with an application or renewal for licensure, registration, or facility accreditation;

(2) committing fraud, misrepresentation, or concealment of a material fact submitted with continuing education requirements;

(3) impersonating or acting as a proxy for an examination candidate;

(4) impersonating or acting as a proxy for a licensee or registrant at a continuing education activity;

(5) using a proxy to take an examination or to participate in a continuing education activity;

(6) providing false or misleading information to the department regarding an inquiry by the department; or

(7) committing other fraud, misrepresentation, or concealment of a material fact submitted to the board or department.

(c) **Fraud or deceit concerning services provided.** A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed for fraud or deceit concerning services provided, which includes, but is not limited to, the following:

(1) placing or causing to be placed, false, misleading, or deceptive advertising;

(2) making or allowing false, misleading, or deceptive representations concerning the services or products provided or which have been provided;

(3) making or allowing false, misleading, or deceptive representations on an application for employment;

(4) using or allowing a person to use a license or registration for any fraudulent, misleading, or deceptive purpose;

(5) knowingly employing or professionally associating with a person or entity who is providing prosthetic or orthotic services and is not licensed or accredited as required by the Act or this chapter;

(6) forging, altering, or falsifying a physician's or health care professional's order;

(7) delivering prosthetic or orthotic services or products through means of misrepresentation, deception, or subterfuge;

(8) accepting or paying, or agreeing to pay or accept illegal remuneration for the securing or soliciting of patients as prohibited by Texas Occupations Code, §102.001;

(9) making or filing, or causing another person to make or file, a report or record that the licensee knows to be inaccurate, incomplete, false, or illegal;

(10) practicing with an expired, suspended, or revoked license or registration, or in a facility that is required to be accredited and has an expired, suspended, or revoked accreditation;

(11) persistently or flagrantly overcharging a client, patient, or third party;

(12) persistently or flagrantly over treating a client or patient;

(13) violation of the Act, this chapter, or an order issued by the executive director or the commission;

(14) taking without authorization medication, supplies, equipment, or property belonging to a patient; and

(15) other fraud or deceit concerning services provided.

(d) **Unprofessional or unethical conduct.** A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed for unprofessional or unethical conduct, as defined in subsections (b) and (c). Other action that may cause a license, registration, or facility accreditation to be denied, not renewed, revoked, suspended, or that may cause an administrative penalty to be imposed include, but are not limited to:

(1) discriminating based on race, color, national origin, religion, gender, age, or disability in the practice of prosthetics or orthotics;

(2) having surrendered a license to the department or the licensing authority of another state, territory, or country to avoid disciplinary action or prosecution;

(3) having a license revoked or suspended, having had other disciplinary action taken against the applicant, or having had the application for a license refused, revoked, or suspended by the department or the licensing authority of another state, territory, or country;

(4) engaging in conduct that state, federal, or local law prohibits;

(5) failing to maintain acceptable standards of prosthetics or orthotics practices as set forth by the department rules;

(6) being unable to practice prosthetics or orthotics with reasonable skill, and safety to patients, due to illness or use of alcohol, drugs, narcotics, chemicals or other types of material or from mental or physical conditions;

(7) having treated or agreed to treat human ailments by means other than prosthetic and orthotic treatments appropriate to or within the scope of the person's license;

(8) failing to supervise and maintain supervision of clinical or technical personnel, licensed or unlicensed, in compliance with the Act and this chapter, or failing to provide on-site supervision for an accredited facility, if designated as the practitioner in charge of the facility;

(9) providing prosthetic or orthotic services or products in a way that the person knows, or with the exercise of reasonable diligence should know violates the Act or this chapter;

(10) failing to assess and evaluate a patient's status;

(11) providing or attempting to provide services for which the licensee is unprepared through education or experience;

(12) delegating functions or responsibilities to an individual lacking the ability, knowledge, or license/registration to perform the function or responsibility;

(13) revealing confidential information concerning a patient or client except where required or allowed by law;

(14) failing to obtain accreditation for a facility that must be accredited or failing to renew the accreditation of a facility that must be accredited;

(15) assaulting or causing, permitting or allowing physical or emotional injury or impairment of dignity or safety to the patient or client;

(16) making abusive, harassing, or seductive remarks to a patient, client, or co-worker in the workplace;

(17) engaging in sexual contact as defined by the Penal Code, §21.01, with a patient or client as the result of the patient or client relationship;

(18) failing to follow universal precautions or infection control standards as required by the Health and Safety Code, Chapter 85, Subchapter I;

(19) submitting false documentation or information to the department relating to continuing education;

(20) failing or refusing to provide acceptable documentation of continuing education reported to the department for renewal if selected for an audit, or if specifically requested by the department;

(21) failing to cooperate with the department during an investigation of a complaint by not furnishing required documentation or responding to a request for information or a subpoena issued by the department or its authorized representative;

(22) interfering with an investigation or disciplinary proceeding by misrepresentation of facts or by use of threats, retaliation or harassment against anyone;

(23) fitting a prosthesis or orthosis without an order;

(24) fitting a prosthesis or orthosis inaccurately or modifying the order without authorization from the prescribing physician or health care professional;

(25) providing orthotic care in a facility that is not accredited in orthotics that is required to be accredited;

(26) providing prosthetic care in a facility that is not accredited in prosthetics that is required to be accredited;

(27) failing to truthfully respond in a manner that fully discloses all information in an honest, materially responsive and timely manner to a complaint filed with or by the department;

(28) failing to report a known violation of the Act or this chapter to the department;

(29) failing to comply with an order issued by the executive director or the commission; and

(30) other unprofessional or unethical conduct.

(e) Gross negligence or malpractice. A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed for gross negligence or malpractice, which includes, but is not limited to, the following.

(1) Performing an act or omission constituting gross neglect, such as conduct involving malice, willfulness or wanton and reckless disregard of the rights of others;

(2) Performing an act or omission constituting malpractice, such as:

(A) failing to perform services or provide products for which compensation has been received or failing to perform services

or provide products with reasonable care, skill, expedience, and faithfulness;

(B) failing to do that which a person of ordinary prudence would have done under the same or similar circumstances, or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

(f) Interference with an investigation. A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed for interference with a department investigation by the misrepresentation of facts to the department or its authorized representative or by the use of threats or harassment against any person.

(g) Surrender of license and formal disciplinary action.

(1) When a licensee or accredited facility has offered the surrender of the license or accreditation after a complaint has been filed, the department shall consider whether to accept the surrender of the license.

(2) Surrender of a license or accreditation without acceptance by the department does not deprive the department of jurisdiction to prosecute an alleged violation of the Act or this chapter.

(3) When the department accepts a surrender while a complaint is pending, that surrender is deemed to be the result of a formal disciplinary action and an order shall be prepared accepting the surrender and reflecting this fact.

(4) A license surrendered and accepted may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.

(h) Frivolous complaints. A license, registration, or facility accreditation may be denied, revoked, suspended, probated, reprimanded, or an administrative penalty may be imposed for filing a complaint with the department that is frivolous or made in bad faith.

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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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 556. NURSE AIDES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§556.2 - 556.9; new §§556.10 - 556.14; and the repeal of §§556.10 - 556.13, and 556.100.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement two bills from the 88th Texas Legislature, Regular Session, 2023. House Bill (H.B.) 4123 relates to HHSC obtaining criminal history information from the Federal Bureau of Investigation (FBI) and Texas Department of Public Safety for certified nurse aides (CNA). Senate Bill (S.B.) 681 relates to the Texas Occupations Code, Chapter 53, exemption for HHSC Long-Term Care Regulation (LTCR)-regulated Certified Nurse Aides. This rule project also proposes revisions related to the Texas Unified Licensure Information Portal (TULIP), with the purpose of changing from a paper process to a digital process. This proposal also makes non-substantive edits to update references in the rules.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §556.2 revises definitions for nurse aide rules. Paragraph (1) revises the definition of "abuse" to be consistent with the definition in other rule chapters. Paragraph (33) adds a definition for "online portal."

The proposed amendment to §556.3 implements S.B. 681 relating to criminal convictions, updates the rule to reflect the current automated process using TULIP, and updates references in the rule.

The proposed amendment to §556.4 updates the rule to reflect the current automated process using TULIP and updates references in the rule.

The proposed amendment to §556.5 makes a non-substantive grammar update to the rule.

The proposed amendment to §556.6 implements S.B. 681 relating to criminal convictions, implements H.B. 4123 relating to FBI criminal history, updates the rule to reflect the current automated process using TULIP, updates a reference in the rule, and makes a non-substantive edit to improve readability.

The proposed amendment to §556.7 updates the rule to reflect the current automated process using TULIP.

The proposed amendment to §556.8 updates the rule to reflect the current automated process using TULIP and updates references in the rule.

The proposed amendment to §556.9 implements H.B. 4123 relating to FBI criminal history, updates the rule to reflect the current automated process using TULIP, and makes a non-substantive edit to improve readability.

Proposed new §556.10 implements S.B. 681 relating to criminal convictions and H.B. 4123 relating to FBI criminal history.

The proposed repeal of §556.10 allows the rule to be renumbered as §556.11, with revisions for non-substantive grammar edits and updates to the rule to reflect the current automated process using TULIP.

Proposed new §556.11 allows §556.10 to be renumbered as §556.11 and makes non-substantive grammar edits and updates to the rule to reflect the current automated process using TULIP.

The proposed repeal of §556.11 allows the rule to be renumbered as §556.12 with non-substantive grammar edits.

Proposed new §556.12 allows §556.11 to be renumbered as §556.12 and makes non-substantive grammar edits.

The proposed repeal of §556.12 allows the rule to be renumbered as §556.13, with non-substantive grammar edits.

Proposed new §556.13 allows §556.12 to be renumbered as §556.13 and makes non-substantive grammar edits.

The proposed repeal of §556.13 allows the rule to be renumbered as §556.14, with revisions for non-substantive grammar edits and language clarifying that a military spouse with an active nurse aide certification can print duplicate licenses and make name changes through the online portal.

Proposed new §556.14 allows §556.13 to be renumbered as §556.14 and makes non-substantive grammar edits and adds language clarifying that a military spouse with an active nurse aide certification can print duplicate licenses and make name changes through the online portal.

The proposed repeal of §556.100 relates to the end of the Nurse Aide Transition from Temporary Status rule that was in effect only during the COVID-19 public health emergency.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new regulations;
- (6) the proposed rules will repeal and expand existing rules;
- (7) the proposed regulations will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there could be an adverse economic effect on small businesses, micro-businesses, or rural communities.

Criminal background history (specifically, fingerprinting requirements) proposed secondary to H.B. 4123 will increase the cost for fingerprinting nurse aides (currently \$39.75).

HHSC is unable to estimate the number of small businesses, micro-businesses, or rural communities subject to the proposed rules. The projected economic impact for a small business, micro-business, or rural community is the cost to comply.

HHSC determined that alternative methods to achieve the purpose of the proposed rules for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of nursing facility residents.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Michelle Dionne-Vahalik, Associate Commissioner for Long-Term Care Regulation, has determined that for each year of the first five years the rules are in effect, the public benefit will be protecting nursing facility residents through HHSC's ability to obtain criminal history information from the FBI and Texas Department of Public Safety for CNA applicants. This will improve the screening process to prohibit employing individuals with a criminal conviction that is a bar to employment but may have occurred in another state and align the criminal convictions used to determine bars to licensure, certification, or permitting with the convictions used to determine nursing facility employability for a LTCR-regulated CNA.

Trey Wood has also determined that for the first five years the rules are in effect, persons who are required to comply with the proposed rules may incur economic costs due to the current fee for FBI fingerprinting, which is \$39.75 per individual criminal history report. As of June 2023, there were 130,419 regulated individuals; this one-time fee only applies to individuals seeking initial certification or any nurse aides who may be subject to the fingerprinting fee seeking renewal who have not already supplied fingerprints for a criminal background check.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the 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

Written comments on the proposal may be submitted to Rachael Holden and Sandra Wiegand, Program Specialists, by email to HHSCLTCRRules@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 23R071" in the subject line.

26 TAC §§556.2 - 556.14

STATUTORY AUTHORITY

The amendments and new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program; Texas Health and Safety Code §250.0035(d), which provides that the

Executive Commissioner of HHSC shall adopt rules necessary to implement §250.0035 related to the issuance and renewal of certificates of registration and the regulation of nurse aides as necessary to protect the public health and safety; and Texas Health and Safety Code, Chapter 250, which requires HHSC to maintain a Nurse Aide Registry.

The amendments and new sections, implement Texas Government Code §§411.1161, 531.0055, and 531.021; Texas Human Resources Code §32.021; and Texas Health and Safety Code §250.0035.

§556.2. Definitions.

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

(1) Abuse--Negligent or willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical or emotional harm or pain to a resident; or sexual abuse, including involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code §21.08 (relating to Indecent Exposure) or Texas Penal Code, Chapter 22 (relating to Assaultive Offenses), sexual harassment, sexual coercion, or sexual assault [The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish].

(2) Act--The Social Security Act, codified at United States Code, Title 42, Chapter 7.

(3) Active duty--Current full-time military service in the armed forces of the United States or as a member of the Texas military forces, as defined in Texas Government Code §437.001, or similar military service of another state.

(4) Active status--The designation given to a nurse aide listed on the NAR who is eligible to work in a nursing facility.

(5) Armed forces of the United States--The Army, Navy, Air Force, Space Force, Coast Guard, or Marine Corps of the United States, including reserve units of those military branches.

(6) Classroom training--The teaching of curriculum components through in-person instruction taught in a physical classroom location, which may include skills practice through online instruction taught in a virtual classroom location, or through an HHSC-approved computer-based training (CBT).

(7) Clinical training--The teaching of hands-on care of residents in a nursing facility under the required level of supervision of a licensed nurse, which may include skills practice prior to performing the skills through hands-on care of a resident. The clinical training provides the opportunity for a trainee to learn to apply the classroom training to the care of residents with the assistance and required level of supervision of the instructor.

(8) Competency evaluation--A written or oral examination and a skills demonstration administered by a skills examiner to test the competency of a trainee.

(9) Competency evaluation application--An HHSC form used to request HHSC approval to take a competency evaluation.

(10) Direct supervision--Observation of a trainee performing skills in a NATCEP.

(11) Employee misconduct registry (EMR)--The registry maintained by HHSC in accordance with Texas Health and Safety Code, Chapter 253, to record findings of reportable conduct by certain unlicensed employees.

(12) Facility--Means:

(A) a nursing facility licensed under Texas Health and Safety Code, Chapter 242;

(B) a licensed intermediate care facility for an individual with an intellectual disability or related condition licensed under Texas Health and Safety Code, Chapter 252;

(C) a type B assisted living facility licensed under Texas Health and Safety Code, Chapter 247;

(D) a general or special hospital licensed under Texas Health and Safety Code, Chapter 241; or

(E) a hospice inpatient unit licensed under Texas Health and Safety Code, Chapter 142.

(13) Facility-based NATCEP--A NATCEP offered by or in a nursing facility.

(14) General supervision--Guidance and ultimate responsibility for another person in the performance of certain acts.

(15) HHSC--The Texas Health and Human Services Commission or its designee.

(16) Infection control--Principles and practices that prevent or stop the spread of infections in the facility setting.

(17) Informal Review (IR)--An opportunity for a nurse aide to dispute a finding of misconduct by providing testimony and supporting documentation to an impartial HHSC staff person.

(18) Licensed health professional--A person licensed to practice healthcare in the state of Texas including:

- (A) a physician;
- (B) a physician assistant;
- (C) a physical, speech, or occupational therapist;
- (D) a physical or occupational therapy assistant;
- (E) a registered nurse;
- (F) a licensed vocational nurse; or
- (G) a licensed social worker.

(19) Licensed nurse--A registered nurse or licensed vocational nurse.

(20) Licensed vocational nurse (LVN)--An individual licensed by the Texas Board of Nursing to practice as a licensed vocational nurse.

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

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

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

(24) Misappropriation of resident property--The deliberate misplacement, exploitation, or wrongful, temporary or permanent, use of a resident's belongings or money without the resident's consent.

(25) NATCEP--Nurse Aide Training and Competency Evaluation Program.

(26) Neglect--The failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

(27) Non-facility-based NATCEP--A NATCEP not offered by or in a nursing facility.

(28) Nurse aide--An individual who provides nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse and who has successfully completed a NATCEP or has been determined competent by waiver or reciprocity and who has been issued a certificate of registration. This term does not include an individual who is a licensed health professional or a registered dietitian or who volunteers services without monetary compensation.

(29) Nurse aide curriculum--The publication titled Texas Curriculum for Nurse Aides in Long Term Care Facilities, developed by HHSC.

(30) Nurse Aide Registry (NAR)--A listing of nurse aides, maintained by HHSC, that indicates if a nurse aide has active status, revoked status, or is unemployable based on a finding of having committed an act of abuse, neglect, or misappropriation of resident property.

(31) Nurse aide training and competency evaluation program (NATCEP)--A program approved by HHSC to train and evaluate an individual's ability to work as a nurse aide in a nursing facility.

(32) Nurse aide training and competency evaluation program (NATCEP) application--A HHSC form used to request HHSC initial approval to offer a NATCEP, to renew approval to offer a NATCEP, or to request HHSC approval of changed information in an approved NATCEP application.

(33) Nursing services--Services provided by nursing personnel that include, but are not limited to:

- (A) promotion and maintenance of health;
- (B) prevention of illness and disability;
- (C) management of health care during acute and chronic phases of illness;
- (D) guidance and counseling of individuals and families; and
- (E) referral to other health care providers and community resources when appropriate.

(34) Online portal--The Texas Unified Licensure Information Portal (TULIP), through which licensing application activities are completed.

(35) [(34)] Performance record--An evaluation of a trainee's performance of major duties and skills taught by a NATCEP and documented on HHSC Form 5497-NATCEP, Texas Nurse Aide Performance Record.

(36) [(35)] Person--A corporation, organization, partnership, association, natural person, or any other [legal] entity that can function legally.

(37) [(36)] Personal protective equipment (PPE)--Specialized clothing or equipment, worn by an employee for protection against infectious materials.

(38) [(37)] Program director--An individual who is approved by HHSC and meets the requirements in §556.5(b) and (d) of this chapter (relating to Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements).

(39) [(38)] Program instructor--An individual who is approved by HHSC to conduct the training in a NATCEP and who meets the requirements in §556.5(c) and (d) of this chapter.

(40) [(39)] Resident--An individual accepted for care or residing in a facility.

(41) [(40)] Registered nurse (RN)--An individual licensed by the Texas Board of Nursing to practice professional nursing.

(42) [(41)] Skills examiner--An individual who is approved by HHSC and meets the requirements in §556.5(h) of this chapter.

(43) [(42)] Trainee--An individual who is enrolled in and attending, but has not completed, a NATCEP.

§556.3. *NATCEP Requirements.*

(a) To train nurse aides, a nursing facility must apply for and obtain approval from HHSC to offer a NATCEP or contract with another entity offering a NATCEP. The nursing facility must participate in Medicare, Medicaid, or both, to apply for approval to be a NATCEP.

(b) A person who wants to offer a NATCEP must file a complete NATCEP application with HHSC through the online portal.

(c) A person applying to offer a NATCEP must submit a separate NATCEP application through the online portal for each location at which training is delivered or administered.

(d) A NATCEP application must identify one or more facilities that the NATCEP uses as a clinical site. The clinical site must have all necessary equipment needed to practice and perform skills training.

(e) A NATCEP may offer clinical training hours in a laboratory setting under the following circumstances:

(1) no appropriate and qualified clinical site is located within 20 miles of the location of the NATCEP; or

(2) HHSC has determined that clinical training provided in a facility poses a risk to an individual's health or safety based on the existence of a disaster declared at the federal or state level. A NATCEP must request the ability to complete clinical training hours in a laboratory setting under the circumstances described in subsection (e)(1) of this section. HHSC will alert the public of the availability of laboratory training under the circumstances described in subsection (e)(2) of this section.

(f) HHSC does not approve a NATCEP offered by or in a nursing facility if, within the previous two years, the nursing facility:

(1) has operated under a waiver concerning the services of a registered nurse under §1819(b)(4)(C)(ii)(II) or §1919(b)(4)(C)(i) - (ii) of the Act;

(2) has been subjected to an extended or partially extended survey under §1819(g)(2)(B)(i) or §1919(g)(2)(B)(i) of the Act;

(3) has been assessed a civil money penalty of not less than \$5,000 as adjusted annually under 45 Code of Federal Regulations (CFR) Part ~~part~~ 102 for deficiencies in nursing facility standards, as described in §1819(h)(2)(B)(ii) or §1919(h)(2)(A)(ii) of the Act;

(4) has been subjected to denial of payment under Title XVIII or Title XIX of the Act;

(5) has operated under state-appointed temporary management to oversee the operation of the facility under §1819(h) or §1919(h) of the Act;

(6) had its participation agreement terminated under §1819(h)(4) or §1919(h)(1)(B)(i) of the Act; or

(7) pursuant to state action, closed or had its residents transferred under §1919(h)(2) of the Act.

(g) Clinical training provided by a NATCEP in a facility other than a nursing facility must be provided under the direct supervision

of the NATCEP instructor and cannot be delegated to any staff of the facility.

(h) A NATCEP using an assisted living facility as a clinical site may provide clinical training only in those services that are authorized to be provided to residents under Texas Health and Safety Code, Chapter 247.

(i) A NATCEP using an intermediate care facility for an individual with an intellectual disability or related conditions as a clinical site may provide clinical training only in those services that are authorized to be provided to individuals under Texas Health and Safety Code, Chapter 252.

(j) A NATCEP using a hospice inpatient unit as a clinical site may provide clinical training only in those services that are authorized to be provided to clients under Texas Health and Safety Code, Chapter 142.

(k) A nursing facility that is prohibited from offering a NATCEP under subsection (f) [(e)] of this section may contract with a person to offer a NATCEP in accordance with §1819(f)(2)(C) and §1919(f)(2)(C) of the Act so long as the person has not been employed by the nursing facility or by the nursing facility's owner and:

(1) the NATCEP is offered to employees of the nursing facility that is prohibited from training nurse aides under subsection (e) of this section;

(2) the NATCEP is offered in, but not by, the prohibited nursing facility;

(3) there is no other NATCEP offered within a reasonable distance from the nursing facility; and

(4) an adequate environment exists for operating a NATCEP in the nursing facility.

(l) A person who wants to contract with a nursing facility in accordance with subsection (k) of this section must submit a completed application to HHSC through the online portal in accordance with §556.4 of this chapter (relating to Filing and Processing an Application for a Nurse Aide Training and Competency Evaluation Program (NATCEP)) and include the name of the prohibited nursing facility in the application. HHSC may withdraw the application within two years of approving it if HHSC determines that the nursing facility is no longer prohibited from offering a NATCEP.

(m) A nursing facility that is prohibited from offering a NATCEP under subsection (f)(3) [(e)(3)] of this section may request a Centers for Medicare and Medicaid Services waiver of the prohibition related to the civil money penalty in accordance with §1819(f)(2)(D) and §1919(f)(2)(D) of the Act and 42 CFR §483.151(c) if:

(1) the civil money penalty was not related to the quality of care furnished to residents;

(2) the NATCEP submits a request to HHSC for the waiver; and

(3) the Centers for Medicare and Medicaid Services approves the waiver.

(n) A NATCEP must ensure the trainee has completed 100 hours of training. The 100 hours must include:

(1) 60 hours of classroom training:

(A) taught by the NATCEP either in-person or virtually;

or

(B) completed by the trainee through HHSC's computer-based training (CBT) within the preceding 12 months; and

(2) 40 hours of clinical training provided by the NATCEP with at least one program instructor for every 10 trainees.

(o) A NATCEP that provides online training must:

(1) maintain records in accordance with subsection (y) of this section and otherwise comply with this chapter;

(2) adopt, implement, and enforce a policy and procedures for establishing that a trainee who registers in an online training is the same trainee who participates in and completes the course ~~and that~~. This policy and associated procedures must describe the procedures the NATCEP uses to:

(A) verify a trainee's identity;

(B) ensure protection of a trainee's privacy and personal information; and

(C) document the hours completed by each trainee; and

(3) verify on the NATCEP application that the online course has the security features required under paragraph (2) of this subsection.

(p) A NATCEP must teach the curriculum established by HHSC and described in 42 CFR §483.152. Except as provided in subsection (q) of this section, the NATCEP must include at least 16 introductory hours of classroom training in the following areas before a trainee has any direct contact with a resident:

(1) communication and interpersonal skills;

(2) infection control;

(3) safety and emergency procedures, including ways to assist someone who is choking, such as the Heimlich maneuver;

(4) promoting a resident's independence;

(5) respecting a resident's rights;

(6) basic nursing skills, including:

(A) taking and recording vital signs;

(B) measuring and recording height and weight;

(C) caring for a resident's environment;

(D) recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and

(E) caring for a resident when death is imminent;

(7) personal care skills, including:

(A) bathing;

(B) grooming, including mouth care;

(C) dressing;

(D) toileting;

(E) assisting with eating and hydration;

(F) proper feeding techniques;

(G) skin care; and

(H) transfers, positioning, and turning;

(8) mental health and social service needs, including:

(A) modifying the aide's behavior in response to a resident's behavior;

(B) awareness of developmental tasks associated with the aging process;

(C) how to respond to a resident's behavior;

(D) allowing a resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity; and

(E) using a resident's family as a source of emotional support;

(9) care of cognitively impaired residents, including:

(A) techniques for addressing the unique needs and behaviors of a resident with a dementia disorder including Alzheimer's disease;

(B) communicating with a cognitively impaired resident;

(C) understanding the behavior of a cognitively impaired resident;

(D) appropriate responses to the behavior of a cognitively impaired resident; and

(E) methods of reducing the effects of cognitive impairments;

(10) basic restorative services, including:

(A) training a resident in self-care according to the resident's abilities;

(B) use of assistive devices in transferring, ambulation, eating, and dressing;

(C) maintenance of range of motion;

(D) proper turning and positioning in bed and chair;

(E) bowel and bladder training; and

(F) care and use of prosthetic and orthotic devices; and

(11) a resident's rights, including:

(A) providing privacy and maintenance of confidentiality;

(B) promoting the resident's right to make personal choices to accommodate their needs;

(C) giving assistance in resolving grievances and disputes;

(D) providing needed assistance in getting to and participating in resident, family, group, and other activities;

(E) maintaining care and security of the resident's personal possessions;

(F) promoting the resident's right to be free from abuse, mistreatment, and neglect and the need to report any instances of such treatment to appropriate facility staff; and

(G) avoiding the need for restraints in accordance with current professional standards.

(q) If a trainee completes HHSC's 60-hour classroom training CBT, a NATCEP must accept proof of completion of the CBT in lieu of the 16 introductory hours of classroom training in subsection (p) of this section and the eight hours of infection control training in subsection (t) of this section. The NATCEP must ensure that the trainee:

(1) only performs services for which the trainee has been trained and has been found to be proficient by a program instructor;

(2) is under the direct supervision of a licensed nurse when performing skills as part of a NATCEP until the trainee has been found competent by the program instructor to perform that skill;

(3) is under the general supervision of a licensed nurse when providing services to a resident after a trainee has been found competent by the program instructor; and

(4) is clearly identified as a trainee during the clinical training portion of the NATCEP.

(r) A NATCEP that fails to accept proof of completion of the classroom training in accordance with subsection (n)(1)(B) of this chapter may be subject to §556.8 of this chapter (relating to Withdrawal of Approval of a NATCEP).

(s) A NATCEP must have a program director and a program instructor when the NATCEP applies for initial approval by HHSC in accordance with §556.7 of this chapter (relating to Review and Reapproval of a Nurse Aide Training and Competency Evaluation Program (NATCEP)) and to maintain HHSC approval. The program director and program instructor must meet the requirements of §556.5(b) - (d) of this chapter (relating to Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements).

(t) Except as provided in subsection (q) of this section, a NATCEP must teach eight hours of infection control that includes the proper use of personal protective equipment (PPE) before a trainee has any direct contact with a resident.

(u) A NATCEP must verify that a trainee:

- (1) is not listed on the NAR in revoked status; and
- (2) is not listed as unemployable on the EMR. ~~and~~

~~{(3) has not been convicted of a criminal offense listed in Texas Health and Safety Code (THSC) §250.006(a) or convicted of a criminal offense listed in THSC §250.006(b) within the five years immediately before participating in the NATCEP.}~~

(v) A NATCEP must ensure that a trainee:

(1) completes the first 16 introductory hours of training (Section I of the curriculum) before having any direct contact with a resident;

(2) only performs services for which the trainee has been trained and has been found to be proficient by a program instructor;

(3) is under the direct supervision of a licensed nurse when performing skills as part of the NATCEP until the trainee has been found competent by the program instructor to perform that skill;

(4) is under the general supervision of a licensed nurse when providing services to a resident after a trainee has been found competent by the program instructor; and

(5) is clearly identified as a trainee during the clinical training portion of the NATCEP.

(w) A NATCEP must submit a NATCEP application through the online portal to HHSC if the information in an approved NATCEP application changes. The NATCEP may not continue training or start new training until HHSC approves the change. HHSC conducts a review of the NATCEP information if HHSC determines the changes are substantive.

(x) A NATCEP must use HHSC Form 5497-NATCEP, Texas Nurse Aide Performance Record, to document major duties or skills taught, trainee performance of a duty or skill, satisfactory or unsatisfactory performance, and the name of the instructor supervising the performance. At the completion of the NATCEP, the trainee and the

employer, if applicable, will receive a copy of the performance record. The NATCEP must maintain a copy of the performance record.

(y) A NATCEP must maintain records for each session of classroom training, whether offered in person or online, and of clinical training, and must make these records available to HHSC or its designees at any reasonable time.

(1) The classroom and clinical training records must include:

(A) dates and times of all classroom and clinical training;

(B) the full name and social security number of each trainee;

(C) a record of the date and time of each classroom and clinical training session a trainee attends;

(D) a final course grade that indicates pass or fail for each trainee; and

(E) a physical or electronic sign-in record for each classroom and clinical training session. An electronic sign-in must include a form of identity verification for the trainee conducted in compliance with the requirements of subsection (o)(2) of this section.

(2) If a trainee completes the classroom training by successfully completing HHSC's CBT, a NATCEP must retain records that include a copy of the trainee's certification of completion for the CBT. The certificate of completion must be issued by HHSC and include the date the trainee completed the CBT.

(3) A NATCEP must provide to HHSC, on the NATCEP application through the online portal, the physical address where all records are maintained and must notify HHSC of any change in the address provided.

(z) A nursing facility must not charge a nurse aide for any portion of a NATCEP, including any fees for textbooks or other required course materials, if the nurse aide is employed by or has received an offer of employment from a facility on the date the nurse aide begins the NATCEP.

(aa) HHSC reimburses a nurse aide for a portion of the costs incurred by the nurse aide to complete a NATCEP if the nurse aide is employed by or has received an offer of employment from a nursing facility within 12 months of completing the NATCEP.

(bb) HHSC must approve a NATCEP before the NATCEP solicits or enrolls trainees.

(cc) HHSC approval of a NATCEP only applies to the required curriculum and hours. HHSC does not approve additional content or hours.

(dd) A new employee or trainee orientation given by a nursing facility to a nurse aide employed by the facility does not constitute a part of a NATCEP.

(ee) A NATCEP that provides training to renew a nurse aide's listing on the NAR must include training in geriatrics and the care of residents with a dementia disorder, including Alzheimer's disease.

§556.4. Filing and Processing an Application for a Nurse Aide Training and Competency Evaluation Program (NATCEP).

(a) A person that wants to offer a NATCEP must complete a NATCEP application on forms prescribed by HHSC and submit the application to HHSC through the online portal.

(b) HHSC determines whether to approve or deny the NATCEP application.

(c) Within 90 days after HHSC receives a complete NATCEP application, HHSC notifies a NATCEP applicant of approval or proposed denial of a NATCEP application through the online portal, or notifies the applicant through the online portal of a deficiency or error in accordance with subsection (d) of this section. If HHSC proposes to deny the application due to the applicant's noncompliance with the requirements of the Act or this chapter, HHSC provides the reason for the denial in the notice.

(d) If HHSC finds a deficiency or error in a NATCEP application, HHSC notifies the applicant in writing through the online portal of the deficiency or error and gives the applicant an opportunity to correct the deficiency or error. The applicant must submit the additional or corrected information to HHSC, through the online portal [in writing], within 10 days after the applicant receives notice of the deficiency or error.

(e) If HHSC proposes to deny a NATCEP application based on the NATCEP's failure to comply with §556.3 of this chapter (relating to Nurse Aide Training and Competency Evaluation Program (NATCEP) Requirements), or §556.7 of this chapter (relating to Review and Reapproval of a Nurse Aide Training and Competency Evaluation Program (NATCEP)), the applicant may request a hearing to challenge the denial. A hearing is governed by 1 Texas Administrative Code (TAC) Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act), and Chapter 110 of this title [40 TAC Chapter 91] (relating to Hearings Under the Administrative Procedure Act). 1 TAC §357.484 (relating to Request for a Hearing) requires a hearing to be requested in writing within 15 days after the date the notice is received by the applicant. If an applicant does not make a timely request for a hearing, the applicant waives a hearing and HHSC may deny the NATCEP application.

§556.5. Program Director, Program Instructor, Supplemental Trainers, and Skills Examiner Requirements.

(a) A NATCEP must have an approved program director and program instructor to provide training.

(1) Training of trainees must be performed by or under the general supervision of a registered nurse (RN) who has a minimum of two years of nursing experience, at least one year of which must be in a nursing facility.

(2) An applicant for a NATCEP must certify on the NATCEP application that the NATCEP meets the requirements in paragraph (1) of this subsection.

(b) A program director must:

- (1) be an RN in the State [state] of Texas;
- (2) have a minimum of two years of nursing experience;

and

(3) have completed a course focused on teaching adult students or have experience in teaching adult students or supervising nurse aides.

(c) An instructor must:

(1) be a licensed vocational nurse (LVN) or an RN in the state of Texas;

(2) have a minimum of two years of nursing experience;

and

(3) have completed a course focused on teaching adult students or have experience in teaching adult students or supervising nurse aides.

(d) Either the program director or a program instructor must have at least one year of experience providing long term care services in a nursing facility. If an instructor is an LVN, a NATCEP must have:

(1) a director with at least one year of providing long term care services in a nursing facility; or

(2) an instructor who is an RN with at least one year of providing long term care services in a nursing facility.

(e) Program director. A program director must directly perform training or have general supervision of the program instructor and supplemental trainers. A NATCEP must have a program director when the NATCEP applies for initial approval by HHSC in accordance with §556.7 of this chapter (relating to Review and Reapproval of a Nurse Aide Training and Competency Evaluation Program (NATCEP)) and to maintain HHSC approval.

(1) In a facility-based NATCEP, the director of nursing (DON) for the nursing facility may be approved as the program director but must not conduct the training.

(2) A program director may supervise more than one NATCEP.

(3) A program director's responsibilities include, but are not limited to:

(A) directing the NATCEP in compliance with the Act and this chapter;

(B) directly performing training or having general supervision of the program instructor and supplemental trainers;

(C) ensuring that NATCEP records are maintained;

(D) determining if trainees have passed both the classroom and clinical training portions of the NATCEP;

(E) signing a competency evaluation application completed by a trainee who has passed both the classroom and clinical training portions of the NATCEP; and

(F) signing a certificate of completion or a letter on letterhead stationery of the NATCEP or the nursing facility, stating that the trainee passed both the classroom and clinical training portions of the NATCEP if the trainee does not take the competency evaluation with the same NATCEP. The certificate or letter must include the date training was completed, the total training hours completed, and the official NATCEP name and number on file with HHSC.

(G) Completion of the classroom training for trainees who complete the HHSC CBT is determined by the certificate of completion, which includes the date the trainee completed the CBT.

(4) A NATCEP must submit a NATCEP application for HHSC approval if the program director of the NATCEP changes.

(f) Program instructor. A NATCEP must have at least one qualified program instructor when the NATCEP applies for initial approval by HHSC in accordance with §556.7 of this chapter and when training occurs.

(1) The program instructor is responsible for conducting the classroom and clinical training of the NATCEP under the general supervision of the program director.

(2) An applicant for a NATCEP must certify on the NATCEP application that all program instructors meet the requirements in subsection (c) of this section.

(3) A NATCEP must submit a NATCEP application for HHSC approval if a program instructor of the NATCEP changes.

(g) Supplemental trainers. Supplemental trainers may supplement the training provided by the program instructor in a NATCEP.

(1) A supplemental trainer must be a licensed health professional acting within the scope of the professional's practice and have at least one year of experience in the field of instruction.

(2) The program director must select and supervise each supplemental trainer.

(3) A supplemental trainer must not act in the capacity of the program instructor without HHSC approval. To request approval, a NATCEP must submit a NATCEP application to HHSC.

(h) Skills examiner. A skills examiner must administer the competency evaluation.

(1) HHSC or its designee approves an individual as a skills examiner if the individual:

(A) is an RN;

(B) has a minimum of one year of professional experience in providing care for the elderly or chronically ill of any age; and

(C) has completed a skills training seminar conducted by HHSC or its designee.

(2) A skills examiner must:

(A) adhere to HHSC standards for each skill examined;

(B) conduct a competency evaluation in an objective manner according to the criteria established by HHSC;

(C) validate competency evaluation results on forms prescribed by HHSC;

(D) submit prescribed forms and reports to HHSC or its designee; and

(E) not administer a competency evaluation to an individual who participates in a NATCEP for which the skills examiner was the program director, the program instructor, or a supplemental trainer.

§556.6. *Competency Evaluation Requirements.*

(a) Only HHSC, or an entity HHSC approves, may provide a competency evaluation, which must be administered by a skills examiner at an approved evaluation site.

(b) A trainee is eligible to take a competency evaluation if the trainee has successfully completed the training portion of a NATCEP, as determined by the program director, or is eligible under §556.12 [§556.H] of this chapter (relating to Waiver, Reciprocity, and Exemption Requirements) and HHSC reviews and finds that the trainee has not been convicted of a criminal offense listed in Texas Health and Safety Code §250.006(a) and (c) and has not been convicted of a criminal offense listed in Texas Health and Safety Code §250.006(b) within the preceding five years.

(c) If a trainee cannot take a competency evaluation at the NATCEP location where the trainee received training, the trainee may take a competency evaluation at another location approved to offer the evaluation.

(d) An eligible trainee must obtain from the program director a signed competency evaluation application and a certificate or letter of completion of training. The trainee must arrange to take the competency evaluation at an approved location and must follow the instructions on the competency evaluation application.

(e) A NATCEP must:

(1) promptly, after one of its trainees successfully completes the NATCEP training, approve the trainee to take a competency evaluation;

(2) provide the trainee with information regarding scheduling a competency evaluation; and

(3) ensure that the trainee accurately completes the competency evaluation applications.

(f) A trainee must:

(1) submit the applicant's fingerprints to the Texas Department of Public Safety for a Federal Bureau of Investigation criminal background check;

(2) ~~[(4)]~~ take a competency evaluation within 24 months after completing the training portion of a NATCEP;

(3) apply to take the competency evaluation through the online portal;

(4) ~~[(2)]~~ verify the arrangements for a competency evaluation;

(5) ~~[(3)]~~ complete a competency evaluation application and submit the application in accordance with application instructions;

(6) ~~[(4)]~~ request another competency evaluation if the trainee fails a competency evaluation; and

(7) ~~[(5)]~~ meet any other procedural requirements specified by HHSC or its designated skills examiner.

(g) A competency evaluation must consist of:

(1) a skills demonstration that requires the trainee to demonstrate five randomly selected skills drawn from a pool of skills that are generally performed by nurse aides, including all personal care skills listed in the curriculum; and

(2) a written or oral examination, which includes 60 scored multiple-choice questions selected from a pool of test items that address each course requirement in the curriculum. Written examination questions may be printed in a test booklet with a separate answer sheet or provided in an online testing format as approved by HHSC. An oral examination must be a recorded presentation read from a prepared text in a neutral manner that includes questions to test reading comprehension.

(h) A trainee with a disability, including a trainee with dyslexia as defined in Texas Education Code §51.970 (relating to Instructional Material for Blind and Visually Impaired Students and Students with Dyslexia), may request a reasonable accommodation for the competency evaluation under the Americans with Disabilities Act.

(i) To successfully complete the competency evaluation, a trainee must achieve a score HHSC designates as a passing score on:

(1) the skills demonstration; and

(2) the written or oral examination.

(j) A trainee who fails the skills demonstration or the written or oral examination may retake the competency evaluation twice.

(1) A trainee must be advised of the areas of the competency evaluation that the trainee did not pass.

(2) If a trainee fails a competency evaluation three times, the trainee must complete the training portion of a NATCEP before taking a competency evaluation again.

(k) HHSC informs a trainee before the trainee takes a competency evaluation that HHSC issues a certificate of registration and

records successful completion of the competency evaluation on the Nurse Aide Registry (NAR) [NAR].

(l) HHSC[, or its designee,] issues the certificate of registration through the online portal and records successful completion of the competency evaluation on the NAR within 30 days after the date the trainee passes the competency evaluation.

(m) A nursing facility must not offer or serve as a competency evaluation site if the nursing facility is prohibited from offering a NATCEP under the provisions of §556.3(f) of this chapter (relating to Nurse Aide Training and Competency Evaluation Program (NATCEP) Requirements).

(n) A trainee may not be charged for any portion of a competency evaluation if the trainee is employed by or has received an offer of employment from a nursing facility on the date the trainee takes the competency evaluation.

(o) HHSC reimburses a nurse aide for a portion of the costs incurred by the individual to take a competency evaluation if the individual is employed as a nurse aide by, or has received an offer of employment from, a nursing facility within 12 months after taking the competency evaluation.

§556.7. Review and Reapproval of a Nurse Aide Training and Competency Evaluation Program (NATCEP).

(a) A NATCEP must apply to have its approval renewed every two years. HHSC sends a notice of renewal through the online portal to a NATCEP at least 60 days before the expiration date of an approval.

(b) A NATCEP must submit a NATCEP application through the online portal at least 30 days before the expiration date of an approval. If a NATCEP does not file an application to renew an approval at least 30 days before the expiration of the approval, the approval expires.

(c) HHSC uses the results of an on-site or off-site visit to determine NATCEP compliance with the Act and this chapter and to decide whether to renew the approval of a NATCEP.

(d) HHSC may conduct an on-site or off-site review of a NATCEP at any reasonable time.

(e) HHSC provides written notification through the online portal to a NATCEP of deficiencies found during an on-site or off-site review.

(1) If a NATCEP receives a notification of deficiencies from HHSC, the NATCEP must submit a written response to HHSC through the online portal, which must include a plan of correction (POC) to correct all deficiencies.

(2) HHSC may direct a NATCEP to comply with the requirements of the Act and this chapter.

(3) HHSC may not renew the approval of a NATCEP that does not meet the requirements of the Act and this chapter by failing to provide an adequate POC.

(f) A NATCEP approved by HHSC may provide in-service education to a nurse aide that is necessary to have the certificate of registration and associated listing on the NAR renewed.

(g) A NATCEP must receive approval or an exemption under Texas Education Code Chapter 132 (relating to Career Schools and Colleges).

§556.8. Withdrawal of Approval of a NATCEP.

(a) HHSC immediately withdraws approval of a facility-based NATCEP if the nursing facility where the NATCEP is offered has:

(1) been granted a waiver concerning the services of an RN under §1819(b)(4)(C)(ii)(II) or §1919(b)(4)(C)(i)-(ii) of the Act;

(2) been subject to an extended (or partially extended) survey under §1819(g)(2)(B)(i) or §1919(g)(2)(B)(i) of the Act;

(3) been assessed a civil money penalty of not less than \$5,000, as adjusted annually under 45 Code of Federal Regulations (CFR), Part 102, for deficiencies in nursing facility standards, as described in §1819(h)(2)(B)(ii) or §1919(h)(2)(A)(ii) of the Act;

(4) been subject to denial of payment under Title XVIII or Title XIX of the Act;

(5) operated under state-appointed or federally appointed temporary management to oversee the operation of the facility under §1819(h) or §1919(h) of the Act;

(6) had its participation agreement terminated under §1819(h)(4) or §1919(h)(1)(B)(i) of the [Social Security] Act;

(7) pursuant to state action, closed or had its residents transferred under §1919(h)(2); or

(8) refused to permit unannounced visits by HHSC.

(b) HHSC withdraws approval of a NATCEP if the NATCEP does not comply with §556.3 of this chapter (relating to NATCEP Requirements).

(1) HHSC reviews allegations of noncompliance with this chapter by a NATCEP. If HHSC receives an allegation of noncompliance, HHSC notifies the NATCEP in writing and gives the NATCEP an opportunity to correct the noncompliance or provide documentation showing compliance. The NATCEP must correct the noncompliance or provide evidence of compliance and submit notification of the correction or documentation to show compliance to HHSC, in writing, within 10 days after receipt of the notice of noncompliance.

(2) If the NATCEP fails to correct the noncompliance, provide documentation showing compliance, or respond to the first notification from HHSC, HHSC sends a second notice. The NATCEP must correct the noncompliance or provide documentation showing compliance and submit notification of the correction or documentation to show compliance to HHSC, in writing, within 20 days after receipt of the second notice. Failure to comply will result in withdrawal of approval of the NATCEP.

(c) If HHSC withdraws approval of a NATCEP for failure to comply with §556.3 of this chapter, HHSC does not approve the NATCEP for at least two years after the date the approval was withdrawn.

(d) If HHSC proposes to withdraw approval of a NATCEP based on subsection (a) of this section, HHSC notifies the NATCEP via email and through the online portal of the facts or conduct alleged to warrant the withdrawal. [~~HHSC sends the notice to the facility's last known email address as shown in HHSC records.~~]

(e) A dually certified nursing facility that offers a NATCEP may request a hearing to challenge the findings of noncompliance that led to the withdrawal of approval of the NATCEP, but not the withdrawal of approval of the NATCEP itself, in accordance with 42 CFR, Part 498.

(f) A nursing facility that offers a NATCEP and that participates only in Medicaid may request a hearing to challenge the findings of noncompliance that led to the withdrawal of approval of the NATCEP, but not the withdrawal of approval of the NATCEP itself. A hearing is governed by 1 Texas Administrative Code (TAC) Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act), and Chapter 110 of this title [40 TAC Chapter 94] (relating

to Hearings Under the Administrative Procedure Act), except the nursing facility must request the hearing within 60 days after receipt of the notice described in subsection (d) of this section, as allowed by 42 CFR §431.153.

(g) A nursing facility may request a hearing under subsection (e) or (f) of this section, but not both.

(h) If the finding of noncompliance that led to the denial of approval of the NATCEP by HHSC is overturned, HHSC rescinds the denial of approval of the NATCEP.

(i) If HHSC proposes to withdraw approval of a NATCEP based on §556.3 of this chapter or §556.7 of this chapter (relating to Review and Reapproval of a Nurse Aide Training and Competency Evaluation Program (NATCEP)), the NATCEP may request a hearing to challenge the withdrawal. A hearing is governed by 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedures Act), and Chapter 110 of this title [40 TAC Chapter 91] (relating to Hearings Under the Administrative Procedures Act). 1 TAC §357.484 (relating to Request for a Hearing) requires a hearing to be requested in writing within 15 days after the date the notice is received by the applicant. If a NATCEP does not make a timely request for a hearing, the applicant has waived the opportunity for a hearing and HHSC may withdraw the approval.

(j) A trainee who started a NATCEP before HHSC sent notice that it was withdrawing approval of the NATCEP may complete the NATCEP.

§556.9. Certificate of Registration, Nurse Aide Registry, and Renewal.

(a) HHSC is the agency responsible for issuing individuals a certificate of registration and listing them on the Nurse Aide Registry (NAR) [NAR].

(b) To be issued a certificate of registration and be listed on the NAR as having active status, a nurse aide must successfully complete a NATCEP, as described in §556.6(i) of this chapter (relating to Competency Evaluation Requirements) and apply for certificate of registration through the online portal.

(c) Each applicant for certificate of registration, regardless of path to certification, must submit the applicant's fingerprints to the Texas Department of Public Safety for a Federal Bureau of Investigation criminal background check.

(d) [(e)] HHSC does not charge a fee to issue the certificate of registration or list a nurse aide on the NAR or to renew the certificate of registration and the nurse aide's listing of active status on the NAR.

(e) [(d)] A nurse aide listed on the NAR must inform HHSC of the nurse aide's current address and telephone number through the online portal.

(f) [(e)] The certificate of registration and the listing of active status on the NAR expires 24 months after the certificate of registration was issued and the nurse aide was listed on the NAR or 24 months after the last date of verified employment as a nurse aide, whichever is earlier. To renew the certificate of registration and active status on the NAR, the following requirements must be met:

(1) A nursing facility must submit a HHSC Employment Verification form renewal to HHSC through the online portal that documents that the nurse aide has performed paid nursing or nursing-related services at the nursing facility during the preceding year.

(2) A nurse aide must submit a HHSC Employment Verification form renewal to HHSC through the online portal to document that the nurse aide has performed paid nursing or nursing-related ser-

vices, if documentation is not submitted in accordance with paragraph (1) of this subsection by the nursing facility or facilities where the nurse aide was employed.

(3) A nurse aide must complete an HHSC course in infection control and proper use of PPE every year.

(4) A nurse aide must complete at least 24 hours of in-service education every two years. The in-service education must include training in geriatrics and the care of residents with a dementia disorder, including Alzheimer's disease. The in-service education must be provided by:

(A) a nursing facility;

(B) an approved NATCEP;

(C) HHSC; or

(D) a healthcare entity, other than a nursing facility, licensed or certified by HHSC, the Texas Department of State Health Services, or the Texas Board of Nursing.

(5) No more than 12 hours of the in-service education required by paragraph (4) of this subsection may be provided by an entity described in paragraph (4)(D) of this subsection.

§556.10. Certification of Individuals with Criminal Convictions in Their Backgrounds.

(a) HHSC may suspend or revoke an existing certification, deny a certification, or deny a person the opportunity to take the examination for certification if the person has any conviction barring employment listed in Texas Health and Safety Code §250.006.

(b) HHSC staff reviews an applicant's or existing nurse aide's criminal background based on the Federal Bureau of Investigation fingerprinting submitted through the Texas Department of Public Safety.

§556.11. Expiration of the Certificate of Registration and Active Status.

(a) A nurse aide's certificate of registration and status on the Nurse Aide Registry (NAR) is changed to expired if the nurse aide has not performed nursing-related services or acted as a nurse aide for monetary compensation for 24 consecutive months and does not apply for renewal in the online portal.

(b) A nurse aide whose certificate of registration has expired and is listed as expired on the NAR must complete a Nurse Aide Training and Competency Evaluation Program or a competency evaluation and apply through the online portal to reactivate the certificate of registration and be listed on the NAR with active status.

§556.12. Waiver, Reciprocity, and Exemption Requirements.

(a) HHSC may waive the requirement for a nurse aide to take the NATCEP specified in §556.3 of this chapter (relating to Nurse Aide Training and Competency Evaluation Program (NATCEP) Requirements) and issue a certificate of registration and place a nurse aide on the Nurse Aide Registry (NAR) on active status if the nurse aide:

(1) submits proof of completing a nurse aide training course of at least 100 hours duration before July 1, 1989, through the online portal;

(2) submits a HHSC Employment Verification form to HHSC through the online portal to document that the nurse aide performed nursing or nursing-related services for monetary compensation at least once every two years since July 1, 1989;

(3) is not listed as unemployable on the EMR;

(4) has not been convicted of a criminal offense listed in Texas Health and Safety Code (THSC) §250.006(a) and (c), or con-

victed of a criminal offense listed in THSC §250.006(b) within the preceding five years as reviewed by HHSC; and

(5) completes the HHSC Waiver of Nurse Aide Training and Competency Evaluation Program form through the online portal.

(b) HHSC issues the certificate of registration through the online portal and places a nurse aide on the NAR by reciprocity if:

(1) the nurse aide is listed as having active status on another state's registry of nurse aides;

(2) the other state's registry of nurse aides is in compliance with the Act;

(3) the nurse aide is not listed as unemployable on the EMR;

(4) the nurse aide has not been convicted of a criminal offense listed in THSC §250.006(a) and (c), or convicted of a criminal offense listed in THSC §250.006(b) within the preceding five years as reviewed by HHSC; and

(5) the nurse aide completes an HHSC Reciprocity form and submits it to HHSC through the online portal.

(c) A person is eligible to take a competency evaluation with an exemption from the nurse aide training specified in §556.3 of this chapter if the individual:

(1) meets one of the following requirements for eligibility:

(A) is seeking renewal under §556.9 of this chapter (relating to Certificate of Registration, Nurse Aide Registry, and Renewal);

(B) has successfully completed at least 100 hours of training at a NATCEP in another state within the preceding 24 months but has not taken the competency evaluation or been placed on an NAR in another state;

(C) has successfully completed at least 100 hours of military training, equivalent to civilian nurse aide training, on or after July 1, 1989;

(D) has successfully completed an RN or LVN program at an accredited school of nursing in the United States within the preceding 24 months;

(i) is not licensed as an RN or LVN in the state of Texas; and

(ii) has not held a license as an RN or LVN in another state that has been revoked; or

(E) is enrolled or has been enrolled within the preceding 24 months in an accredited school of nursing in the United States and demonstrates competency in providing basic nursing skills in accordance with the school's curriculum;

(2) is not listed as unemployable on the EMR;

(3) has not been convicted of a criminal offense listed in THSC §250.006(a) and (c), or convicted of a criminal offense listed in THSC §250.006(b) within the preceding five years as reviewed by HHSC;

(4) submits documentation to verify at least one of the requirements in paragraph (1) of this subsection;

(5) arranges for a nursing facility or NATCEP to serve as a competency evaluation site; and

(6) before taking the competency evaluation, presents to the skills examiner an original letter from HHSC authorizing the person to take the competency evaluation.

§556.13. Findings and Inquiries.

(a) HHSC reviews and investigates allegations of abuse, neglect, or misappropriation of resident property by a nurse aide employed in a nursing facility. If HHSC finds that a nurse aide committed an act of abuse, neglect, or misappropriation of resident property, before entry of the finding on the Nurse Aide Registry (NAR), HHSC provides the nurse aide an opportunity to dispute the finding through an informal review (IR) and a hearing as described in this section.

(b) If HHSC finds that a nurse aide committed an act of abuse, neglect, or misappropriation of resident property, HHSC sends the nurse aide a written notice regarding the finding. The notice includes:

(1) a summary of the findings and facts on which the findings are based;

(2) a statement informing the nurse aide of the right to an IR to dispute HHSC findings;

(3) a statement informing the nurse aide that a request for an IR must be made within 10 days after the date the nurse aide receives the written notice; and

(4) the address and contact information where the nurse aide must submit a request for an IR.

(c) If a nurse aide requests an IR, HHSC sets a date to allow the nurse aide to dispute the findings of the investigation of abuse, neglect, or misappropriation of resident property. The nurse aide may dispute the findings by providing testimony, in person or by telephone, to impartial HHSC staff.

(1) If HHSC does not uphold the findings, HHSC notifies the nurse aide of the results of the IR and closes the investigation. HHSC does not record information related to the investigation in the NAR.

(2) If HHSC upholds the findings, HHSC notifies the nurse aide of the results of the IR. The nurse aide may request a hearing in accordance with subsection (d) of this section.

(3) If the nurse aide does not request an IR, or fails to appear for a requested IR, HHSC upholds the findings. The nurse aide may request a hearing in accordance with subsection (d) of this section.

(d) A nurse aide may request a hearing after receipt of HHSC notice of the results of an IR described in subsection (c)(2) of this section. Texas Administrative Code (TAC), Title 1, Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act), and Chapter 110 of this title (relating to Hearings Under the Administrative Procedure Act) govern the hearing, except that a nurse aide must request a formal hearing within 30 days after receipt of HHSC notice in compliance with 42 Code of Federal Regulations §488.335. If the nurse aide fails to request a hearing, the nurse aide waives the opportunity for a hearing and HHSC enters the finding of abuse, neglect, or misappropriation of resident property, as appropriate, on the NAR.

(e) If HHSC receives an allegation that a nurse aide, who has a medication aide permit under Chapter 557 of this title (relating to Medication Aides--Program Requirements), committed an act of abuse, neglect, or misappropriation of resident property, HHSC investigates the allegation under this section regarding the nurse aide practice and under Chapter 557 of this title to determine if the allegation violates the medication aide practice. The investigations run concurrently. If after the investigations, the nurse aide requests hearings on the findings un-

der the nurse aide practice and the medication aide practice, only one hearing, conducted in accordance with subsection (d) of this section, is available to the nurse aide.

(f) If HHSC finds that a nurse aide committed an act of abuse, neglect, or misappropriation of resident property, HHSC reports the finding to:

(1) the NAR;

(2) the nurse aide;

(3) the administrator of the nursing facility in which the act occurred; and

(4) the administrator of the nursing facility that employs the nurse aide, if different from the nursing facility in which the act occurred.

(g) The NAR must include the findings involving a nurse aide listed on the NAR as well as any brief statement of the nurse aide disputing the findings.

(h) The information on the NAR is available to the public.

(i) If an inquiry is made about a nurse aide's status on the NAR, HHSC must:

(1) verify if the nurse aide is listed on the NAR;

(2) disclose information concerning a finding of abuse, neglect, or misappropriation of resident property involving the nurse aide; and

(3) disclose any statement by the nurse aide related to the finding.

(j) If a nurse aide works in a capacity other than a nurse aide in a nursing facility and is listed as unemployable in the EMR, HHSC revokes or suspends the certificate of registration and changes the status of the nurse aide's listing on the NAR to revoked or suspended. The due process available to the nurse aide before placement on the EMR satisfies the due process required before HHSC revokes or suspends the certificate of registration and changes the nurse aide's status on the NAR.

(k) If HHSC revokes or suspends the certificate of registration and lists a nurse aide's status on the NAR as suspended or revoked because of a single finding of neglect, the nurse aide may request that HHSC reissue the certificate of registration and remove the finding after the finding has been listed on the NAR for one year. To request removal of the finding, the nurse aide must submit a HHSC Petition for Removal of Neglect Finding to HHSC in accordance with the petition's instructions.

§556.14. Alternate Licensing Requirements for Military Service Personnel.

(a) Additional time for in-service education.

(1) HHSC gives a nurse aide an additional two years to complete in-service education required for a nurse aide to maintain his or her certificate of registration and an active listing on the Nurse Aide Registry (NAR), as described in §556.9(f) of this chapter (relating to Certificate of Registration, Nurse Aide Registry, and Renewal), if HHSC receives and approves a request through the online portal for additional time to complete in-service training from a nurse aide in accordance with this subsection.

(2) To request additional time to complete in-service education, a nurse aide must submit a written request for additional time to HHSC through the online portal before the expiration date of the nurse aide's certification. The nurse aide must include with the request doc-

umentation of the nurse aide's status as a military service member that is acceptable to HHSC. Documentation as a military service member that is acceptable to HHSC includes a copy of a military service order issued by the United States Armed Forces, the State of Texas, or another state.

(3) If HHSC requests additional documentation, the nurse aide must submit the requested documentation.

(4) HHSC approves a request for two additional years to complete in-service education submitted in accordance with this subsection if HHSC determines that the nurse aide is a military service member, except HHSC does not approve a request if HHSC granted the nurse aide a previous extension and the nurse aide did not complete the in-service education requirements during the previous extension period.

(b) Renewal of expired certificate of registration and NAR listing.

(1) HHSC renews the certificate of registration and changes the status of a listing from expired to active if HHSC receives and approves a request through the online portal for renewal and an active status listing from a former nurse aide in accordance with this subsection.

(2) To request renewal and an active status listing, a former nurse aide must submit a written request with the documents required for renewal through the online portal in accordance with §556.9(f) of this chapter within five years after the former nurse aide's certificate of registration and listing expired. The former nurse aide must include with the request documentation of the former nurse aide's status as a military service member, military veteran, or military spouse that is acceptable to HHSC.

(3) Documentation of military status that is acceptable to HHSC includes:

(A) for status as a military service member, a copy of a current military service order issued to the former nurse aide by the armed forces of the United States, the State of Texas, or another state;

(B) for status as a military veteran, a copy of a military service discharge order issued to the former nurse aide by the armed forces of the United States, the State of Texas, or another state; and

(C) for status as a military spouse:

(i) a copy of a marriage certificate issued to the former nurse aide by a state of the United States or a foreign government; and

(ii) a copy of a current military service order issued to the former nurse aide's spouse by the armed forces of the United States, the State of Texas, or another state.

(4) If HHSC requests additional documentation, the former nurse aide must submit the requested documentation.

(5) HHSC approves a request for an active status listing submitted in accordance with this subsection if HHSC determines that:

(A) the former nurse aide meets the requirements for renewal described in §556.9(f) of this chapter;

(B) the former nurse aide is a military service member, military veteran, or military spouse;

(C) the former nurse aide has not committed an offense listed in Texas Health and Safety Code (THSC) §250.006(a) and (c) and has not committed an offense listed in THSC §250.006(b) during

the five years before the date the former nurse aide submitted the initial license application; and

(D) the former nurse aide is not listed on the EMR.

(c) HHSC replaces a lost, damaged, or destroyed certificate for a military spouse. A military spouse with an active nurse aide certificate can print a duplicate license through the online portal. A military spouse can request a change of name through the online portal by submitting a name change application.

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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Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: April 28, 2024

For further information, please call: (512) 438-3161

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26 TAC §§556.10 - 556.13, 556.100

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program; Texas Health and Safety Code §250.0035(d), which provides that the Executive Commissioner of HHSC shall adopt rules necessary to implement §250.0035 related to the issuance and renewal of certificates of registration and the regulation of nurse aides as necessary to protect the public health and safety; and Texas Health and Safety Code, Chapter 250, which requires HHSC to maintain a Nurse Aide Registry.

The repeals implement Texas Government Code §§411.1161, 531.0055, and 531.021; Texas Human Resources Code §32.021; and Texas Health and Safety Code §250.0035.

§556.10. *Expiration of the Certificate of Registration and Active Status.*

§556.11. *Waiver, Reciprocity, and Exemption Requirements.*

§556.12. *Findings and Inquiries.*

§556.13. *Alternate Licensing Requirements for Military Service Personnel.*

§556.100. *Nurse Aide Transition from Temporary Status.*

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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Health and Human Services Commission

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

**CHAPTER 702. GENERAL ADMINISTRATION
SUBCHAPTER B. AGENCY RECORDS AND INFORMATION**

40 TAC §702.223

The Department of Family and Protective Services (DFPS) proposes a new agency rule §702.223 in Title 40, Texas Administrative Code (TAC), Chapter 702, Subchapter B, relating to Agency Records and Information.

BACKGROUND AND PURPOSE

In the 88th Texas legislative session the legislature enacted House Bill (HB) 63, which concerns reporting requirements for child abuse and neglect to the Department of Family and Protective Services (DFPS). Specifically, in Section 2 of HB 63, the bill requires DFPS to adopt rules concerning employee access to the identity of an individual who reports child abuse and neglect.

SECTION-BY-SECTION SUMMARY

Proposed new §702.223(a)(1)-(3) tracks the language of the statute, which specifies that DFPS and SSCC employees are only allowed access to the identity of the individual making a report of child abuse or neglect in certain circumstances. Section (a)(1) allows access to a reporter's identity if the employee is directly involved with an investigation, case, or other process involving the child who is the subject of the report or the child's parent or the person who has legal custody of the child. Section (a)(2) allows access to a reporter's identity if the employee supervises, directly or indirectly an employee described in subsection (a)(1) of this section. Section (a)(2) allows access to a reporter's identity if the employee has a legitimate professional interest in an investigation, case, or other process involving the child who is the subject of the report or the child's parent or other person who has legal custody of the child that requires access to the reporter's identity. Section (b) defines that "other process" includes but is not limited to quality assurance, locating a missing child, new and ongoing training of DFPS or SSCC staff, and necessary technical support to maintain or update the case management system. Lastly, under Section (c) a reporter's identity is confidential and may only be disclosed if waived in writing by the individual making the report, as provided by Texas Family Code §261.201, or to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

FISCAL NOTE

Lea Ann Biggar, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the section will be in effect, there will be no fiscal implications to state or local govern-

ments as a result of enforcing and administering the section as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the proposed rules will be in effect:

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Biggar has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as the rule does not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

There is no anticipated negative impact on local employment.

There is an anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by the Department of Family and Protective Services

PUBLIC BENEFIT

Ms. Biggar has determined that for each year of the first five years the sections in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section will be implementation of HB 63 of the 88th Texas Regular Legislative Session. There will be no effect on large, small, or micro-businesses because the proposed changes do not impose new requirements on any business and do not require the purchase of any new equipment or any increased staff time in order to comply. There is no anticipated economic cost to persons who are required to comply with the proposed sections

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

DFPS has determined that the 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 Government Code, §2007.043.

PUBLIC COMMENT

Comments and questions on this proposal must be submitted within 30 days of publication of the proposal in the *Texas Register*. Electronic comments and questions may be submitted to Christine Steinberg, Statewide Intake, Christine.Steinberg2@dfps.texas.gov or RULES@dfps.texas.gov. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services Sanjuanita Maltos, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

STATUTORY AUTHORITY

The new rule §702.223 is authorized pursuant to Texas Human Resources Code (HRC) §40.027, which provides that the DFPS Commissioner shall adopt rules for the operation and provision of services by the agency and Texas Family Code (TFC) §261.201(n), which directs DFPS to adopt rules concerning employee access to a reporter's identity.

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

CROSS REFERENCE TO STATUTES

The new rule implements Texas Family Code §263.1021, §261.201(m) and (n) and §261.304(a).

§702.223. Which DFPS employee or Single Source Continuum Contractor (SSCC) employee can have access to the identity of an individual reporting child abuse or neglect?

(a) A DFPS employee and a Single Source Continuum Contractor (SSCC) employee, is only allowed access to the identity of the person making a report of alleged or suspected child abuse or neglect under the following circumstances:

(1) the employee is directly involved with an investigation, case, or other process involving the child who is the subject of the report or the child's parent or the person who has legal custody of the child;

(2) the employee supervises, directly or indirectly an employee described in subsection (a)(1) of this section; or

(3) the employee has a legitimate professional interest in an investigation, case, or other process involving the child who is the subject of the report or the child's parent or other person who has legal custody of the child that requires access to the reporter's identity.

(b) For this section "other process" includes but is not limited to quality assurance, locating a missing child, new and ongoing training of DFPS or SSCC staff, and necessary technical support to maintain or update the case management system.

(c) A reporter's identity is confidential and may only be disclosed if waived in writing by the individual making the report, as provided by Texas Family Code §261.201, or to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

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 March 11, 2024.



CHAPTER 707. CHILD PROTECTIVE INVESTIGATIONS

SUBCHAPTER A. INVESTIGATIONS

40 TAC §707.489

The Department of Family and Protective Services (DFPS) proposes an amendment to §707.489(c)(1)(D) in Title 40, Texas Administrative Code (TAC), Chapter 707, Subchapter A, relating to Child Protective Services Intake, Investigation, and Assessment.

BACKGROUND AND PURPOSE

In the 88th Texas legislative session the legislature enacted House Bill (HB) 63, which concerns reporting requirements for child abuse and neglect to the Department of Family and Protective Services (DFPS). Specifically, in Section 2 of HB 63, the bill requires DFPS to adopt rules concerning employee access to the identity of an individual who reports child abuse and neglect. Rule amendment 40 TAC §707.489(c)(1)(D) clarifies that investigation tasks performed on anonymous reports pursuant to Texas Family Code §261.304(a) are only those reports that are referred to DFPS by local or state law enforcement.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §707.489(c)(1)(D) clarifies that tasks performed on anonymous reports pursuant to Texas Family Code §261.304 are those reports that are referred to DFPS by local or state law enforcement.

FISCAL NOTE

Lea Ann Biggar, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the section will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the proposed rule will be in effect:

- (1) the proposed rule amendment will not create or eliminate a government program;
- (2) implementation of the proposed rule amendment will not affect the number of employee positions;
- (3) implementation of the proposed rule amendment will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule amendment will not affect fees paid to the agency;
- (5) the proposed rule amendment will create a new regulation;
- (6) the proposed rule amendment will limit an existing regulation;
- (7) the proposed rule amendment will not change the number of individuals subject to the rule; and

(8) the proposed rule amendment will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Biggar has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as the rule does not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

There is no anticipated negative impact on local employment.

There is an anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Pursuant to subsection (c)(7) of Texas Government Code §2001.0045, the statute does not apply to a rule that is adopted by the Department of Family and Protective Services

PUBLIC BENEFIT

Ms. Biggar has determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section will be implementation of HB 63 of the 88th Texas Regular Legislative Session. There will be no effect on large, small, or micro-businesses because the proposed changes do not impose new requirements on any business and do not require the purchase of any new equipment or any increased staff time in order to comply. There is no anticipated economic cost to persons who are required to comply with the proposed sections

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

DFPS has determined that the 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 Government Code, §2007.043.

PUBLIC COMMENT

Comments and questions on this proposal must be submitted within 30 days of publication of the proposal in the *Texas Register*. Electronic comments and questions may be submitted to Christine Steinberg, Statewide Intake, Christine.Steinberg2@dfps.texas.gov or RULES@dfps.texas.gov. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services Sanjuanita Maltos, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

STATUTORY AUTHORITY

The rule amendment to section 707.489(c)(1)(D) is authorized pursuant to Texas Human Resources Code (HRC) §40.027, which provides that the DFPS Commissioner shall adopt rules for the operation and provision of services by the agency and

Texas Family Code (TFC) §261.201(n), which directs DFPS to adopt rules concerning employee access to a reporter's identity.

The modification is proposed under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

CROSS REFERENCE TO STATUTES

The rule implements Texas Family Code §263.1021, §261.201(m) and (n) and §261.304(a).

§707.489. *How do we respond to reports of child abuse or neglect?*

(a) When the Statewide Intake (SWI) division of the Texas Department of Family and Protective Services (DFPS) receives a report of alleged abuse or neglect of a child, we may respond with any of the following protective interventions, as further described in this section:

- (1) Closure without assignment for investigation following screening;
- (2) Administrative closure;
- (3) An abbreviated investigation;
- (4) A thorough investigation; or
- (5) An alternative response.

(b) Intake closed without assignment for investigation

(1) SWI screeners may screen out less serious reports of abuse and neglect if they determine after contacting a professional or other credible source that the child's safety can be assured without conducting an investigation or alternative response and the report meets the following criteria:

- (A) the report is assigned a priority other than Priority I;
- (B) there are no alleged victims younger than six; and
- (C) the family does not have an open investigation or alternative response case, and is not receiving services through DFPS.

(2) Both, SWI screeners and Investigations supervisory staff, may close a report without assigning for investigation if they determine, after contacting collateral sources, that the report is not appropriate for an investigation by us for reasons including:

- (A) the reported information has already been investigated in a case closed before the date of the new intake;
- (B) the investigation is the responsibility of an entity other than the Investigations program;
- (C) the report does not give enough information to locate the child or the child's family, after the staff makes reasonable efforts to find additional locating information based on details in the report; or
- (D) the incident does not meet the statutory definitions of abuse or neglect or the situation does not appear to involve a reasonable likelihood that a child will be abused or neglected in the foreseeable future.

(3) If the report of abuse and neglect concerns a child in the conservatorship of DFPS, SWI screeners and Investigations supervisory staff may not screen out the report. However, in the following limited circumstances, SWI screeners may screen out such a report if:

- (A) DFPS has previously investigated all current allegations; or

(B) DFPS lacks jurisdiction to investigate.

(4) Before making a decision to close a report without assignment for investigation or alternative response, SWI screeners and Investigations supervisory staff must consider the following:

(A) the behavior of the family, including a review of all relevant prior history the family has with DFPS and any concerning involvement the family has with other agencies, such as law enforcement or service providers;

(B) the nature of the allegations and other relevant information such as the ages of each child in the home, alleged conditions in the home, and the types and seriousness of any alleged injuries;

(C) whether an alleged victim made an outcry of abuse or neglect; and

(D) any additional information obtained from the reporter or collateral sources.

(c) Administrative closure.

(1) Under certain circumstances, we may administratively close a report which was initially assigned for investigation if we obtain additional information indicating that an investigation is no longer warranted. Criteria we consider when deciding to administratively close an investigation include, but are not limited to, situations in which:

(A) The allegations have already been investigated by us;

(B) The allegations have been refuted based on a credible source and all of the following criteria are met:

(i) There are no previous findings of abuse or neglect against the parent or caregiver in the current investigation or alternative response case;

(ii) We have not received any subsequent reports of abuse or neglect of any alleged victim, with the exception of reports that involve the same incidents and allegations as in the original report;

(iii) After contacting a professional or other credible sources with direct knowledge about the child's condition, we have determined that the child's safety can be assured without further assessment, response, services, or assistance; and

(iv) we determine that no abuse or neglect occurred.

(C) We do not have jurisdiction to conduct the investigation because:

(i) Another authorized entity, such as law enforcement or another state agency, has jurisdiction to conduct the investigation;

(ii) The alleged victim is not a child or was not born alive; or

(iii) The abuse or neglect, a danger, or risk of abuse or neglect is not occurring in Texas.

(D) The investigation was initiated on the basis of an anonymous report referred by local or state law enforcement and after completing any necessary initial tasks, including any required interviews or collateral contacts, we determine that:

(i) There is no corroborating evidence; and

(ii) A parent has taken actions to protect the alleged victims from any identified dangers.

(2) If an investigation has been open for more than sixty days after the date of the intake, the supervisor must administratively close the investigation if all the following criteria are met:

(A) There are no previous findings of abuse or neglect against the parent or caregiver in the current investigation or alternative response case;

(B) We have not received any additional reports of abuse or neglect of any alleged victim, with the exception of reports that involve the same incidents and allegations as in the original report;

(C) After contacting a professional or other credible sources with direct knowledge about the child's condition, the supervisor determined that the child's safety can be assured without further investigation, response, services, or assistance;

(D) No abuse or neglect occurred;

(E) Closing the case would not expose the child to undue risk of harm; and

(F) The program director reviews and determines that administratively closing the case is appropriate.

(3) Exception. Notwithstanding the criteria in subparagraph (B) of paragraph 1 of this subsection, if we have made contact with the alleged victim or alleged perpetrator, the investigation is not eligible for administrative closure under subparagraph (B). However, the case may still be eligible for other types of administrative closure or abbreviated rule out, if applicable.

(d) Abbreviated investigation with a disposition of "ruled out".

(1) Cases assigned for investigation may be handled with an abbreviated investigation with findings of "ruled out", if we determine that no abuse or neglect has occurred and the child's safety can be assured without further investigation, response, services or assistance. We may submit an investigation as an abbreviated rule out, which does not require completing the formal risk assessment tool, when all of the following criteria in addition to any other criteria defined policy are met:

(A) There are no previous findings of abuse or neglect against the parent or caregiver in the current investigation or alternative response case;

(B) We have not received any subsequent reports of abuse or neglect of any alleged victim unless the new report involves the same incident(s) and allegation(s) under investigation; and

(C) The reporter is not anonymous.

(2) We must at a minimum perform the following tasks before submitting the investigation as an abbreviated rule out:

(A) Interview and visually inspect each alleged victim;

(B) Interview at least one parent or other person with primary or legal responsibility for each alleged victim;

(C) Complete a safety assessment and document whether any noted dangers are controlled by protective actions that have been or will be taken by the child's parent or other person with primary or legal responsibility for the child; and

(D) Conduct any required home visit.

(e) Thorough investigation.

(1) Except as provided in subsection (f) of this section and division 2 of this subchapter (relating to Alternative Response), we must complete a thorough investigation if we obtain information indicating that:

(A) There are dangers to the child because of abuse or neglect;

(B) Risk of abuse or neglect is indicated; or

(C) Based on information in the report and any initial contacts, it is impossible to determine whether or not there are dangers to the child because of abuse or neglect or whether risk of abuse or neglect is indicated.

(2) Before closing a thorough investigation, we must at a minimum perform the following tasks:

(A) Interview each alleged victim child;

(B) Interview at least one of the parents or other person with primary or legal responsibility for the victim child;

(C) Interview each alleged perpetrator;

(D) Interview other individuals who have information that is relevant or potentially relevant to the report of abuse or neglect;

(E) Complete a safety assessment and document whether any noted dangers are controlled by protective actions that have been or will be taken by the child's parent or other person with primary or legal responsibility for the child, unless the investigation relates to a deceased child and there is no other child in the home; and

(F) Assess the risk of future abuse or neglect, unless the investigation relates to a deceased child and there is no other child in the home.

(f) Alternative response. An alternative response is a protective intervention governed by division 2 of this subchapter and Texas Family Code, §261.3015, that involves an assessment of the family, including a safety assessment, and provision of necessary services and supports. Alternative response does not result in a formal finding of abuse or neglect or the designation of a perpetrator.

(g) Exceptions to required interviews. We are not required to conduct an interview to close an abbreviated or thorough investigation as described in subsections (c) and (d) of this section if we exhaust all reasonable efforts to conduct the interview but are unable to do so because:

(1) The person to be interviewed is unable to be interviewed because of age or other exceptional circumstance;

(2) The person to be interviewed, the person's parent or other legal guardian, or the attorney representing the person refuses to permit the interview;

(3) The alleged perpetrator has been arrested or is under investigation by a law enforcement agency and the interview would interfere with the investigation or violate the alleged perpetrator's rights; or, the alleged perpetrator is detained and the jail, prison, or other detention facility in which the alleged perpetrator is detained will not permit the interview; or

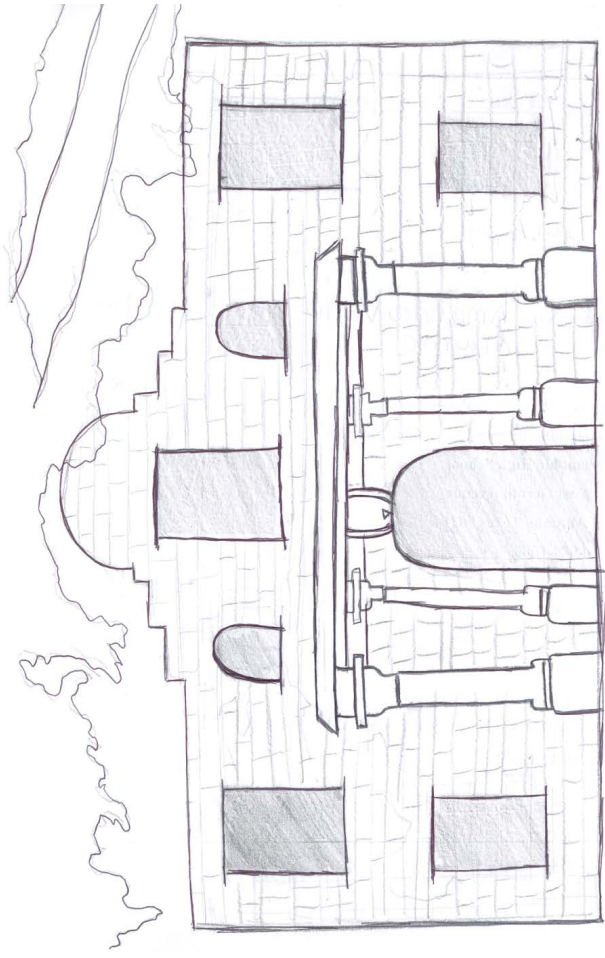
(4) The person to be interviewed has been interviewed by another entity and we accept the substitute interview. If the person, the person's parent or other legal guardian, or the attorney representing the person requests that the person also be interviewed by us, the investigator must conduct one supplemental interview.

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 March 11, 2024.
TRD-202401117

Quyona Gregg
Rules Coordinator
Department of Family and Protective Services
Earliest possible date of adoption: April 28, 2024
For further information, please call: (512) 929-6633





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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

SUBCHAPTER B. AMY YOUNG BARRIER REMOVAL PROGRAM

10 TAC §§26.20 - 26.28

The Texas Department of Housing and Community Affairs withdraws the proposed repeal of §§26.20 - 26.28 which appeared in the December 22, 2023, issue of the *Texas Register* (48 TexReg 7720).

Filed with the Office of the Secretary of State on March 14, 2024.
TRD-202401159

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: March 14, 2024
For further information, please call: (512) 483-1148



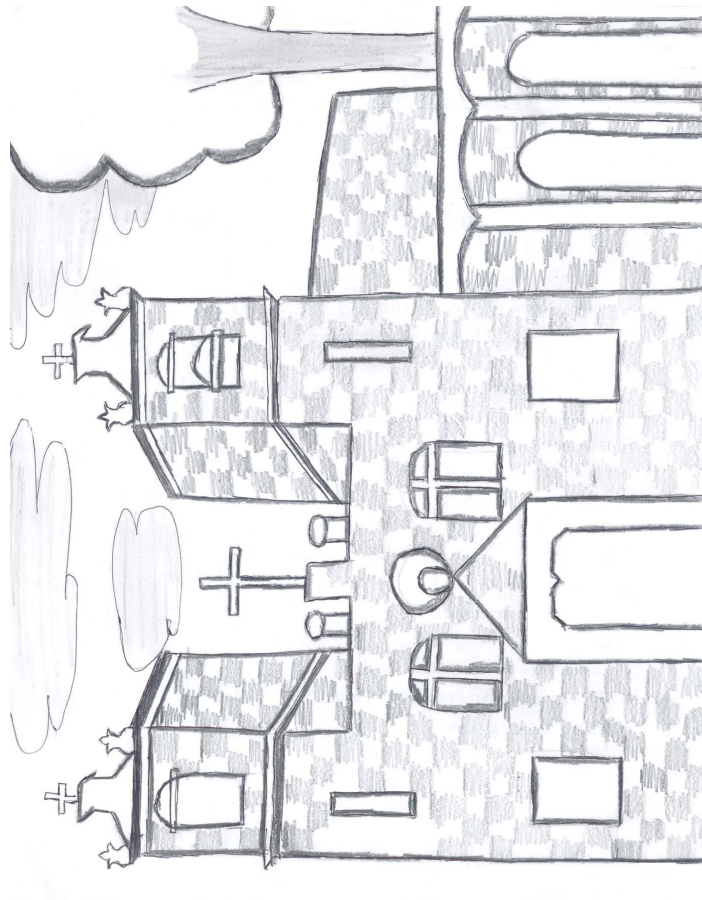
10 TAC §§26.20 - 26.28

The Texas Department of Housing and Community Affairs withdraws proposed new §§26.20 - 26.28 which appeared in the December 22, 2023, issue of the *Texas Register* (48 TexReg 7721).

Filed with the Office of the Secretary of State on March 15, 2024.

TRD-202401162
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: March 15, 2024
For further information, please call: (512) 483-1148





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §353.2, §353.4

The Texas Health and Human Services Commission (HHSC) adopts amendments to §353.2, concerning Definitions; and §353.4, concerning Managed Care Organization Requirements Concerning Out-of-Network Providers.

Sections 353.2 and 353.4 are adopted without changes to the proposed text as published in the December 8, 2023, issue of the *Texas Register* (48 TexReg 7113). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adopted amendment to Section 353.4 requires Medicaid health care managed care organizations (MCOs) to reimburse an out-of-network physician for providing Medicaid telemedicine medical services to a child in a primary or secondary school-based setting without prior authorization, even if the physician is not the child's primary care provider. This requirement is in accordance with Texas Government Code Section 531.0217(c-4) and is currently implemented through contracts between MCOs and HHSC. Texas Government Code Section 531.0217(c-4) was added by House Bill 1878, 84th Legislature, Regular Session, 2015, and amended by Senate Bill 670, 86th Legislature, Regular Session, 2019.

The adopted amendment to Section 353.2 adds the definitions for "nursing facility," "nursing facility add-on services," "nursing facility services," and "nursing facility unit rate" to provide definitions of terms used in Section 353.4 and to align the definitions with language in managed care contracts. The adopted amendment removes the definition for "Main dental home provider" because this term is not used in the chapter.

COMMENTS

The 31-day comment period ended January 8, 2024.

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

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which authorizes the Executive Com-

missioner of HHSC to adopt rules as necessary to carry out the commission's duties; Human Resources Code §32.021 and Texas Government Code §531.021(a), which authorize HHSC to administer the federal medical assistance (Medicaid) program; and Texas Government Code §533.002, which authorizes HHSC to implement the Medicaid managed care program.

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

Filed with the Office of the Secretary of State on March 13, 2024.

TRD-202401157

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 2, 2024

Proposal publication date: December 8, 2023

For further information, please call: (512) 221-6857

TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 106. GUIDELINES FOR THE ASSESSMENT OF ADMINISTRATIVE FINES

7 TAC §106.1

The Texas State Securities Board adopts an amendment to §106.1, concerning Guidelines for the Assessment of Administrative Fines, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7245). The amended rule will not be republished.

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

The statutory reference conforms to the codified version of the Act, and the rule is current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities

Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The amendment affects Texas Government Code §4007.106.

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 March 18, 2024.

TRD-202401175

Travis J. Iles

Securities Commissioner

State Securities Board

Effective date: April 7, 2024

Proposal publication date: December 15, 2023

For further information, please call: (512) 305-8303



CHAPTER 107. TERMINOLOGY

7 TAC §107.1, §107.2

The Texas State Securities Board adopts amendments to §107.1, concerning General; and §107.2, concerning Definitions, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7245). The amended rules will not be republished.

The rules are amended to update the statutory references to the Texas Securities Act (Act) in the rules to refer to the codified version of the Act. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. Section 107.1 is also amended to capitalize the word "Board" to conform terminology. Other amendments have been made to existing definitions in §107.2, which have been relocated; repealed because they are no longer used in the Act or elsewhere in the Board Rules; or amended to conform to terms now used in the Act or in the rules. New definitions have also been added for the terms "NASAA," and "CFR," so those definitions that appear elsewhere in the rules can be eliminated.

Statutory references conform to the codified version of the Act, defined terms that are no longer used have been removed, and rules are current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendments.

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

The amendments affect the Texas Securities Act, Texas Government Code, §§4001.001-4008.105.

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

Filed with the Office of the Secretary of State on March 18, 2024.

TRD-202401176

Travis J. Iles

Securities Commissioner

State Securities Board

Effective date: April 7, 2024

Proposal publication date: December 15, 2023

For further information, please call: (512) 305-8303



CHAPTER 113. REGISTRATION OF SECURITIES

7 TAC §113.1

The Texas State Securities Board adopts the repeal of §113.1, concerning Qualification of Securities, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7247). The repealed rule will not be republished.

The text of this section has been relocated to existing §113.2, which has been renamed to reflect the added relocated text. A new §113.1, concerning Definitions, has also been concurrently adopted which adds a new definitions section to this chapter.

Text of the repealed rule has been relocated to another rule to improve clarity and readability.

No comments were received regarding adoption of the repeal.

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

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

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

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Travis J. Iles

Securities Commissioner

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For further information, please call: (512) 305-8303



7 TAC §§113.1 - 113.6, 113.8, 113.9, 113.11 - 113.14

The Texas State Securities Board adopts a new rule and amendments to eleven rules, §§113.1 - 113.6, 113.8, 113.9, 113.11 - 113.14 in this chapter without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register*.

ter (48 TexReg 7247). The new rule and amended rules will not be republished.

The new rule and amended rules make nonsubstantive changes to the chapter. Specifically, the Board adopts new §113.1, concerning Definitions; and adopts amendments to §113.2, concerning Registration by Coordination; §113.3, concerning Fair, Just, and Equitable Standards; §113.4, concerning Application for Registration; §113.5, concerning Financial Statements; §113.6, concerning Renewal Update; §113.8, concerning Notification of Status in Other States; §113.9, concerning Securities Underlying Transferable Warrants and Employee Stock Options; §113.11, concerning Shelf Registration of Securities; §113.12, concerning Applicability of Statements of Policy to Exempt Offerings; §113.13, concerning Multijurisdictional Disclosure System--MJDS Offerings; and §113.14, concerning Statements of Policy.

The existing §113.1, concerning Qualification of Securities, is concurrently repealed.

New §113.1, concerning Definitions, adds a new definitions section to this chapter. The text of existing §113.1 of this title (relating to Qualification of Securities), is relocated to existing §113.2 of this title (relating to Registration by Coordination), which is renamed to reflect the relocated text.

The references to sections of the Texas Securities Act (Act) in §§113.2, 113.3, 113.5, 113.6, 113.8, 113.9, 113.11, 113.12, 113.13, and 113.14 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code, or to the newly defined terms in new §113.1, as applicable. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022.

Sections 113.2, 113.11, and 113.13 are also amended to remove references to the "Securities and Exchange Commission" and language that defines this term as the "SEC" since this term is already defined in §107.2 of this title (relating to Definitions) as "SEC."

Section 113.4 is also amended in (d)(2) to allow the Registration Division to send notices required by this section by methods other than regular mail, such as by email, and to remove the definition of the Texas Securities Act, as this term is already defined in §107.2 of this title (relating to Definitions). Language in §113.4(e) concerning registration of excess securities that duplicates text from the Act is replaced with references to the applicable statutory provisions.

Section 113.5 is also amended to reflect that an exemption referenced in this rule has been repealed by adding the word "former" to such reference.

Section 113.8 is also amended for clarity and to improve readability.

Section 113.9 is also amended to divide it into three subsections for clarity and to improve readability.

Section 113.11(a)(1) and (b)(1) is also amended to revise the references to the "Code of Federal Regulations" in these subsections to "CFR." Rule 107.2 of this title (relating to Definitions) is concurrently amended to add "CFR" as a defined term.

Section 113.13(b), (c), and (e) is also amended to remove a reference to an obsolete SEC form and to revise the cross reference to §113.2 to state its new caption, and subsection (e) is also amended to conform terminology.

Section 113.14(a) is also amended to remove the definition of the term "NASAA." Rule 107.2 of this title (relating to Definitions) is concurrently amended to add "NASAA" as a defined term. Subsection (c) is revised to remove the reference to "print" copies to allow for the requestor's preferred format (most likely electronic).

Statutory references conform to the codified version of the Act, and the rules accurately coordinate with federal standards and requirements which promotes transparency and efficient regulation and with respect to the amendment to §113.4, applicants will receive timelier notice of a possible abandonment of their registration applications.

No comments were received regarding adoption of the new rule and amendments.

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

The new section and amendments affect the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C.

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

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CHAPTER 114. FEDERAL COVERED SECURITIES

7 TAC §§114.1, 114.2, 114.4

The Texas State Securities Board adopts amendments to §114.1, concerning Introduction; §114.2, concerning Definitions; and §114.4, concerning Filings and Fees, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7251). The amended rules will not be republished.

The references to sections of the Texas Securities Act in §§114.1, 114.2, and 114.4 are updated to refer to either a newly defined term found in §114.2, or to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022.

Section 114.2 is also amended to add a definition for "Exemptions Sections," and §114.1 is also amended to refer to this new defined term.

Definitions of the "Act" and the "SEC" are removed from §114.2 since they are already defined in Rule 107.2 of this title.

Section 114.4 is also amended to remove language in subsection (a)(3) defining the "Act," since this term is already defined in Rule 107.2 of this title.

Language in §114.4(a)(3), (b)(1)(B), and (b)(4)(C) concerning fees that replicates language in the Act is replaced with references to the applicable statutory provisions.

Additionally, the period in §114.4(d)(1) preceding "the following" language is replaced with a colon to improve accuracy, consistency, and readability; and the words "a year" are added after "6%" in §114.4(d)(1)(B)(i) and (d)(2)(B) to better track the applicable language in Section 302.002 of the Texas Finance Code.

Statutory references conform to the codified version of the Act, and rules are current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Government Code, §4002.151 and §4005.024, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The amendments affect the following sections of the Texas Securities Act: Texas Government Code, Chapter 4005, Subchapters A and B; and Chapter 4006.

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

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CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §115.18

The Texas State Securities Board adopts an amendment to §115.18, concerning Special Provisions Relating to Military Applicants, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7253). The amended rule will not be republished.

The amendment implements the requirements of Senate Bill 422, passed in the 2023 Texas Legislative Session, which

amended §55.0041 of the Texas Occupations Code, effective September 1, 2023.

To reflect the statutory changes, the amendment expands out-of-state occupational license recognition to include military service members, as long as certain criteria are met. The time period for which verification of good standing occurs is also modified from "as soon as practicable" to no later than 30 days. The amendment also addresses the term of the recognition in situations of divorce or other events impacting the military spouse's status. Finally, a statement of purpose is added to the rule to make it clear that this rule addresses the requirements provided under Chapter 55, Texas Occupations Code, and not federal law.

Nonsubstantive changes to conform terminology have also been made, and the references to sections of the Texas Securities Act in the rule have been updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022.

Related forms have been concurrently adopted as are comparable amendments to the corresponding rule for investment advisers and investment adviser representatives.

The rule is consistent with the applicable statutory requirements and statutory references conform to the codified version of the Act, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The amendment is also adopted under §55.0041 of the Texas Occupations Code, as amended by SB 422, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants.

The amendment affects the following sections of the Texas Securities Act, Texas Government Code: §§4006.001 and 4007.105; and Chapter 4004, Subchapters B through F.

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 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTA- TIVES

7 TAC §116.18

The Texas State Securities Board adopts an amendment to §116.18, concerning Special Provisions Relating to Military Applicants, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7255). The amended rule will not be republished.

The amendment, in part 1, implements the requirements of Senate Bill 422, passed in the 2023 Texas Legislative Session, which amended §55.0041 of the Texas Occupations Code, effective September 1, 2023.

To reflect the statutory changes, the amendment expands out-of-state occupational license recognition to include military service members, as long as certain criteria are met. The time period for which verification of good standing occurs is also modified from "as soon as practicable" to no later than 30 days. The amendment also addresses the term of the recognition in situations of divorce or other events impacting the military spouse's status. Finally, a statement of purpose is added to the rule to make it clear that this rule addresses the requirements provided under Chapter 55, Texas Occupations Code, and not federal law.

Nonsubstantive changes to conform terminology have also been made, and the references to sections of the Texas Securities Act in the rule have been updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022.

Related forms have been concurrently adopted as are comparable amendments to the corresponding rule for dealers and agents.

The rule is consistent with the applicable statutory requirements and statutory references conform to the codified version of the Act, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The amendment is also adopted under §55.0041 of the Texas Occupations Code, as amended by SB 422, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants.

The amendment affects the following sections of the Texas Securities Act, Texas Government Code: §§4006.001 and 4007.105; and Chapter 4004, Subchapters B through G.

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 123. ADMINISTRATIVE GUIDELINES FOR REGISTRATION OF OPEN-END INVESTMENT COMPANIES

7 TAC §123.3

The Texas State Securities Board adopts an amendment to §123.3, concerning Conditional Exemption for Money Market Funds, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7257). The amended rule will not be republished.

The references to sections of the Texas Securities Act in the rule are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. The rule is also amended to replace a reference to a Securities and Exchange Commission Release found in subsection (b)(2) with a reference to a cite to the SEC rule in the Code of Federal Regulations, and to update terminology in subsections (b)(7) and (g).

Statutory references conform to the codified version of the Act, and rules are current, accurate, and coordinate with federal standards and requirements, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151 and §4005.024, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

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

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

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CHAPTER 127. MISCELLANEOUS

7 TAC §§127.1, 127.3, 127.4

The Texas State Securities Board adopts amendments to §127.1, concerning Enforcement; §127.3, concerning Seal of the State; and §127.4, concerning Prosecutorial Assistance to County or District Attorneys, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7258). The amended rules will not be republished.

The references to sections of the Texas Securities Act in §§127.1, 127.3, and 127.4 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. Section 127.1 is also amended to remove the statutory quotations to the Act in subsection (b) and revised to improve readability. Section 127.1 is also amended to capitalize the term "Commissioner" in subsections (a) and (b) for consistency.

Statutory references conform to the codified version of the Act, and rules are current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendments.

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

The amendment to §127.1 affects the Texas Government Code, §§4007.001 and 4007.053. The amendment to §127.3 affects the Texas Government Code, §4001.154(c). The amendment to §127.4 affects Texas Government Code, §4007.001.

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 131. GUIDELINES FOR CONFIDENTIALITY OF INFORMATION

7 TAC §131.1

The Texas State Securities Board adopts an amendment to §131.1, concerning Information Sharing, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7259). The amended rule will not be republished.

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

Statutory references conform to the codified version of the Act, and rules are current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151 and §4002.161, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4002.161 provides that the Board approve governmental and regulatory authorities and associations of governmental and regulatory authorities to which the Commissioner may disclose confidential information at the Commissioner's discretion.

The amendment affects the Texas Government Code, §§4002.161 and 4007.056.

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 133. FORMS

7 TAC §133.22, §133.23

The Texas State Securities Board adopts the repeal of two rules, concerning forms adopted by reference. Specifically, the State Securities Board adopts the repeal of §133.22, a form concerning Waiver or Refund Request by a Military Spouse for a Renewal Fee; and §133.23, a form concerning Request for Recognition of Out-Of-State License or Registration by a Military

Spouse, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7260). The repealed rules will not be republished.

The repealed forms have been replaced with new forms being concurrently adopted to correspond with amendments to §115.18 and §116.18, which are concurrently adopted and implement the requirements of Senate Bill 422, passed in the 2023 Texas Legislative Session, which amended §55.0041 to the Texas Occupations Code.

The two existing forms have been eliminated so they can be replaced with two new forms to implement the requirements of SB 422.

No comments were received regarding adoption of the repeal.

The repeals are adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The repeals are also adopted under §55.0041 of the Texas Occupations Code, as amended by SB 422, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants.

The repeals affect the following sections of the Texas Securities Act, Texas Government Code: §§4006.001 and 4007.105; and Chapter 4004, Subchapters B through G.

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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7 TAC §133.22, §133.23

The Texas State Securities Board adopts two new rules, concerning forms adopted by reference, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7261). Specifically, the State Securities Board adopts new §133.22, which adopts by reference a form concerning Waiver or Refund Request by a Military Service Member or Military Spouse for a Renewal Fee; and new §133.23, which adopts by reference a form concerning Request for Recognition of Out-Of-State License or Registration Pursuant to Texas Occupations Code §55.0041. The new rules will not be republished.

The new sections adopt by reference forms that have been created to implement amendments to §115.18 and §116.18, which have been concurrently adopted to implement the requirements

of Senate Bill 422, passed in the 2023 Texas Legislative Session, which amended §55.0041 to the Texas Occupations Code.

New Form §133.22 allows either a military service member or military spouse falling within the provisions of Texas Occupations Code §55.0041 to apply for a waiver or refund of a renewal fee pursuant to §115.18 or §116.18, which have been concurrently amended.

New Form §133.23 may be filed by either a military service member or military spouse eligible for non-registration under Texas Occupations Code §55.0041. The form needs to be resubmitted annually during the period that the individual qualifies for unique treatment under Texas Occupations Code §55.0041. Upon issuance of the confirmation by the Registration Division for the initial or a renewal filing, the individual will be considered to be notice filed for purposes of recordkeeping and certification.

Eligible military spouses and eligible military service members can complete the forms to either obtain a waiver or refund of renewal fees or to practice securities business in Texas without being registered.

Concurrent with this adoption is the repeal of existing forms §133.22 and §133.23.

No comments were received regarding adoption of the new rules.

The new rules are adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The new rules are also adopted under §55.0041 of the Texas Occupations Code, as amended by SB 422, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants.

The new rules affect the following sections of the Texas Securities Act, Texas Government Code: §§4006.001 and 4007.105; and Chapter 4004, Subchapters B through G.

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 135. INDUSTRIAL DEVELOPMENT CORPORATIONS AND AUTHORITIES

7 TAC §135.1

The Texas State Securities Board adopts an amendment to §135.1, concerning Exemption, without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7262). The amended rule will not be republished.

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

The statutory reference conforms to the codified version of the Act, and the rule is current and accurate, which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151 and §4005.024, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The amendment affects the following sections of the Texas Securities Act: Texas Government Code, Chapter 4003, Subchapters A, B, and C; Chapter 4005, Subchapter A; and Texas Local Government Code, Title 12, Subtitle C1, particularly Local Government Code §501.203.

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 137. ADMINISTRATIVE GUIDELINES FOR REGULATION OF OFFERS

7 TAC §§137.1 - 137.3, 137.6

The Texas State Securities Board adopts amendments to §137.1, concerning Application; §137.2, concerning Filing Requirements; §137.3, concerning Preliminary Prospectus; and §137.6, concerning Standards for Supplemental Advertising. Sections 137.2, 137.3, and 137.6 were adopted without changes to the proposed text as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7263) and will not be republished. Section 137.1 was adopted with one change to the published proposal and will be republished. The change

consisted of removing an unnecessary comma in subsection (d).

The references to sections of the Texas Securities Act in §§137.1, 137.2, and 137.3 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. The rest of the amendments make other nonsubstantive and cleanup changes.

Section 137.1 is also amended to subdivide the text into subsections by subject.

Section 137.2 and §137.6 is also amended to capitalize the term "Commissioner" for consistency.

Section 137.2(c) is also amended to correct a reference to a Securities and Exchange Commission rule.

The reference to the term "Securities and Exchange Commission" in Section 137.3 is replaced with "SEC," which is already defined in §107.2 of this title. The section is also amended to abbreviate a cite to the Code of Federal Regulations. Rule 107.2 of this title, concerning Definitions, is concurrently amended to add "CFR" as a defined term.

Section 137.6(e) is also amended to update outdated terminology.

Statutory references conform to the codified version of the Act, and the rules accurately coordinate with federal standards and requirements which promotes transparency and efficient regulation.

No comments were received regarding adoption of the amendments.

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

The amendments affect Chapter 4003, Subchapter E, of the Texas Government Code.

§137.1. Application.

(a) This chapter relates to offers to sell securities which must be filed with the Commissioner under the Texas Securities Act, Chapter 4003, Subchapter E.

(b) This chapter does not apply to advertising for sales made in reliance upon exemptions contained in the Act, Chapter 4005, Subchapters A or B, including exemptions by rule adopted by the State Securities Board pursuant to the Texas Securities Act, §4005.024.

(c) This chapter does not require the filing of any offering documents, prepared by or on behalf of the issuer, in connection with the offer of federal covered securities, as that term is defined in §107.2 of this title (relating to Definitions).

(d) The Texas Securities Act prohibits fraud or fraudulent practices in connection with the purchase or sale of any security, whether exempt or not. The Agency has jurisdiction to investigate and bring enforcement actions with respect to fraud or deceit, or unlawful conduct by a dealer or agent, in connection with any securities subject

to the Texas Securities Act, including federal covered securities or transactions involving federal covered securities.

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE

SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

DIVISION 1. CHRONIC WASTING DISEASE (CWD)

31 TAC §65.81, §65.82

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 25, 2024, adopted amendments to 31 TAC §65.81, concerning Containment Zones; Restrictions, and §65.82, concerning Surveillance Zones; Restrictions. The amendment to §65.82 is adopted with changes to the proposed text as published in the December 22, 2023, issue of the *Texas Register* (48 TexReg 7868). The amendment to §65.81 is adopted without change and will not be republished.

The change to §65.82, concerning Surveillance Zones, Restrictions, withdraws proposed Surveillance Zone 27 in Kerr County. The zone was proposed in response to the suspicion of the presence of CWD in a department research facility; however, subsequent extensive post-mortem testing of both the individual animal that was initially suspected of having the disease and all other deer in the facility yielded no confirmations of the presence of CWD. Therefore, a surveillance zone is not warranted.

The amendments establish a chronic wasting disease (CWD) containment zone (CZ) in Coleman County and surveillance zones (SZs) in Kimble, Medina, Cherokee, and Coleman counties in response to the continuing detection of CWD in deer breeding facilities and free-ranging populations and would heighten the department's surveillance efforts in those areas.

Chronic wasting disease (CWD) is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (referred to collectively as susceptible species). It is classified as a TSE (transmissible spongiform encephalopathy), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE, found in cattle and commonly known as

"Mad Cow Disease"), and variant Creutzfeldt-Jakob Disease (vCJD) in humans.

Much remains unknown about CWD, although robust efforts to increase knowledge are underway in many states and countries. The peculiarities of its transmission (how it is passed from animal to animal), infection rate (the frequency of occurrence through time or other comparative standard), incubation period (the time from exposure to clinical manifestation), and potential for transmission to other species are still being investigated. Currently there is scientific evidence to suggest that CWD has zoonotic potential; however, no confirmed cases of CWD have been found in humans. Consequently, both the Center for Disease Control and Prevention and the World Health Organization strongly recommend testing animals taken in areas where CWD exists, and recommend not consuming the meat of infected animals. What is known is that CWD is invariably fatal to certain species of cervids and is transmitted both directly (through animal-to-animal contact) and indirectly (through environmental contamination). If CWD is not contained and controlled, the implications of the disease for Texas and its multi-billion-dollar ranching, hunting, wildlife management, and real estate economies could be significant.

The department has engaged in several rulemakings over the years to address the threat posed by CWD, including rules to designate a system of management zones in areas where CWD has been confirmed. The purpose of those CWD zones is to better determine the geographic extent and prevalence of the disease while containing it by limiting the unnatural movement of live CWD-susceptible species as well as the movement of carcass parts.

The department's response to the emergence of CWD in captive and free-ranging populations is guided by the department's CWD Management Plan (Plan) <https://tpwd.texas.gov/huntwild/wild/diseases/cwd/plan.phtml>. Developed in 2012 in consultation with the Texas Animal Health Commission (TAHC), other governmental entities and conservation organizations, and various advisory groups consisting of landowners, hunters, deer managers, veterinarians, and epidemiologists, the Plan sets forth the department's CWD management strategies and informs regulatory responses to the detection of the disease in captive and free-ranging cervid populations in the state of Texas. The Plan is intended to be dynamic; in fact, it must be so in order to accommodate the growing understanding of the etiology, pathology, and epidemiology of the disease and the potential management pathways that emerge as it becomes better understood through time. The Plan proceeds from the premise that disease surveillance and active management of CWD once it is detected are absolutely critical to containing it on the landscape. Accordingly, the first step in the department's response to CWD detections is the timely establishment of management zones around locations where detection occurs. A CZ is "a department-defined geographic area in which CWD has been detected or the department has determined, using the best available science and data, that CWD detection is probable." Designation of a CZ imposes mandatory carcass movement restrictions, and if the department imposes mandatory check stations, all deer harvested within a CZ must be presented at a check station unless otherwise authorized by the department in writing. A SZ is "a department-defined geographic area in this state within which the department has determined, using the best available science and data, that the presence of CWD could reasonably be expected." Within a SZ, the movement

of live deer is subject to restrictions and the presentation of harvested deer at a department check station is required. In addition, deer carcass movement restrictions set forth in §65.88 of Subchapter B, Division 1 apply.

Historically, when CWD has been detected in a deer breeding facility but not on any associated release sites, the department has considered the property on which the breeding facility is located to be a de facto CZ because it is surrounded by a fence capable of retaining deer at all times and is immediately subject to a quarantine and a herd plan administered by TAHC. In such cases, the department has designated only a SZ around the index facility. In cases where CWD is detected in a free-ranging deer or a release site associated with a positive facility, the department imposes a CZ.

The Texas Parks and Wildlife Commission has directed staff to develop guidelines or a standard operating procedure (SOP) with respect to the establishment and duration of SZs. The SOP distinguishes two scenarios: 1) the detection of CWD has been in a deer breeding facility but not at any release site associated with a breeding facility and 2) detection of CWD on a release site associated with a deer breeding facility where CWD has been detected. In the first scenario, the department will not establish a SZ if the following can be verified: 1) the disease was detected early (i.e., it has not been in the facility long); 2) the transmission mechanism and pathway are known; 3) the facility was promptly depopulated following detection; and 4) there is no evidence that free-ranging deer populations have been compromised. If any of these criteria is not satisfied, a SZ will be established, to consist of all properties that are wholly or partially located within two miles of the property containing the positive deer breeding facility. None of the discoveries necessitating this rulemaking satisfy all four criteria; thus, the department proposes the new surveillance zones described in this rulemaking.

On September 7, 2023, the department received confirmation that a six-year-old female white-tailed deer in a deer breeding facility located in Kimble County had been confirmed positive for CWD.

On October 19, 2023, the department received notification that a 14-month-old male white-tailed deer in a deer breeding facility located in Medina County was confirmed positive for CWD.

On November 14, 2023, the department received notification that a 4.4-year-old male white-tailed deer in a deer breeding facility located in Cherokee County was confirmed positive for CWD.

On December 6, 2023, the department received notification that CWD was confirmed in a free-range 2.5-year-old male white-tailed deer taken by a hunter in Coleman County.

The proposed amendment to §65.81, concerning Containment Zones; Restrictions, would create a new CZ in Coleman County.

The proposed amendment to §65.82, concerning Surveillance Zones; Restrictions, would establish new surveillance zones in Kimble, Medina, Cherokee, and Coleman counties. The department notes that the SZs will be removed when the department is satisfied that CWD has been contained and the risk of further spread is minimal.

The department received 185 comments opposing adoption of the rules as proposed. Of those comments, 131 articulated a specific reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that the department does not test enough to know the actual prevalence of CWD in the state. The department disagrees with the comment and responds that the rules in question are a response to the detection of CWD and require CWD testing of hunter-harvested deer in areas surrounding locations where CWD has been confirmed, which is necessary to determine the prevalence of the disease in these areas. No changes were made as a result of the comment.

Two commenters opposed adoption and stated that carcass disposal rules would eliminate the need for CWD zones. The department disagrees with the comment and responds that the overwhelming majority of CWD detections, particularly in white-tailed deer, are associated with the movement of live animals, not carcasses, and that, in fact, currently only one case of CWD is shown to have likely resulted from infection by exposure to infected carcasses, and that occurred in an unregulated taxidermy operation. No changes were made as a result of the comments.

One commenter opposed adoption and stated that it is illogical to require so much testing from deer breeders while leaving other avenues of spread unmanaged. The department disagrees with the comment and responds that the overwhelming majority of CWD detections, particularly in white-tailed deer, have occurred in deer breeding facilities and on release sites associated with deer breeding facilities, that captive populations present a completely separate and different set of epidemiological realities as opposed to free-ranging populations, that the rules as adopted do impose certain carcass movement restrictions that apply in affected areas, but do not impose any testing requirements on deer breeders. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the intensive testing required of deer breeders provides a mechanism for the commission to remove the portion of zones rules that address the movement of live deer. The department disagrees with the comment and responds that the current rules do not affect deer breeders who are MQ (Movement Qualified, a status indicating compliance with testing rules governing deer transfers) in any way other than to prohibit the transfer of breeder deer from within a CZ to destinations outside the CZ, which at the current time affects exactly one deer breeder in the state. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules will cause hunters to stop hunting. The department disagrees with the comment and responds that there is no evidence to suggest that zone designations are having any effect on license sales but there is evidence to suggest that hunters will avoid areas where CWD is known to exist, which the department notes is not a result of a zone designation, but the discovery of CWD. No changes were made as a result of the comment.

Two commenters opposed adoption on the basis that "CWD has been around forever." The department disagrees with the comment and responds that it is impossible to confirm that CWD has been present forever and that in any case it is irrelevant in the context of the department's statutory duty to protect a public resource. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the rules will "hinder data collections" because hunters will not "voluntarily report deer" if they think it will result in the installation of a CWD zone. The department disagrees with the comment and responds that once CWD is discovered and a management zone

has been created, the zone continues to exist and additional detections within the zone, while providing valuable data to the department for disease management, do not affect the status of the zone designation, although depending on the location of additional positives, the dimensions of the zone could be subject to alteration. No changes were made as a result of the comment.

One commenter opposed adoption and stated that if the department had started looking for CWD in free-ranging populations thirty years ago the data would be the same as it is today. The department disagrees with the comment and responds that CWD zone rules were implemented 12 years ago in response to the first known case of CWD in Texas detected in a free-ranging mule deer near the New Mexico border after New Mexico officials notified the department of the detection on CWD positive mule deer in New Mexico near the border between the states. Since that time the department has been engaged in a statewide CWD surveillance effort and while CWD has not been widely detected in free-ranging populations, CWD has been detected in white-tailed deer in dozens of deer breeding facilities and release sites associated with deer breeding facilities across the state. No changes were made as a result of the comment.

Two commenters opposed adoption and stated that the department is creating mass hysteria by engaging in sensationalism and turning the public against deer breeding and hunting. The department disagrees with the comments and responds that CWD is a deadly disease that has profound implications for deer and deer hunting, it is present in numerous locations in Texas and is spreading, and the department seeks only to inform and educate the public about the threat while encouraging the public to take the threat seriously and help the department manage it. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the department should "publish the facts" because the rules are government overreach and will destroy hunter participation. The department disagrees that department actions involve anything other than factual data and the application of logic and reason to that data in the context of sound science. The department further responds that the rules as adopted are completely within the statutory authority granted to the department by the legislature, and there is no evidence that CWD management actions are affecting license sales. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules are government overreach because the department's own data shows "less than .02% of tested animals tested positive," which does not justify "murdering deer and businesses over political disease." The department disagrees with the comment, first on the basis that the rules in question do not impose or even contemplate any kind of depopulation activities nor do they require or cause any business to cease operations, but they do create management zones in which live deer movement is curtailed under specific and limited circumstances, which at the current time affects exactly one deer breeder; second, that no rational connection can be made between the department's efforts to manage CWD and the beliefs of any political party, affiliation, or platform; and third, because the agency has a statutory duty to protect wildlife resources, the discovery of CWD in even one animal is cause for alarm and immediate, effective action, which is not overreach. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules are "blown out way out of proportion for the risk to the native herd." The department disagrees with the comment and responds that early, effective action is preferable to waiting until the situation is worse, and there is ample evidence in other states that CWD, if allowed to spread unchecked, becomes a serious and perhaps intractable problem. No changes were made as a result of the comment.

Five commenters opposed adoption and stated that the rules will cause economic harm in the communities in or near CWD zones by affecting hunting lease prices, jobs, and businesses. The department disagrees with the comment and responds that the rules as adopted do not directly affect local communities or their economies, there is no evidence that there are significant indirect negative economic impacts as a result of zone designations, and that if there are negative impacts, they are a result of CWD, not department rules. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the rules should apply only to deer breeders because deer breeders are the cause of the problem. The department disagrees with the comment and responds that when CWD is detected in a deer breeding facility, associated release site, or other free-ranging populations additional surveillance in the area may be necessary regardless of how CWD was spread. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules should "follow the science" because more deer die from other causes than from CWD. The department agrees with the comment to the extent that the department's CWD management actions are science-driven and utilize the best available science in collaboration with numerous specialists in wildlife diseases and veterinary medicine; however, the fact that deer mortalities can result from any number of causes other than CWD (in whatever numbers) is not a scientifically defensible basis for abandoning or failing to implement sensible CWD management strategies. The department also responds that scientific investigations have proven that deer infected with CWD are four times more likely to die of other causes than deer that are not infected with CWD. No changes were made as a result of the comment.

One commenter opposed adoption and stated that CWD has not "wiped out an area's deer herd to the point that lock down and zones can be created." The department disagrees that extreme mortality events are an appropriate threshold for action to manage and contain CWD, or that the rules impose draconian restrictions to the point of constituting a "lock down." No changes were made as a result of the comment.

One commenter opposed adoption and stated that the department "wiped out a whole herd of deer in the Kerr wildlife management zone and the test came back negative." The department disagrees with the comment and responds that the department euthanized deer held in captivity for research purposes at the Kerr Wildlife Management Area out of an abundance of caution following a presumptive positive test result. Although subsequent testing failed to confirm the presence of CWD in the research population, prompt depopulation and post-mortem testing is the appropriate response, because it is possible that deer were infected but the disease had not progressed far enough to be detectable by current regulatory testing methods, in which case further spread, including to neighboring properties, could have been possible. No changes were made as a result of the comment.

One commenter opposed adoption and stated that CWD doesn't harm humans, doesn't significantly reduce the deer population, and killing thousands of healthy deer makes no sense. The department disagrees with the comment and responds that the rules do not require any deer to be killed. The department also responds that although there is no evidence at the current time to indicate that CWD can be spread to humans, there is also no reason to conclude that spread to humans is impossible; in fact, there are other, similar prion diseases known to have moved from animal populations to humans and the department does not take the possibility lightly. The department also responds that there are numerous examples proving that CWD is capable of creating significant declines in abundance if allowed to spread without intervention and that the rules as adopted do not implement any population control measures. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the department's CWD response is being driven by a fear of losing federal funding. The department disagrees with the comment and responds that federal funding is not a factor in the department's CWD management strategy. No changes were made as result of the comment.

One commenter opposed adoption and stated that the rules are evidence of totalitarianism. The department disagrees with the comment and responds that the department has a statutory duty to manage and conserve a public trust resource, which is accomplished by a commission appointed by a duly elected chief executive with the advice and consent of the legislative branch via a transparent and open process, and that in any case, totalitarianism is a system characterized by complete subservience to a person or system, one aspect of which is the prohibition of all opposition, including public comment. No changes were made as a result of the comment.

One commenter opposed adoption and stated that "continued surveillance without actual management practices on an entire ecological level" is "empty work at best." The commenter also stated that until the department "can build tangible management practices across all landscapes" surveillance is "futile." The commenter continued, stating that there is "no emphasis on prevalence rate and the subsequent comparison of prevalence rate versus natural average fawning rate and recruitment annually." The department disagrees with the comment and responds that response to the emergence of CWD in captive and free-ranging populations is guided by the department's CWD Management Plan, which sets forth the department's CWD management strategies and informs regulatory responses to the detection of the disease in captive and free-ranging cervid populations in the state of Texas. No changes were made as a result of the comment.

One commenter specifically opposed the designation of the CZ in Coleman County and stated that because the department's CWD Management Plan allows a positive deer breeding facility to be a de facto CZ because it is surrounded by a high fence, high-fenced properties within CZs should be exempt from the rules. The commenter also stated that "high fenced properties and breeders are completely isolated from outside deer populations and are already subject to and adhere to extensive testing requirements..." Seven other commenters stated that high-fenced properties should be exempt from the rules for essentially the same reason. The department disagrees with the comments and responds that under Parks and Wildlife Code, Chapter 43, a deer breeding facility as a condition of permit issuance must

be surrounded by a fence at least seven feet high and capable of retaining deer at all times under reasonable and ordinary circumstances. Deer breeding facilities are inspected by the department and failure to comply with the statutory requirements with respect to fencing is a criminal offense. This is not the case with high fences on other properties. The department also responds that although a CZ is typically not created when CWD is discovered in a deer breeding facility but not on associated release sites, a SZ is created around the positive facility, which is because the discovery of CWD necessitates increased surveillance measures to determine the extent of disease presence and spread. Fences are not a complete barrier to CWD transmission, which can occur through physical and environmental contact. Finally, the department disagrees that any CWD testing other than the testing of hunter-harvested deer is required on any high-fenced properties other than permitted deer breeding facilities. No changes were made as a result of the comment.

One commenter opposed adoption and stated that high-fenced properties and deer breeders are working on developing deer that are genetically resistant to CWD and to expand those genetics into "deer herd populations in Texas." The department disagrees that ongoing genetic research (much of which, the department notes, is being funded by the department) is at this point capable of providing additional practical measures to deter the spread of CWD, that resistance is one thing and immunity is another (a resistant genotype might still be capable of shedding prions without testing positive or showing clinical signs of disease), and that it is highly unlikely if not impossible that line-bred genotypes in captive populations can replace all other genotypes at landscape scale in free ranging populations. No changes were made as a result of the comment.

One commenter opposed adoption because the department has "displayed a gross abuse of power by operating under emergency orders and circumventing the legislative process." The commenter stated that under Government Code, §2001.034, emergency rules can only be adopted if there is imminent peril to the public health, safety, or welfare and there is no data to support that with respect to CWD. The commenter stated that emergency orders are therefore unlawful and should be rescinded immediately. The department disagrees with the comment and responds that every emergency rule adopted by the department has been in strict and faithful compliance with all applicable statutory law and in no shape, form, or fashion avoids, confounds, or implicates the legislative process. The department notes here, as it plainly does in the preamble to every emergency rule, without exception, that under the provisions of Parks and Wildlife Code, §12.027, if the Texas Parks and Wildlife Commission or the executive director of the department finds that there is an immediate danger to a species authorized to be regulated by the department, the commission or the executive director may adopt emergency rules as provided by Government Code, §2001.034. White-tailed and mule deer are species managed by the department; therefore, it is entirely within the agency's authority to promulgate emergency rules when necessary to protect those species. The department further notes that emergency rules are necessary to act quickly in response to CWD detections and every emergency rule establishing CWD management zones is immediately followed by rulemaking using the traditional process prescribed under the Administrative Procedure Act, which includes ample opportunity for public comment prior to commission action. Finally, the department notes that there are no emergency CWD rules

currently in effect anywhere in the state. No changes were made as a result of the comment.

One commenter opposed adoption and stated, "it is a scam." The department disagrees with the comment and responds that the rules are not fraudulent, misleading, or intended to deceive. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the cost of CWD management should be borne entirely by deer breeders, who are not engaged in wildlife conservation but exploit a public resource for private benefit. The department disagrees with the comment and responds that the department has a statutory duty to protect and conserve wildlife resources using public monies appropriated by the legislature for that purpose, which includes disease management. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the first dozen deer harvested on all MLDP properties would provide increased knowledge of prevalence. The department disagrees that it is necessary to require mandatory testing of deer harvested on MLDP properties at this time, as the department's statewide surveillance efforts with respect to free-ranging deer are sufficient. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the transport of live cervids should be prohibited because that is the primary vector by which CWD is being spread. The department agrees with the comment to the extent that the movement of live deer is a factor in many CWD detections thus far, especially in white-tailed deer, but disagrees that it can prohibit all movement of live deer by all deer breeders at this time. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules applicable to deer breeders should also be applied to the City of Hollywood Park. The department disagrees with the comment and responds that Hollywood Park is not a permitted deer breeding facility, it is an incorporated community where CWD was discovered in a free-ranging deer following trapping operations under a department permit. The source of infection of that deer is unknown and additional infected deer have not been encountered. As stated in response to numerous public comments in multiple rulemakings, as well as symposia, the literature, multiple commission meetings and legislative hearings, captive populations such as those in deer breeding facilities present a completely separate set of epidemiological realities from free-ranging populations, in terms of disease management, and the two are not comparable. The department also responds that a CZ was created in response to the detection of CWD in a free-ranging deer in the City of Hollywood Park. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rules have poorly defined durations and fail to provide overall constructive outcomes to the public. The commenter stated that the rules "should have clear protocols the define realistic durations base [sic] on scheduled testing with quality diagnostics and provided the public with concise procedure to mitigate and cure imposed CWD Management Zones." The department disagrees with the comment and responds that the rules simply establish CWD management zones in which certain regulatory provisions apply; they do not and were never intended to provide temporal parameters for the dissolution of management zones, as such matter are addressed in the department's CWD management

plan. In general, each CWD management zone is unique from an epidemiological perspective, presenting a specific set of challenges in terms of the volume and duration of surveillance effort necessary to determine the prevalence and extent of CWD in a given local population of deer. No changes were made as a result of the comment.

The department received a form letter (and verbatim fragments) from commenters opposing adoption of the rules as proposed. The comments were as follows:

1) CWD zones are punitive. The department disagrees with the comment and responds that CWD zones are not punitive, either in intent or effect, as they are not a punishment of any kind but a necessary response to the detection of CWD. The department manages CWD in part by increasing disease surveillance in areas where CWD is known to exist, which is accomplished via the zone rules. No changes were made as a result of the comment.

2) CWD zones negatively impact real estate values. The department disagrees with the comment and responds that it is logical to assume that the *discovery* of CWD on or near any given property could possibly affect transactional decisions involving that property, which is why the department is intent upon detecting and managing CWD to keep it from spreading. No changes were made as a result of the comment.

3) CWD zones are a "disincentive" for landowner cooperation because of "negative connotations." The department disagrees with the comment and responds that a disincentive is a factor, especially a financial disadvantage, that tends to discourage people from doing something. Because CWD is a threat to the economic viability of for-profit hunting operations and to the investments made in recreational hunting operations, there is no disincentive to cooperation with the department, as ignoring the presence of CWD will facilitate its spread and working with the department will improve the department's ability to manage and control it.

The department believes it is naturally logical for any person to be apprehensive to discover that CWD is present on or near a property owned or utilized by that person; however, the presence or absence of CWD is not determined by the designation of a CWD zone. When CWD is present, a zone designation does not alter that fact. Landowner cooperation is crucial to managing CWD, and the department believes that most, if not all, landowners would agree that being aware of the presence of CWD on or near their land is preferable to not knowing, and knowing the department is doing something about it is preferable to facing the prospect of disease transmission in the absence of dedicated and committed professionals whose job it is to protect and conserve native wildlife. No changes were made as a result of the comment.

4) "No CWD zone has ever been removed." The department agrees with the comment and responds that it is precisely because of the pernicious nature of CWD that it must be contained and managed as quickly and efficiently as possible when and where it is detected. At the same time, because so little is known about aspects of CWD such as disease migration, persistence, and eradication, prediction of precise temporal parameters for zone removal is difficult. The reality is that the tenets of sound science, given the long incubation time of CWD, its persistence, and the difficulties associated with surveillance, dictate the approaches utilized by the department. There is no definitive method, at the moment, to state precisely when any given zone designation can be removed; nonetheless, the de-

partment has been quite clear in stating that zone designations *will* be removed when the department is confident, based on epidemiological and scientific evidence, that CWD is not likely present. No changes were made as a result of the comment.

5) Deer breeders test 100% of mortalities and 100% of deer prior to movement. The department agrees with the comment to the extent that it is factually true that current department rules require 100% testing, but disagrees that it has any bearing on the rules as adopted. The rules as adopted affect deer breeders only to the extent that a deer breeder located in a CZ is prohibited from transferring deer to locations outside the CZ, which has nothing to do with testing, but is in response to the necessity to stop deer movement in areas very close to the location of a CWD discovery. The rules impose no restrictions on deer breeders within SZs, provided the deer breeder is Movement Qualified. At the current time, there is only one deer breeder in the state of Texas affected by the designation of a CZ, and the rules allow that person to release deer within the CZ, provided the breeding facility maintains Movement Qualified status. In any case, the rules as proposed did not contemplate the removal or alteration of CWD testing requirements for deer breeders; therefore, testing regimes are irrelevant in that context. The department also notes that the current rules regarding testing in deer breeding facilities as referenced in the comment have been in effect for little more than two years. Prior to that time, department rules reflected long-term, historic deference to the regulated community in the hopes that those measures would be sufficient. Unfortunately, they were not. Thus, the department's efforts to implement truly effective CWD testing were ineffective until only recently. The promulgation of more robust testing rules resulted in a wave of additional CWD discoveries in deer breeding facilities and has proven conclusively not only that half-measures are not effective, but that the necessity of effective surveillance standards is obvious. No changes were made as a result of the comment.

6) CWD zones are not needed to control the movement of live deer. The department agrees with the comment to the extent that other measures could be used to abate or minimize the disease threat posed by the movement of live deer by human agency in areas where CWD is known or suspected to be present, but responds, as noted earlier, that the only implication of the rules as adopted for the movement of live deer is the prohibition on the transfer breeder deer from MQ breeding facilities located inside a CZ to destinations outside the CZ (which at the current time affects one deer breeder). No changes were made as a result of the comment.

7) Statewide carcass disposal rules would negate the need for CWD zones. The department disagrees with the comment and responds not only that CWD zone rules already impose carcass movement restrictions, but that carcass movement and disposal do not address the totality of the disease threat potential. The majority of zone designations in Texas are a result of CWD detections in deer breeding facilities and release sites associated with deer breeding facilities - in other words, live deer possessed and moved under deer breeder permits. Carcass movement and disposal restrictions by definition involve dead deer, and primarily affect hunters. Although the possibility of CWD transmission is less likely to occur via a carcass than transmission via a live animal, statewide carcass disposal rules provide a necessary layer of protection in addition to rules governing live animal movement. No changes were made as a result of the comment.

8) The removal of CWD zones would incentivize Texas landowners and hunters to participate in statewide surveillance efforts because fear of zones would be eliminated. The department disagrees with the comment and responds that although statewide voluntary surveillance effort in areas where CWD has not been detected is robust and effective, when CWD is detected it is necessary to create an area of increased surveillance effort around the location of the positive in order to begin assessing prevalence and possible spread as quickly as possible, which is what CWD management zones are designed and intended to do. The department in the past has deferred a zone designation at the request of local officials in the hopes that voluntary sampling would furnish the desired sampling effort, but that effort was significantly inadequate, producing less than half of the necessary samples. Thus, the department believes that the implementation of mandatory sampling in CWD management zones immediately upon discovery of CWD is necessary to discharge the agency's statutory duty to protect and conserve wildlife resources. The department again notes that CWD is the problem, not management zones, and the department is constantly evaluating potential methods and modalities to ease or eliminate the impacts of zone designations on landowners and hunters. No changes were made as a result of the comment.

9) The removal of zones will increase landowner participation, hunter participation, and hunter recruitment. The department disagrees with the comment and responds that it is unclear as to what is meant by "participation" of landowners and hunters, as the presence or absence of zones should not affect even slightly the interest of ethical persons to do whatever it takes to arrest the spread of CWD and assist the department in its efforts to do so. A deliberate refusal to be part of the solution is or should be intuitively understood to be counterproductive, as the continued spread of CWD benefits no one and harms many, especially if the uncooperative behavior occurs in a CWD management zone. The department further disagrees that the rules as adopted have any rational connection to hunter recruitment efforts, other than to make hunting less attractive to the public in the event that CWD becomes widespread in free-ranging populations. No changes were made as a result of the comment.

The department received 14 comments supporting adoption of the rules as proposed.

The Texas Deer Association and the Deer Breeder Corporation commented in opposition to the rules as proposed.

The Texas Chapter of the Backcountry Hunters and Anglers, the Nature Conservancy of Texas, the Texas Wildlife Association, and the Texas Chapter of the Wildlife Society commented in support of adoption of the rules as proposed.

The amendments are adopted under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapters R and R-1, which authorize the commission to establish the conditions of a deer management permit for white-tailed and mule deer, respectively; and §61.021, which provides that no

person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

§65.82. Surveillance Zones; Restrictions.

The areas described in paragraph (1) of this section are SZs and the provisions of this subchapter applicable to SZs apply on all properties lying wholly or partially within the described areas.

(1) Surveillance Zones.

(A) Surveillance Zone 1: That portion of the state lying within a line beginning where U.S. 285 enters from the State of New Mexico in Reeves County; thence southeast along U.S. 285 to R.M. 652; thence west along R.M. 652 to Rustler Springs Rd./FM 3541 in Culberson County; thence south along Rustler Springs Rd./F.M. 3541 to F.M. 2185; thence south along F.M. 2185 to Nevel Road; thence west along Nevel Road to County Road 501; thence south along County Road 501 to Weatherby Road; thence south along Weatherby Road to F.M. 2185; thence southwest along to F.M. 2185 to S.H. 54; thence south on S.H. 54 to U.S. 90; thence south along U.S. 90 to the Culberson County line; thence southwest along the Culberson County line to the Rio Grande River in Hudspeth County; thence north along the Rio Grande to F.M. 1088; thence northeast along F.M. 1088 to S.H. 20; thence southeast along S.H. 20 to I.H. 10; thence southeast along I.H. 10 to F.M. 1111; thence north on F.M. 1111 to U.S. 62/180; thence east and north along U.S. 62/180 to the New Mexico state line in Culberson County.

(B) Surveillance Zone 2. That portion of the state lying within a line beginning at the New Mexico state line where U.S. 60 enters Texas; thence northeast along U.S. 60 to U.S. 87 in Randall County; thence south along U.S. 87 to S.H. 217 in Canyon; thence east along S.H. 217 to F.M. 1541; thence north along F.M. 1541 to Loop 335; thence east and north along Loop 335 to S.H. 136; thence northwest along S.H. 136 to N. Lakeside Dr.; thence north along N. Lakeside Dr. to E. Willow Creek Dr.; thence west along E. Willow Creek Dr. to Denton St.; thence north along Denton St. to E. Cherry; thence west along E. Cherry to N. Eastern St.; thence south along N. Eastern St. to E. Willow Creek Dr.; thence west along E. Willow Creek Dr. to U.S. 87; thence north along U.S. 87 to the City of Dumas; thence along the city limits of Dumas to U.S. 287 in Moore County; thence north along U.S. 287 to the Oklahoma state line.

(C) Surveillance Zone 3. That portion of the state not within the CZ described in §65.81(1)(C) of this title (relating to Containment Zones; Restrictions) lying within a line beginning at the intersection of F.M. 1250 and U.S. Highway 90 in Hondo in Medina County; thence west along U.S. Highway 90 to the Sabinal River in Uvalde County; thence north along the Sabinal River to F.M. 187; thence north along F.M. 187 to F.M. 470 in Bandera County; thence east along F.M. 470 to Tarpley in Bandera County; thence south along F.M. 462 to 18th Street in Hondo; thence east along 18th Street to State Highway 173; thence south along State Highway 173 to U.S. Highway 90; thence west along U.S. Highway 90 to Avenue E (F.M. 462); thence south along Avenue E (F.M. 462) to F.M. 1250; thence west along F.M. 1250 to U.S. Highway 90.

(D) Surveillance Zone 4: That portion of the state lying within a line beginning in Val Verde County at the confluence of Sycamore Creek and the Rio Grande River (29.242341°, -100.793906°); thence northeast along Sycamore Creek to U.S. 277; thence northwest on U.S. 277 to Loop 79; thence north along Loop 79 to the Union Pacific Railroad; thence east along the Union Pacific Railroad to Liberty Drive (north entrance to Laughlin Air Force Base); thence north along Liberty Drive to U.S. 90; thence west along U.S. 90 to Loop 79; thence north along Loop 79 to the American Electric Power (AEP) Ft. Lancaster-to-Hamilton Road 138kV transmission

line (29.415542°, -100.847993°); thence north along the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line to a point where the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line turns northwest (29.528552°, -100.871618°); thence northwest along the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line to the AEP Ft. Lancaster-to-Hamilton Road maintenance road (29.569259°, -100.984758°); thence along the AEP Ft. Lancaster-to-Hamilton Road maintenance road to Spur 406; thence northwest along Spur 406 to U.S. 90; thence south along U.S. 90 to Box Canyon Drive; thence west along Box Canyon Drive to Bluebonnet Drive; thence southwest along Bluebonnet Drive to Lake Drive; thence south along Lake Drive to Lake Amistad (29.513298°, -101.172454°), thence southeast along the International Boundary to the International Boundary at the Lake Amistad dam; thence southeast along the Rio Grande River to the confluence of Sycamore Creek (29.242341°, -100.793906°).

(E) Surveillance Zone 5: That portion of the state lying within the boundaries of a line beginning on U.S. 83 at the Kerr/Kimble County line; thence north along U.S. 83 to I.H. 10; thence northwest along I.H. 10 to South State Loop 481; thence west along South State Loop 481 to the city limit of Junction in Kimble County; thence following the Junction city limit so as to circumscribe the city of Junction before intersecting with F.M. 2169; thence east along F.M. 2169 to County Road (C.R.) 410; thence east along C.R. 410 to C.R. 412; thence south along C.R. 412 to C.R. 470; thence east along C.R. 470 to C.R. 420; thence south along C.R. 420 to F.M. 479; thence east along F.M. 479 to C.R. 443; thence south along C.R. 443 to U.S. 290; thence west along U.S. 290 to I.H. 10; thence southeast along I.H. 10 to the Kerr/Kimble County line; thence west along the Kerr/Kimble County line to U.S. 83.

(F) Surveillance Zone 6: That portion of the state within the boundaries of a line beginning at the intersection of State Highway (S.H.) 207 and Farm to Market (F.M.) 211 in Garza County; thence west along F.M. 211 to U.S. Highway (U.S.) 87 in Lynn County; thence north along U.S. 87 to F.M. 41 in Lubbock County; thence west along F.M. 41 to F.M. 179; thence north along F.M. 179 to F.M. 2641; thence east along F.M. 2641 to U.S. 62/82; thence east along U.S. 62/82 to S.H. 207 in Crosby County; thence south along S.H. 207 to F.M. 211 in Garza County.

(G) Surveillance Zone 7: That portion of the state lying within the boundaries of a line beginning at the intersection of S.H. 205 and U.S. Hwy. 80 in Kaufman County; thence east along U.S. 80 to North 4th Street in Wills Point in Van Zandt County; thence north along North 4th Street to F.M. 751; thence north along F.M. 751 to the south shoreline of Lake Tawakoni in Hunt County; thence west and north along the Lake Tawakoni shoreline to the confluence of Caddo Creek; thence northwest along Caddo Creek to West Caddo Creek; thence northwest along West Caddo Creek to I.H. 30; thence southwest along I.H. 30 to F.M. 548 in Rockwall County; thence southeast along F.M. 548 to S.H. 205 in Kaufman County; thence southeast along S.H. 205 to US Hwy. 80.

(H) Surveillance Zone 8. SZ 8 is that portion of Duval County lying within the area described by the following latitude-longitude coordinate pairs:

-98.27174932070,	27.95642982020;	
-98.27388849940,	27.95652170740;	-98.27601633780,
27.95673759350;	-98.27812373230,	27.95707655480;
-98.28020166610,	27.95753714120;	-98.28224124840,
27.95811738240;	-98.28423375210,	27.95881479580;
-98.28617065090,	27.95962639760;	-98.28804365580,
27.96054871560;	-98.28984475060,	27.96157780350;
-98.29156622620,	27.96270925800;	-98.29320071330,
27.96393823800;	-98.29424069340,	27.96481101760;
-98.30642858790,	27.97549504130;	-98.30692921880,

27.97594346320; -98.30836946820, 27.97735119370; -98.26747356090, 27.95661908260; -98.26960795410,
 -98.30970296670, 27.97883952330; -98.31092400210, 27.95646232490; and -98.27174932070, 27.95642982020.
 27.98040208240; -98.31202734290, 27.98203218360; (I) Surveillance Zone 9. SZ 9 is that portion of
 -98.31300826060, 27.98372284990; -98.31386255010, Gillespie County lying within the area described by the following lati-
 27.98546684490; -98.31458654760, 27.98725670330; tude-longitude coordinate pairs: -99.17353593810, 30.39743442450;
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31.73430086730; -96.66104090900, 31.73442055060; -96.62226050510, 31.74967238560;
-96.66324985920, 31.73466418940; -96.66543545060, -96.62372558250, 31.74823849730; -96.62529722690,
31.73503074110; -96.66758833200, 31.73551863760; -96.62696870810, 31.74563128450;
-96.66969929240, 31.73612579150; -96.67175929910, -96.62873286980, 31.74446911720; -96.63058215960,
31.73684960490; -96.67375953710, 31.73768698100; 31.74340801060; -96.63111303750, 31.74313020830;
-96.67569144660, 31.73863433690; -96.67754675920, -96.64027391640, 31.73843371330; -96.64166940590,
31.73968761900; -96.67931753350, 31.74084232030; 31.73775591030; -96.64366469470, 31.73690995180;
-96.68099618930, 31.74209349980; 31.74084232030; -96.64572041930, 31.73617729780; -96.64782778280,
31.74343580330; -96.68404882080, 31.74486348640; 31.73556108310; -96.64997776830, 31.73506394410;
-96.68462217160, 31.74547369050; -96.69651116210, -96.65216117680, 31.73468800780; -96.65436866660,
31.75847900380; -96.69729893530, 31.75937567640; 31.73443488260; -96.65659079340, 31.73430565150; and
-96.69854199940, 31.76095532870; -96.69966152170, -96.65881805040, 31.73430086730.
31.76260105080; -96.70065270400, 31.76430579870;
-96.70151129640, 31.76606227520; -96.70223361620,
31.76786296150; 31.76970014900; 31.76970014900;
-96.70325763400, 31.77156597240; -96.70355493140,

(J) Surveillance Zone 10. SZ 10 is that portion of Limestone County lying within the area described by the following latitude-longitude coordinate pairs:
31.73430086730; -96.66104090900, 31.73442055060;
-96.66324985920, 31.73466418940; -96.66543545060;
31.73503074110; -96.66758833200, 31.73551863760;
-96.66969929240, 31.73612579150; -96.67175929910,
31.73684960490; -96.67375953710, 31.73768698100;
-96.67569144660, 31.73863433690; -96.67754675920,
31.73968761900; -96.67931753350, 31.74084232030;
-96.68099618930, 31.74209349980; -96.68257553940,
31.74343580330; -96.68404882080, 31.74486348640;
-96.68462217160, 31.74547369050; -96.69651116210,
31.75847900380; -96.69729893530, 31.75937567640;
-96.69854199940, 31.76095532870; -96.69966152170,
31.76260105080; -96.70065270400, 31.76430579870;
-96.70151129640, 31.76606227520; -96.70223361620,
31.76786296150; 31.76970014900; 31.76970014900;
-96.70325763400, 31.77156597240; -96.70355493140,

(K) Surveillance Zone 11. SZ 11 is that portion of Uvalde County lying within the area described by the following latitude-longitude coordinate pairs: -99.65125892840, 29.37997244440;
29.64901351840, 29.37941401480; -99.64845146960,

-99.81173284150, 29.34273903720; -99.81046448940, -99.51904339970, 28.95192774590; -99.521111109510,
29.34428424870; -99.80908346550, 29.34575345690; 28.95248804470; -99.52313272620,
28.95395887460; -99.52700342650,
-99.80850269810, 29.34629485420; -99.80851507910, -99.52509964250, 28.95395887460;
29.34630490290; -99.80678761820, 29.34793865560; 28.95486311300; -99.52883593070,
28.95587490060;
-99.80657185830, 29.34814076870; -99.80657138090, -99.53058931150, 28.95698990850;
-99.53225606330,
29.34814121170; -99.80655435420, 29.34815699820; 28.95820336540; -99.53382905030,
28.95951007910;
-99.80597612830, 29.34869270430; -99.80536412210, -99.53530153730, 28.96090445770;
-99.53666721820,
29.34927473890; -99.80510057730, 29.34952246450; 28.96238053420; -99.53792024330,
28.96393199150;
-99.80509532990, 29.34952733970; -99.80437561930, -99.53905524430, 28.96555218970;
-99.54006735700,
29.35017550490; -99.80278735350, 29.35147413470; 28.96723419420; -99.54095224290,
28.96897080560;
-99.80110549990, 29.35267895590; -99.79933726220, -99.54170610720, 28.97075459030;
-99.54232571550,
29.35378480570; -99.79749021490, 29.35478694490; 28.97257791240; -99.54280840750,
28.97443296620;
-99.79557227110, 29.35568107880; -99.79359164840, -99.54315210890, 28.97631180980;
-99.5433534000,
29.35646337560; -99.79155683370, 29.35713048240; 28.97820639890; -99.54341747360,
28.97994913900;
-99.78947654670, 29.35767954000; -99.78735970240, -99.54343981590, 28.99442460320;
-99.54343981590,
29.35810819530; -99.78521537310, 29.35841461090; 28.99442463760; -99.54344055730,
28.99490528710;
-99.78305274890, 29.35859747360; -99.78088109880, -99.54344055730, 28.99490532000;
-99.54346252980,
29.35865599960; -99.77870973050, 29.35858993800; 29.00913749330; -99.54346227850,
29.00929697630;
-99.77654795040, 29.35839957190; -99.77440502380, -99.54338251590, 29.01119871480;
-99.54316142200,
29.35808571740; -99.77229013500, 29.35764971960; 29.01309179740; -99.54279993550,
29.01496811680;
-99.77208135310, 29.35759382560; -99.77161614530, -99.54229959650, 29.01681963700;
-99.54166254020,
29.35752567680; -99.76950128130, 29.35708963240; 29.01863842790; -99.54089148760,
29.02041669900;
-99.76742352200, 29.35653331420; -99.76539177170, -99.53998973420, 29.02214683280;
-99.53896113620,
29.35585910680; -99.76341473700, 29.35506989950, 29.02382141780; -99.53781009360,
29.02543328000;
-99.76150088920, 29.35416907480; -99.75965842840, -99.53654153170, 29.02697551360;
-99.53516088010,
29.35316049340; -99.75789524790, 29.35204847750; 29.02844151090; -99.53367404930,
29.02982499060;
-99.75621890060, 29.35083779270; -99.75602127760, -99.53208740580, 29.03112002460;
-99.53040774440,
29.35068405070; -99.75590513520, 29.35059296970; 29.03232106340; -99.52864225940,
29.03342296040;
-99.75578417860, 29.35050683250; -99.75477991510, -99.52679851360, 29.03442099340;
-99.52488440590,
29.34976222060; -99.75319761790, 29.34845803730; 29.03531088530; -99.52290813750,
29.03608882220;
-99.75171611030, 29.34706596280; -99.75034173590, -99.52037817660, 29.03675147010;
-99.51880322220,
29.34559196180; -99.74908037830, 29.34404235000; 29.03729598890; -99.51669216630,
29.03772004480;
-99.74793743590, 29.34242376670; -99.74691779940, -99.51455405640, 29.03802182020;
-99.51239805620,
29.34074314620; -99.74602583040, 29.33900768850; 29.03820002170; -99.51072236680,
29.03825261230;
-99.74526534270, 29.33722482790; -99.74463958670, -99.50919518970, 29.03826649830;
-99.50904828420,
29.33540220140; -99.74415123500, 29.33354761580; 29.03826754640; -99.50752105150,
29.03827545390;
-99.74380237120, 29.33166901430; -99.74359448130, -99.50737410440, 29.03827592700;
-99.50594924450,
29.32977444280; -99.74352844740, 29.32787201480; 29.03827772570; -99.49566969890,
29.03834613070;
-99.74360454380, 29.32596987690; -99.74382243630, -99.49566961900, 29.03834613120;
-99.49473223360,
29.32407617420; -99.74418118380, 29.32219901500; 29.03835232920; -99.49296109140,
29.03836402210;
-99.74442827720, 29.32121228410; -99.74475467770, -99.49267466830, 29.03836599620;
-99.49226342180,
29.32000902450; -99.74500563660, 29.31914317660; 29.03836658380; -99.4900940990,
29.03829557020;
-99.74564085140, 29.31732310920; -99.74641050820, -99.48794532360, 29.03810029240;
-99.48581039530,
29.31554334500; -99.74731130490, 29.31381150270; 29.03778158750; -99.48370377490,
29.03734082160;
-99.74833937880, 29.31213499550; -99.74949032280, -99.48163449060, 29.03677988360;
-99.47961141030,
29.31052099920; -99.75075920470, 29.30897642190; 29.03610117790; -99.47764320340,
29.03530761330;
-99.75214058830, 29.30750787390; -99.75285889630, -99.47573830340, 29.03440259080;
-99.47390487190,
29.30681596510; -99.75290419310, 29.30677371780; 29.03338998920; -99.47215076360,
29.03227414790;
-99.75294286840, 29.30672668630; -99.75358175440, -99.47048349240, 29.03105984880;
-99.46891019950,
29.30597555990; -99.75496305260, 29.30450698290; 29.02975229550; -99.46743762220,
29.02835709100;
-99.75645093470, 29.30312071770; -99.75803902900, -99.46607206590, 29.02688021350;
-99.46481937630,
29.30182269650; -99.75972053550, 29.30061847410; 29.02532799110; -99.46368491490,
29.02370707410;
-99.76148825540, 29.29951320330; -99.76333462190, -99.46267353590, 29.02202440700;
-99.46178956550,
29.29851161350; -99.76525173210, 29.29761799010; 29.02028719840; -99.46103678340,
29.01850289030;
-99.76723138150, 29.29683615670; -99.76926509830, -99.46041840690, 29.01667912560;
-99.45993707700,
29.29616945840; -99.77134418030, 29.29562074760; 29.01482371620; -99.45959484740,
29.01294460890;
-99.77345973130, 29.29519237180; -99.77560269990, -99.45939317560, 29.01104985160;
-99.45933255420,
29.29488616370; -99.7776391730, 29.29470343340; and 29.00924911650; -99.45935507090,
28.99505803090;
-99.77993413720, 29.29464496260. -99.45935583340, 28.99457733840; -99.45937664990,
-99.45937664990,
28.98145463430; -99.45937701260, 28.98135307940;
-99.45945839300, 28.97945142360; -99.45993707700,
28.97568247670;
28.97755852100; -99.46004398980, 28.97568247670;
-99.46054568250, 28.97383132270; -99.46118396180,
28.97023524600;
28.97201298440; -99.46195608750, 28.97023524600;

(M) Surveillance Zone 13. SZ 13 is that portion of Zavala County lying within the area described by the following latitude-longitude coordinate pairs: -99.51049107440, 28.95090385000;
-99.51265315760, 28.95097450990; -99.51480536460,
28.95116935630; -99.51693848750, 28.95148755540;

-99.46285874710, 28.96683180190; -99.46630853350, 28.96221400650; -99.47076237320, 28.95833696140; -99.47604909550, 28.95577153470; -99.47717746480, 28.95484972680; -99.48263268430, 28.95252132910; -99.48884382600, 28.95125253620; -99.49485788860, 28.95102065940; -99.49734003590, 28.95100290820; -99.51049107440, 28.95090385000.	28.96850571740; -99.46503964370, 28.96367920000; -99.46917603890, 28.95953715970; -99.47420627300, 28.95623867160; -99.47709898860, 28.95568850370; -99.48065774630, 28.95318333200; -99.48673449980, 28.95155386170; -99.49313422850, 28.95102194360; -99.49502565540, 28.95100290910; -99.51005235880, 28.95090470190;	-99.46388807000, 28.96522066420; -99.46768930330, 28.96083135410; -99.47244151420, 28.95723589490; -99.47701631460, 28.95573317030; -99.47874479960, 28.95396057300; -99.48466116220, 28.95197739660; -99.49098011560, 28.95107470940; -99.49502543280, 28.95102065770; -99.49734015720, 28.95090470190;	-97.33631349820, 29.74254510330; -97.33025500110, 29.74006700000; -97.32492046280, 29.73726652240; -97.31988750120, 29.73354315930; -97.31553786970, 29.72904855710; -97.31222338460, 29.72395553780; -97.31007131160, 29.71845990380; -97.30916417900, 29.71277290060; -97.3095366310, 29.707111309150; -97.31117413930, 29.70169795550; -97.31222357740, 29.69889191370; -97.31344374800, 29.69337144740; -97.31589205450, 29.68823587180; -97.31947424980, 29.68368246600; -97.32405258360, 29.67988611850; -97.32945110910, 29.67699262150; -97.33546244590, 29.67511308290; -97.34185573630, 29.67431967010; -97.34658982240, 29.67430305070; -97.34956514000, 29.67464279800; -97.35598066570, 29.67547416940; -97.36007210500, 29.67678295250; -97.36344026450, 29.68054764910; -97.37441330130, 29.68485356730; -97.37963012940, 29.68857461580; -97.38398063020, 29.69306704200; -97.38729759140, 29.69815830180; -97.38945343610, 29.70365282110; -97.39036514230, 29.70933950030; -97.38999745930, 29.71499981830; -97.38836429570, 29.72041622810; -97.38595242280, 29.72884796740; -97.38058405070, 29.73258597850; -97.37632042320, 29.73665449830; -97.37117240840, 29.73986508800; -97.36533789550, 29.74209427340; -97.35904123400, 29.74325631620; -97.35399482360, 29.74341740220; -97.35356363310, 29.74389052030; -97.34709256670, 29.74431328970; -97.34056836010, 29.74361814360;	29.74314139630; -97.33221956880, 29.74100460400; -97.32817197670, 29.73821149370; -97.32153955710, 29.73487771260; -97.31688021910, 29.73062232410; -97.31320446000, 29.72570800840; -97.31065345530, 29.72032370730; -97.30932508360, 29.71467639890; -97.30927018910, 29.70898313350; -97.31049065840, 29.70346268880; -97.31217595120, 29.70078121370; -97.31289724330, 29.69517908270; -97.31494437290, 29.68989239580; -97.31816185660, 29.68512424820; -97.32242593380, 29.68105778520; -97.32757270550, 29.67784917880; -97.33340443820, 29.67562164070; -97.33969715420, 29.67446070210; -97.34541017760, 29.67429468660; -97.34738886370, 29.67441090950; -97.35387025060, 29.67547416940; -97.36007210500, 29.67760969090; -97.36785199430, 29.68333935710; -97.37623673470, 29.68599871170; -97.38118556330, 29.68999435240; -97.38520829140, 29.69470684450; -97.38815027430, 29.69995518270; -97.38945343610, 29.70365282110; -97.38989832080, 29.70553774820; -97.39020266000, 29.70743601730; -97.39026233020, 29.71312951620; -97.38904641350, 29.71865099380; -97.38660142920, 29.72316308890; -97.38177930530, 29.73106535480; -97.37784875500, 29.73538655020; -97.37297508580, 29.73889857550; -97.36734561530, 29.74146636830; -97.36117678870, 29.74299116940; -97.35470584520, 29.74341672900; -97.35391959260, 29.74350274660; -97.34926791980, 29.74429666220; -97.34273344530, 29.74397330180;	-97.33424195660, 29.74183182020; -97.32835667130, 29.73996795620; -97.32328126040, 29.73612060890; -97.31833216850, 29.73212266760; -97.31431086630, 29.72740810920; -97.31137183620, 29.72215820450; -97.30962789070, 29.71657477650; -97.30914585750, 29.71087243300; -97.30994404040, 29.70527931350; -97.31179154940, 29.70135934680; -97.31248993580, 29.69702186780; -97.31412710220, 29.69160670040; -97.31696608360, 29.68664421850; -97.32089764100, 29.68232504200; -97.32577062580, 29.67881505540; -97.33139779700, 29.67624904830; -97.33756301380, 29.67472555070; -97.34402952450, 29.67429468660; -97.34738886370, 29.67430305070; -97.35172868790, 29.67499772410; -97.35805090330, 29.67678295250; -97.36344026450, 29.68054764910; -97.37441330130, 29.68485356730; -97.37963012940, 29.68857461580; -97.38398063020, 29.69306704200; -97.38729759140, 29.69815830180; -97.38945343610, 29.70365282110; -97.38999745930, 29.71499981830; -97.38836429570, 29.72041622810; -97.38595242280, 29.72884796740; -97.38058405070, 29.73258597850; -97.37632042320, 29.73665449830; -97.37117240840, 29.73986508800; -97.36533789550, 29.74209427340; -97.35904123400, 29.74325631620; -97.35399482360, 29.74341740220; -97.35356363310, 29.74389052030; -97.34709256670, 29.74431328970; -97.34056836010, 29.74361814360;
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(N) Surveillance Zone 14. SZ 14 is that portion of

Gonzales County lying within the area described by the following latitude-longitude coordinate pairs: -97.34738886370, 29.67430305070;
-97.34956514000, 29.67441090950;
29.67464279800, -97.35387025060,
-97.35598066570, 29.67547416940;
29.67607009540, -97.36007210500,
-97.36203562200, 29.67760969090;
29.67828952150, -97.36785199430,
-97.37349566950, 29.68333935710;
29.68381029960, -97.37623673470,
-97.37797816230, 29.68599871170;
29.68724083300, -97.38118556330,
-97.38263780340, 29.68999435240;
29.69149396710, -97.38520829140,
-97.38631552700, 29.69470684450;
29.69640635590, -97.38815027430,
-97.38886991860, 29.69995518270;
29.70178930650, -97.38989832080,
-97.39020266000, 29.70553774820;
29.70743601730, -97.39036514230,
-97.39026233020, 29.71124004620;
29.71312951620, -97.38959157700,
-97.38904641350, 29.71684294230;
29.71865099380, -97.38754813810,
-97.38660142920, 29.72213108370;
29.72316308890, -97.38220355930,
-97.38177930530, 29.72947308130;
29.73106535480, -97.37927199520,
-97.37784875500, 29.73402843720;
29.73538655020, -97.37469354430,
-97.37297508580, 29.73782684800;
29.73889857550, -97.36929323460,
-97.36734561530, 29.74072224340;
29.74146636830, -97.36327867850,
-97.36117678870, 29.74260326760;
29.74299116940, -97.35688116690,
-97.35470584520, 29.74339757160;
29.74341672900, -97.35395662340,
-97.35391959260, 29.74342561530;
29.74350274660, -97.35142802800,
-97.34926791980, 29.74415553740;
29.74429666220, -97.34491129220,
-97.34273344530, 29.74420534870;
29.74397330180, -97.33842531620,

-97.37784875500,	29.73402843720;	-97.37632042320,	31.46413863110;	-98.32517788510,	31.46527078000;
29.73538655020;	-97.37469354430,	29.73665449830;	-98.32687319450,	31.46650057530;	-98.32847107970,
-97.37297508580,	29.73782684800;	-97.37117240840,	31.46782275430;	-98.32996469850,	31.46923165910;
29.73889857550;	-97.36929323460,	29.73986508800;	-98.33134765430,	31.47072126000;	-98.33261402310,
-97.36734561530,	29.74072224340;	-97.36533789550,	31.47228518200;	-98.33375837890,	31.47391673150;
29.74146636830;	-97.36327867850,	29.74209427340;	-98.33477581750,	31.47560892520;	-98.33566197690,
-97.36117678870,	29.74260326760;	-97.35904123400,	31.47735451990;	-98.33641305640,	31.47914604320;
29.74299116940;	-97.35688116690,	29.74325631620;	-98.33665925550,	31.47982827930;	-98.33754324230,
-97.35470584520,	29.74339757160;	-97.35399482360,	31.48238870550;	-98.33827257370,	31.48389250930;
29.74341672900;	-97.35395662340,	29.74341740220;	-98.33842953420,	31.48417632520;	-98.33930781770,
-97.35391959260,	29.74342561530;	-97.35356363310,	31.48590739450;	-98.34005903390,	31.48769889290;
29.74350274660;	-97.35142802800,	29.74389052030;	-98.34067193630,	31.48952865460;	-98.34114389300,
-97.34926791980,	29.74415553740;	-97.34709256670,	31.49138884620;	-98.34147287490,	31.49327150360;
29.74429666220;	-97.34491129220,	29.74431328970;	-98.34160904900,	31.49463708250;	-98.34170157760,
-97.34273344530,	29.74420534870;	-97.34056836010,	31.49532212280;	-98.34188349310,	31.49719937850;
29.74397330180;	-97.33842531620,	29.74361814360;	-98.34192289780,	31.49910272210;	-98.34181693100,
-97.33631349820,	29.74314139630;	-97.33424195660,	31.50100419770;	-98.34156603790,	31.50289566260;
29.74254510330;	-97.33221956880,	29.74183182020;	-98.34117128430,	31.50476901650;	-98.34063435240,
-97.33025500110,	29.74100460400;	-97.32835667130,	31.50661623610;	-98.33995753360,	31.50842940960;
29.74006700000;	-97.32817197670,	29.73996795620;	-98.33914371920,	31.51020077060;	-98.33819638750,
-97.32492046280,	29.73821149370;	-97.32328126040,	31.51192273140;	-98.33711958970,	31.51358791540;
29.73726652240;	-97.32153955710,	29.73612060890;	-98.33591793200,	31.51518918890;	-98.33459655670,
-97.31988750120,	29.73487771260;	-97.31833216850,	31.51671969180;	-98.33316111930,	31.51817286660;
29.73354315930;	-97.31688021910,	29.73212266760;	-98.33161776530,	31.51954248720;	-98.32997310320,
-97.31553786970,	29.73062232410;	-97.31431086630,	31.52082268480;	-98.32823417660,	-98.32200797380;
29.72904855710;	-97.31320446000,	29.72740810920;	-98.32640843370,	31.52309327520;	-98.32450369570,
-97.31222338460,	29.72570800840;	-97.31137183620,	31.52407393790;	-98.32252812310,	31.52494575960;
29.72395553780;	-97.31065345530,	29.72215820450;	-98.32082827200,	31.52558836290;	-98.31529088300,
-97.31007131160,	29.72032370730;	-97.30962789070,	31.52752824970;	-98.31495277810,	31.52764487610;
29.71845990380;	-97.30932508360,	29.71657477650;	-98.31286111820,	31.52828819900;	-98.31072479060,
-97.30916417900,	29.71467639890;	-97.30914585750,	31.52881293140;	-98.30855295060,	31.52921682410;
29.71277290060;	-97.30927018910,	29.71087243300;	-98.30635490640,	31.52949814630;	-98.30414007870,
-97.30953663310,	29.70898313350;	-97.30994404040,	31.52965569210;	-98.30191796040,	31.52968878630;
29.70711309150;	-97.31049065840,	29.70527031350;	-98.29969807570,	31.52959728710;	-98.29748993910,
-97.31117413930,	29.70346268880;	-97.31199154940,	31.52938158670;	-98.29530301480,	31.52904260950;
29.70169795550;	-97.31217595120,	29.70135934680;	-98.29314667580;	31.52858180830;	-98.29103016340;
-97.31222357740,	29.70078121370;	-97.31248993580,	31.52800115810;	-98.28896254810,	31.52730314750;
29.69889191370;	-97.31289724330,	29.69702186780;	-98.28774691130,	31.52682831360;	-98.28364524440,
-97.31344374800,	29.69517908270;	-97.31412710220,	31.52514180700;	-98.28322840220,	31.52502741460;
29.69337144740;	-97.31494437290,	29.69160670040;	-98.28116090930,	31.52432927850;	-98.27915118130,
-97.31589205450,	29.68989239580;	-97.31696608360,	31.52351677690;	-98.27720782970,	31.52259339180;
29.68823587180;	-97.31816185660,	29.68664421850;	-98.27569722330,	31.52177212490;	-98.27487098790,
-97.31947424980,	29.68512424820;	-97.32089764100,	31.52129630560;	-98.27451294920,	31.52108725890;
29.68368246600;	-97.32242593380,	29.68232504200;	-98.27272702750,	31.51995442490;	-98.27103146470,
-97.32405258360,	29.68105778520;	-97.32577062580,	31.51872393490;	-98.26943352290,	31.51740106160;
29.67988611850;	-97.32757270550,	29.67881505540;	-98.26794004490,	31.51599147340;	-98.26655742540,
-97.32945110910,	29.67784917880;	-97.33139779700,	31.51450121010;	-98.26529158280,	31.51293665660;
29.67699262150;	-97.33340443820,	29.67624904830;	-98.26414793460,	31.51130451620;	-98.26313137410,
-97.33546244590,	29.67562164070;	-97.33756301380,	31.50961178110;	-98.26224624910,	31.50786570290;
29.67511308290;	-97.33969715420,	29.67472555070;	-98.26149634400,	31.50607376110;	-98.26125158690,
-97.34185573630,	29.67446070210;	-97.34402952450,	31.50539419920;	-98.26103720500,	31.50477207340;
29.67431967010;	-97.34541017760,	29.67429468660;	-98.26067048630,	31.50362150500;	-98.26022400310,
-97.34658982240,	29.67429468660;	and	-97.34738886370,	-98.26019757910,	31.50175088800;
29.67430305070.				31.50163099480;	-98.25975004400;

(O) Surveillance Zone 15. SZ 15 is that portion of Hamilton County lying within the area described by the following latitude-longitude coordinate pairs: -98.29832003980, 31.45683100770;

-98.30053821980,	31.45692253220;	-98.30274467610,
31.45713818440;	-98.30492996880,	31.45747704170;
-98.30708474830,	31.45793765430;	-98.30919979520,
31.45851805150;	-98.31038657960,	31.45890238740;
-98.31669362400,	31.46106097640;	-98.31757314480;
31.46137429580;	-98.31958188490,	31.46218621200;
-98.32152441100,	31.46310897320;	-98.32339240950,

31.48117533010; -98.26261728780, 31.47945391800; 30.23712139540; -96.35663385910, 30.23606339620;
-98.26369500620, 31.47778934150; -98.26489740930, -96.35489471070, 30.23490412300; -96.35324664800,
31.47618872550; -98.26621934470, 31.47465892070; 30.23364854370; -96.35169672940, 30.23230203860;
-98.26679534130, 31.47405293180; -98.26681607220, -96.35025159190, 30.23087037740; -96.34891742260,
31.47403170990; -98.26682929990, 31.47400646050; 30.22935969440; -96.34769993250, 30.22777646210;
-98.26759061030, 31.47264847450; -98.26866816410, -96.34660433170, 30.22612746380; -96.34563530760,
31.47098385370; -98.26987039700, 31.46938318870; 30.22441976380; -96.34479700450, 30.22266067780;
-98.27119215720, 31.4678533050; -98.27262778230, -96.34409300610, 30.22085774120; -96.34389250760,
31.46640082660; -98.27417112320, 31.46503189320; 30.22026010760; -96.34343696920, 30.21884607860;
-98.27581557080, 31.46375238870; -98.27755408420, -96.34307079300, 30.21760464660; -96.34264385410,
31.46256778850; -98.27937922070, 31.46148316170; 30.21573732990; -96.34235846540, 30.21384976040;
-98.28128316800, 31.46050314930; -98.28325777710, -96.34221584080, 30.21195002190; -96.34221658270,
31.45963194470; -98.28529459750, 31.45887327570; 30.21004624990; -96.34236067920, 30.20814659660;
-98.28378491320, 31.45823038810; -98.28951978000, -96.34264750500, 30.20625919600; -96.34307582360,
31.45770603260; -98.29169006320, 31.45730245280; 30.20439212950; -96.34364379300, 30.20255339060;
-98.29388647760, 31.45702137520; -98.29609962590, -96.34434897380, 30.20075085120; -96.34518833940,
31.45686400240; and -98.29832003980, 31.45683100770. 30.19899222770; -96.34615828960, 30.19728504830;
-96.34725466570, 30.19563662030; -96.34847276860, 30.19254395910;
30.19405399940; -96.34980737900, 30.19254395910;
-96.35125277970, 30.19111296190; -96.35280278010,
30.18976713200; -96.35445074300, 30.18851222870;
-96.35618961250, 30.18735362180; -96.35801194480,
30.18629626920; -96.35990993970, 30.18534469510;
-96.36187547380, 30.18450297110; -96.36390013580,
30.18377469850; -96.36597526150, 30.18316299340;
-96.36809197190, 30.18267047270; -96.37024121010,
30.18229924380; -96.37241378070, 30.18205089490;
-96.37460038870, 30.18192648840; -96.37543874540,
30.18191180110; -96.37683307230, 30.18190253200; and
-96.37818600590, 30.18191727260.

(P) Surveillance Zone 16. SZ 16 is that portion of Washington County lying within the area described by the following latitude-longitude coordinate pairs: -96.37818600590, 30.18191727260;
-96.38037260510, 30.18191727260;
-96.38126142310, 30.18214344400;
-96.38400921490, 30.18217619090;
-96.38615843640, 30.18279594060;
-96.38827512360, 30.18328854540;
-96.39035021980, 30.18390033310;
-96.39237484600, 30.18462868620;
-96.396232828560, 30.18547048840;
-96.39677557990, 30.18671848320;
-96.39866130040, 30.18705681000;
-96.40040012450, 30.18897655180;
-96.40359798240, 30.19023151300;
-96.40504332360, 30.19300844530;
-96.40869221050, 30.19451853250;
-96.4096221050, 30.19774966280;
-96.41050137400, 30.19945687630;
-96.41120647440, 30.20301809350;
-96.412045685250, 30.20485685250;
-96.41248933450, 30.20861134490;
-96.41263399690, 30.21051100340;
-96.41249128340, 30.21431450920;
-96.41177877780, 30.21620206880;
-96.41121202080, 30.21990841710;
-96.41096545730, 30.22042153380;
-96.41026138110, 30.22237430900;
-96.404845390570, 30.2213336690;
-96.40735823510, 30.22748999610;
-96.40480644620, 30.22907318760;
-96.40336124960, 30.23201543880;
-96.40016316260, 30.23336189210;
-96.39842396800, 30.23577663130;
-96.3963456960, 30.23778669750;
-96.39273615650, 30.23862893460;
-96.38863437490, 30.23935767140;
-96.38665406210, 30.24043452890;
-96.38615699110, 30.24050872300;
-96.38400651130, 30.24090834500;
-96.3814560010, 30.24137020050;
-96.37943402890, 30.24149469100;
-96.37505342490, 30.24149469100;
-96.37286547920, 30.24137001960;
-96.36854114770, 30.24112139200;
-96.36642329560, 30.24025687660;
-96.36232156110, 30.23964469410;
-96.36035525580, 30.23807358680;

(Q) Surveillance Zone 17. SZ 17 is that portion of Frio County lying within the area described by the following latitude-longitude coordinate pairs: -99.36629569600, 28.98651965640;
-99.36840629430, 28.98609813390; -99.37054371450,
28.98579884880; -99.37269881140, 28.98562308160;
-99.37457900900, 28.98557124320; -99.39771126220,
28.98550985040; -99.39799461810, 28.98551013930;
-99.40015738770, 28.98558273420; -99.40231013400,
28.98577950890; -99.40444364680, 28.98609962140;
-99.40565241680, 28.98635346730; -99.41151732410,
28.98633886810; -99.41178777770, 28.98633916050;
-99.41395057600, 28.98641151840; -99.41610336860,
28.98660805720; -99.41823694490, 28.98692793590;
-99.42034217650, 28.98736978610; -99.42241005590,
28.98793171750; -99.42443173500, 28.98861132590;
-99.42639856270, 28.98940570370; -99.42830212220,
28.99031145210; -99.43013426680, 28.99132469590;
-99.43188715450, 28.99244109950; -99.43355328170,
28.99365588600; -99.43512551540, 28.99496385740;
-99.43659712350, 28.99635941630; -99.43796180370,
28.99783659080; -99.43921371050, 28.99938905900;
-99.44034748040, 29.00101017660; -99.44135825460,
29.00269300520; -99.44224170010, 29.00443034180;
-99.44299402840, 29.00621474970; -99.44361201160,
29.00803859030; -99.44409299640, 29.00989405570;
-99.44443491580, 29.01177320230; -99.44449215460,
29.01219557370; -99.44450033510, 29.01225994290;
-99.44451689260, 29.01232305610; -99.44475929260,
29.01332772140; -99.44510123690, 29.01520686930;
-99.44530263880, 29.01710165360; -99.44536304200,
29.01884946530; -99.44536322080, 29.01937485230;
-99.44536280650, 29.01952934800; -99.44528111680,
29.02143103340; -99.44505808970, 29.02332395270;
-99.44475641780, 29.02488125950; -99.44476655380,

-100.45664103400, 30.49495875510; -100.46097526200, -100.43631084600, 30.62319707060; 30.49709718790; -100.46102130400, 30.49711994450; 30.62265158850; -100.43213844700, 30.62198794420; -100.46104970100, 30.49713402160; -100.46429912600, -100.43012978200, 30.62120898200; -100.42818436200, 30.49874659450; -100.46433065100, 30.49876225840; -100.43012978200, 30.62031804030; -100.42631052100, 30.61931893740; -100.46740035400, 30.50028933730; -100.47058121400, -100.42451628800, 30.61821595490; -100.42280934900, 30.50183564040; -100.47080956300, 30.50194766020; -100.4251628800, -100.42119701500, 30.61571768220; -100.47091030500, 30.50199773150; -100.47301193500, -100.41968619100, 30.61433309750; -100.41828334600, 30.50304645410; -100.47478324300, 30.50399480050; -100.41286599790; -100.41699448400, 30.61132266930; -100.47657591500, 30.50509707320; -100.47828153400, -100.41582512400, 30.60970972410; -100.41478026800, 30.50629848620; -100.47989279800, 30.50759389830; -100.41386438700, 30.60630289320; -100.48020479900, 30.50786526470; -100.48113280600, -100.41308139500, 30.60452360190; -100.41243464000, 30.50868308970; -100.48233083700, 30.50979558270; -100.41308139500, -100.41192688500, 30.60085134330; -100.48373315400, 30.51126197420; -100.48502174400, -100.41156029500, 30.59897410500; -100.41136343300, 30.51280462430; -100.48619108600, 30.51441693080; -100.41125624900, 30.59517757510; -100.48627724200, 30.51454558530; -100.48669784200, -100.41125613600, 30.59499196440; -100.41125854200, 30.51517736790; -100.48812543000, 30.51648543510; -100.4110919100, 30.59408980140; -100.48952793300, 30.51795176350; -100.49081670600, -100.40959885400, 30.59270509820; -100.40819648000, 30.51949435570; -100.49198622700, 30.52110660970; -100.40959885400, -100.40690807300, 30.58969445940; -100.49303148500, 30.52278162490; -100.40939479900, -100.40573914700, 30.58808142290; -100.40469470400, 30.52451223180; -100.49473183900, 30.52629102250; -100.40573914700, -100.40377921200, 30.58467443920; -100.49537964100, 30.52811038240; -100.49588862500, -100.40299658500, 30.58289508720; -100.40235016800, 30.52996252280; -100.49625660300, 30.53183951430; -100.40214445600, 30.58038747370; -100.49633886400, 30.53240339680; -100.40214445600, -100.40214445600, 30.58037597300; -100.40213092100, 30.5324263760; -100.49635288800, 30.53244371130; -100.40067662700, 30.57919085870; -100.49645111000, 30.53261281470; -100.49736778000, -100.40067662700, 30.57780603290; -100.39776648000, 30.53434339780; -100.49815176300, 30.53612216840; -100.39647664200, 30.57479517590; -100.49879969700, 30.53794151170; -100.49930879900, -100.39530807400, 30.57318204480; -100.39490813600, 30.53979363930; -100.49967688300, 30.54167062170; -100.39530807400, -100.39343371700, 30.57234174320; -100.49989414400, 30.54346534740; -100.39128921200, -100.39128921200, 30.57191600640; -100.38918150200, 30.54348042090; -100.49990473300, 30.54349320810; -100.37136978270; -100.38711961700, 30.57070541320; -100.50049997100, 30.54434266150; -100.38511239500, -100.356992574530; 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-100.34985750600, 30.61259609970; -100.50000105200, 30.61407323520; -100.35366601300; -100.34963501600, 30.53177195000; -100.49850359200, 30.61546863510; -100.49690377700, -100.34956251500, 30.53035267880; -100.34950933200, 30.61677632020; -100.49520845600, 30.61799068730; -100.34950292900, -100.34950292900, 30.52754133180; -100.49342489200, 30.61910663240; -100.49156072400, -100.34951779300, 30.52657937390; -100.34955057300, 30.62011907390; -100.48962393900, 30.62102397260; -100.34958794400, -100.34958794400, 30.52191021560; -100.48762283600, 30.62181735040; -100.48556598800, -100.34949165600, 30.51758389540; -100.34948675000, 30.62249580710; -100.48346221100, 30.62305643500; -100.34946547600, 30.51521227780; -100.48132052000, 30.62349683140; -100.47915009300, -100.34946431400, 30.51504532100; -100.34952931600, 30.62381510870; -100.47696023300, 30.62400990270; -100.34946431400, -100.34946431400, 30.51125373430; -100.47476032500, 30.62408037860; -100.47472254900, -100.34968365200, 30.50474357910; -100.34968296800, 30.62408050040; -100.44498450900, 30.62415852420; -100.34968286100, 30.50448127570; -100.44282177400, 30.62410375530; -100.44063011400, -100.34970783100, 30.49307201500; -100.34972638900, 30.62392471330; -100.43845670000, 30.62362205270; -100.47148975220; -100.34979151500, 30.46970039620;

-99.56815714520, 29.00669474920; -99.56963083870, -99.51663580730, 28.97464247240; -99.51879039130,
29.00808875970; -99.57099770330, 29.00956449910; 28.97446420410; and -99.52095361740, 28.97441019490.
(V) Surveillance Zone 22. Surveillance Zone 22
is that portion of Brooks County lying within the area described
by the following latitude/longitude pairs:

-98.29086210400, 27.13309526320; -98.29298351340, 27.13318675140;
-98.29718363780, 27.13340214440; -98.29924438240, 27.13420043260;
-98.30324318710, 27.13477991270; -98.30516413610, 27.13628715970;
-98.30880805890, 27.13720847820; -98.31051543630, 27.13936681250;
-98.31366451020, 27.14059459330; -98.31509272330, 27.14332113650;
-98.31762594530, 27.14480823130; -98.31872010190, 27.14799827390;
-98.32054008090, 27.14968756850; -98.32125809990, 27.15321858260;
-98.32229480580, 27.15504518700; -98.32260903940, 27.15878152550;
-98.32282607750, 27.16067526280; -98.32281627820, 27.16501134840;
-98.32281357260, 27.16501136240; -98.32281357250, 27.16578040250;
-98.32280037230, 27.16953161050; -98.32280037230, 27.17127223070;
-98.32278834300, 27.17294980850; -98.32278477250, 27.17329865210;
-98.32244276160, 27.17519678400; -98.32206488280, 27.17895493190;
-98.32090342480, 27.18079885270; -98.32012480560, 27.18437693280;
-98.31818841420, 27.18609576520; -98.31703892460, 27.18935622950;
-98.31440193150, 27.19088389270; -98.31292571630, 27.19370138180;
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-98.30423202010, 27.19822401010; -98.30228293980, 27.19909405350;
-98.29823953510, 27.20049372120; -98.29616253810, 27.20142033800;
-98.29194242330, 27.20170096820; -98.29045520520, 27.20189407770;
-98.28026777950, 27.20192944920; -98.27814490760, 27.20183447240;
-98.27394199850, 27.20161877470; -98.27187997410, 27.20187997410;
-98.26787893260, 27.20023964940; -98.26595706090, 27.19873118790;
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-98.25349392360, 27.19020504180; -98.25240039160, 27.18701366460;
-98.25058212200, 27.18532377450; -98.24986516040, 27.18179175790;
-98.24883089060, 27.17996476140; -98.24851799720, 27.17622788660;
-98.24830351420, 27.17433401290; -98.24827071300, 27.16530377910;
-98.24837767100, 27.16473335220; -98.24861935320, 27.16094735350;

-98.24899855110, 27.15907758780; -98.24951363340, 30.34721962490; -100.02698483300, 30.38601250460;
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-98.27309571530, 27.13661545590; -98.27412316130, 30.41442751100; -99.96854613950, 30.41399469050;
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30.41293495390; -99.90221361520, 30.41336564410;
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-99.89346901770, 30.41385537500; -99.89128321680,
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30.40175989320; -99.86117441390, 30.40028671860;
-99.85989739170, 30.39873781360; -99.85874000800,

(W) Surveillance Zone 23. Surveillance Zone 23 is that portion of Kimble County lying within the area described by the following latitude/longitude pairs: -99.95180989610, 30.29840729940; -99.95400264050, 30.29847039980; -99.95618594120, -99.95400264050, 30.29847039980; -99.95835045740, 30.29896861810; -99.95618594120, 30.29896861810; -99.96048692840, 30.29940160460; -99.96258621300, 30.29995488020; -99.96463932900, 30.30062607780; -99.96258621300, 30.30062607780; -99.96663749090, 30.30141232570; -99.96857214790, 30.30141232570; -99.96663749090, 30.30231025990; -99.96983623480, 30.30299275490; -99.96857214790, 30.30299275490; -99.97667133030, 30.30295620500; -99.97688605840, 30.30295620500; -99.97907892310, 30.30301831650; -99.97688605840, 30.30301831650; -99.98126237610, 30.30320526070; -99.98342707600, 30.30342707600; -99.98342707600, 30.30394824650; -99.98342707600, 30.30394824650; -99.98766328980, 30.30450110940; -99.98971667820, 30.30450110940; -99.99171514010, 30.30595775880; -99.99171514010, 30.30595775880; -99.99365012330, 30.30685531280; -99.99551334660, 30.30685531280; -99.9989295480, 30.30786072530; -99.99896969430, 30.30896969430; -100.00059444400, 30.31017747450; -100.00059444400, 30.31147889770; -100.00209444500, 30.31147889770; -100.00348653500, 30.31434001930; -100.00476475000, 30.31434001930; -100.00592361500, 30.31750413400; -100.00592361500, 30.31750413400; -100.00695816300, 30.31918308170; -100.00769098700, 30.31918308170; -100.00769098700, 30.32057026800; -100.00769098700, 30.32057026800; -100.01050520900, 30.32057026800; -100.01050520900, 30.32182811030; -100.01236890000, 30.32283327810; -100.01236890000, 30.32283327810; -100.01584945800, 30.32514957110; -100.01584945800, 30.32514957110; -100.01745142500, 30.32645078470; -100.01895190500, 30.32645078470; -100.02034447000, 30.32931152870; -100.02034447000, 30.32931152870; -100.02162315700, 30.33085881630; -100.02278248600, 30.33085881630; -100.023247532630, 30.33281749000; -100.023247532630, 30.33281749000; -100.02472373300, 30.33588807140; -100.02549732700, 30.33588807140; -100.02613495300, 30.33949139480; -100.02613495300, 30.33949139480; -100.02663387500, 30.34134536110; -100.02699194800, 30.34134536110; -100.02720763000, 30.34272076300; -100.02720763000, 30.34272076300; -100.02727999000, 30.34702101960; -100.02727999000, 30.34702101960;

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 -99.03282370140, 29.25831559100; -99.03666797700, -95.13312758760, 31.90175849270; -95.13413689570,
 29.25833304980; and -99.03678558950, 29.25833376500, 31.90066097120; -95.13527414690, 31.89842338770;
 -95.13653446720, 31.89685275140; -95.13791245650, 31.89393889410;
 31.89535578460; -95.13940221190, 31.89260814350; -95.14269104970,
 -95.14099735310, 31.89260814350; -95.14447605040, 31.89022744850;
 31.89136922770; -95.14634471390, 31.88918769150; -95.14828904190,
 31.88825440580; -95.15030071320, 31.88743158490;
 -95.15237111880, 31.88672274930; -95.15449139950,
 31.88613093190; -95.15665248290, 31.88565866480;
 -95.15884512270, 31.88530796850; -95.16105993790,
 31.88508034340; -95.16328745280, 31.88497676360; and
 -95.16551813760, 31.88499767200.

(Y) Surveillance Zone 25. Surveillance Zone 25 is that portion of Cherokee County lying within the area described by the following latitude/longitude pairs: -95.16551813760, 31.88499767200;
 -95.16585785040, 31.88501179520; -95.16883776280, 31.88514836070;
 -95.17072236840, 31.88527950140; -95.17511390170, 31.8854019510;
 -95.17293080210, 31.88554853500; -95.17726232710, 31.88645280610;
 -95.17936688570, 31.88708417460; -95.18141857260, 31.88783159950;
 -95.18340860800, 31.88869188260; -95.18716995850, 31.88966134300;
 -95.18532847560, 31.88966134300; -95.18892517440, 31.89191075370;
 31.89073583260; -95.18892517440, 31.89191075370; -95.19214714940,
 -95.19058660920, 31.89318107840; -95.19214714940, 31.89598580950;
 31.89454137080; -95.19360011230, 31.89598580950; -95.19615889990,
 -95.19493927480, 31.89750821270; -95.19615889990, 31.90076054380;
 31.89910206470; -95.19725376150, 31.90076054380; -95.19905097560,
 -95.19821916660, 31.90247655120; -95.19905097560, 31.90605155420;
 31.90424274160; -95.19974562040, 31.90605155420; -95.20071208980,
 -95.20030011920, 31.90789524570; -95.20071208980, 31.91165557650;
 31.90976592290; -95.20097975990, 31.91165557650; -95.20107820230,
 -95.20110197480, 31.91355611550; -95.20107820230, 31.91735728590;
 31.91545940210; -95.2009853530, 31.91735728590; -95.20013501150,
 -95.20059369180, 31.91924163940; -95.20013501150, 31.92293756700;
 31.92110439250; -95.19953445040, 31.92293756700; -95.19815357340,
 -95.19915728340, 31.92389976250; -95.19815357340, 31.92715263060;
 31.92631908540; -95.19779084440, 31.92715263060; -95.19590628340,
 -95.19691477030, 31.92890324420; -95.19590628340, 31.93223933070;
 31.93060123560; -95.19476969690, 31.93223933070; -95.19213220490,
 -95.19350987350, 31.93381051170; -95.19213220490, 31.93672552140;
 31.93530804740; -95.19064258830, 31.93672552140; -95.18735347570,
 -95.18904740160, 31.93805686040; -95.18735347570, 31.94043870790;
 31.93929635960; -95.18556806570, 31.94043870790; -95.18175374480,
 -95.18369881940, 31.94147900990; -95.18175374480, 31.94323609950;
 31.94241280770; -95.17974117550, 31.94323609950; -95.17554830050,
 -95.17766973520, 31.94394535700; -95.17554830050, 31.94501011200;
 31.94453754050; -95.17338596280, 31.94501011200; -95.16897578340,
 -95.17119198940, 31.94536104630; -95.16897578340, 31.94569251440;
 31.94558883920; -95.16674684340, 31.94569251440; -95.16228898930,
 -95.16451472300, 31.94567162760; -95.16228898930, 31.94525705950;
 31.94552626830; -95.16007918180, 31.94525705950; -95.15574512140,
 -95.15789477180, 31.94486515490; -95.15574512140, 31.94372049610;
 31.94435223440; -95.15363944330, 31.94372049610; -95.15225794440,
 -95.15292604870, 31.94347588710; -95.15225794440, 31.94315426200;
 31.94323930920; -95.15201777130, 31.94315426200; -95.14978698470,
 -95.15112625370, 31.94283856320; -95.14978698470,

(Z) Surveillance Zone 26. Surveillance Zone 26 is that portion of the state within the boundaries of a line beginning at the intersection of U.S. Highway 283 and County Road 176 in Coleman County; thence east along County Road 176 to State Highway (S.H.) 206; thence east along S.H. 206 to County Road 170; thence south along County Road 170 to County Road 171; thence south along C.R. 171 to County Road 113 in Brown County; thence south along C.R. 113 to Farm to Market (F.M.) 585; thence south along F.M. 585 to County Road 108 in Brown County; thence southwest along C.R. 108 to County Road 127 in Coleman County; thence southwest along C.R. 127 to F.M. 568; thence west along F.M. 568 to U.S. Highway 84, thence north along U.S. 84 to S.H. 206, thence north along S.H. 206 to U.S. 283; thence north along U.S. 283 to County Road 176.

(AA) Existing SZs may be modified and additional SZs may be designated as necessary by the executive director as provided in §65.84 of this title (relating to Powers and Duties of the Executive Director).

(2) Restrictions.

(A) Except as provided in §65.87 of this title (relating to Exception) and subparagraph (B) of this paragraph, no person within a SZ may conduct, authorize or cause any activity involving the movement of a susceptible species, into, out of, or within a SZ under a permit issued pursuant to Parks and Wildlife Code, Chapter 43, Subchapter C, E, L, R, or R-1. Such prohibited activity includes, but is not limited to transportation, introduction, removal, authorizing the transportation, introduction or removal, or causing the transportation, introduction or removal of a live susceptible species into, out of, or within a SZ.

(B) Breeder Deer.

(i) Except as provided in Division 2 of this subchapter, a breeding facility that is within a SZ may:

(I) transfer to or receive breeder deer from any other deer breeding facility in this state that is authorized to transfer deer; and

(II) transfer breeder deer in this state for purposes of liberation, including to release sites within the SZ.

(ii) Deer that escape from a breeding facility within a SZ may not be recaptured unless specifically authorized under a herd plan.

(C) Breeder deer from a deer breeding facility located outside a SZ may be released within a SZ if authorized by Division 2 of this subchapter.

(D) Except as authorized by §65.83 of this title (relating to Special Provisions) breeder deer may not be transferred to or from a deer breeding facility that is:

(i) located within a SZ; and

(ii) subject to the provisions of §65.99 of this title (relating to Breeding Facilities Epidemiologically Connected to Deer Infected with CWD).

(E) Permits to Transplant Game Animals and Game Birds (Triple T permit). The department may authorize the release of susceptible species in a SZ under the provisions of a Triple T permit

issued by the department under the authority of Parks and Wildlife Code, Chapter 43, Subchapter E and the provisions of Subchapter C of this chapter, but the department will not authorize the trapping of deer within a SZ for purposes of a Triple T permit.

(F) Deer Management Permit (DMP). The department may issue a DMP for a facility in a SZ; however, any breeder deer introduced to a DMP facility in a SZ must be released to the property for which the DMP is issued and may not be transferred anywhere for any purpose.

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 March 14, 2024.

TRD-202401161

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: April 3, 2024

Proposal publication date: December 22, 2023

For further information, please call: (512) 389-4775



TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rule in Texas Administrative Code, Title 40, Part 1, Chapter 49, Contracting for Community Services is being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 52, Contracting for Community Services.

The rule will be transferred in the Texas Administrative Code effective April 29, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 49

TRD-202401166

Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rule in Texas Administrative Code, Title 40, Part 1, Chapter 49, Contracting for Community Services is being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 52, Contracting for Community Services.

The rule will be transferred in the Texas Administrative Code effective April 29, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 49

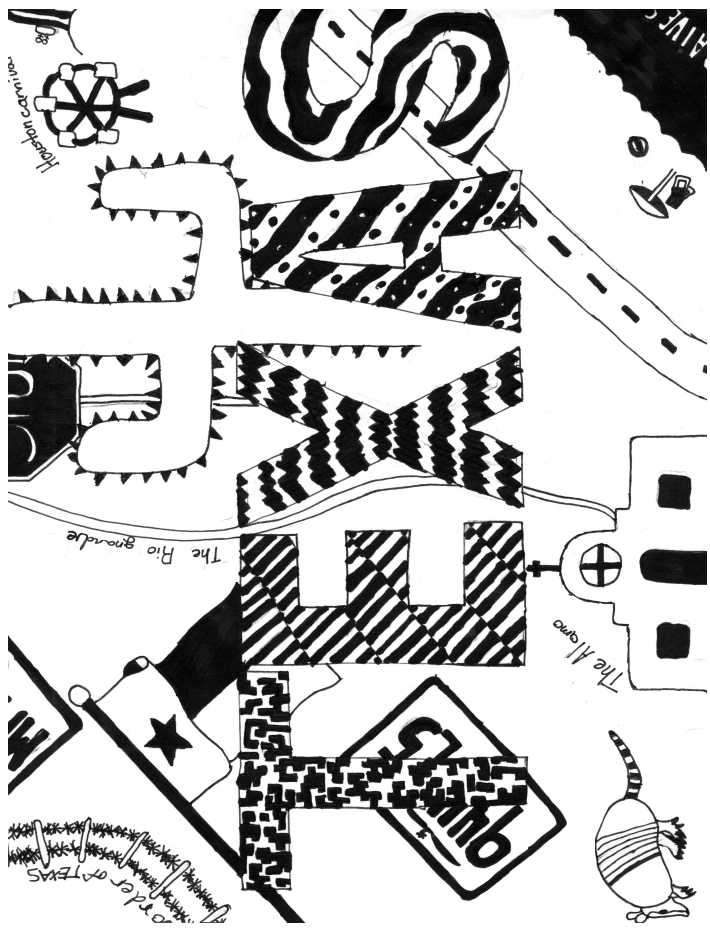
TRD-202401172

Figure: 40 TAC Chapter 49

Current Rules Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 49. Contracting for Community Services	Move to Title 26. Health and Human Services Part 1. Texas Health and Human Services Commission Chapter 52. Contracting for Community Services
Subchapter A. Application and Definitions	Subchapter A. Application and Definitions
§49.101. Application.	§52.1. Application.
§49.102. Definitions.	§52.3. Definitions.
Subchapter B. Contractor Enrollment	Subchapter B. Contractor Enrollment
§49.201. Contractors Not Subject to Certain Portions of Subchapter B.	§52.25. Contractors Not Subject to Certain Portions of Subchapter B.
§49.202. Provisional Contract.	§52.27. Provisional Contract.
§49.203. Provisional Contract Application Process.	§52.29. Provisional Contract Application Process.
§49.204. Additional Provisional Contract Application Requirements.	§52.31. Additional Provisional Contract Application Requirements.
§49.205. License, Certification, Accreditation, and Other Requirements.	§52.33. License, Certification, Accreditation, and Other Requirements.
§49.206. Ineligibility Due to Criminal History.	§52.35. Ineligibility Due to Criminal History.
§49.207. Provisional Contract Application Denial.	§52.37. Provisional Contract Application Denial.
§49.208. Provisional Contract Application Approval.	§52.39. Provisional Contract Application Approval.
§49.209. Standard Contract.	§52.41. Standard Contract.
§49.210. Contractor Change of Ownership or Legal Entity.	§52.43. Contractor Change of Ownership or Legal Entity.
§49.211. Religious Organization Applicants.	§52.45. Religious Organization Applicants.
Subchapter C. Requirements of a Contractor	Subchapter C. Requirements of a Contractor
§49.301. Contractors Not Subject to Certain Portions of Subchapter C.	§52.101. Contractors Not Subject to Certain Portions of Subchapter C.
§49.302. General Requirements.	§52.103. General Requirements.
§49.303. Confidentiality of Information.	§52.105. Confidentiality of Information.
§49.304. Background Checks.	§52.107. Background Checks.
§49.305. Records.	§52.109. Records.
§49.306. Electronic Visit Verification System.	§52.111. Electronic Visit Verification System.
§49.307. Record Retention and Disposition.	§52.113. Record Retention and Disposition.
§49.308. Subcontracts.	§52.115. Subcontracts.
§49.309. Complaint Process.	§52.117. Complaint Process.
§49.310. Abuse, Neglect, and Exploitation Allegations.	§52.119. Abuse, Neglect, and Exploitation Allegations.
§49.311. Claims Payment.	§52.121. Claims Payment.
§49.312. Personal Attendants.	§52.123. Personal Attendants.
§49.313. Day Habilitation Requirements in the HCS Program, the TxHmL Program, and the DBMD Program and Prevocational Services Requirements in the CLASS Program.	§52.125. Day Habilitation Requirements in the HCS Program, the TxHmL Program, and the DBMD Program and Prevocational Services Requirements in the CLASS Program.
Subchapter D. Monitoring and Investigation of a Contractor	Subchapter D. Monitoring and Investigation of a Contractor

Division 1. Applicability of Subchapter	Division 1. Applicability of Subchapter
§49.401. Contractors Not Subject to Subchapter D.	§52.201. Contractors Not Subject to Subchapter D.
Division 2. Monitoring and Investigation	Division 2. Monitoring and Investigation
§49.411. Contract and Fiscal Monitoring.	§52.211. Contract and Fiscal Monitoring.
§49.413. Investigation.	§52.213. Investigation.
§49.414. Financial Review.	§52.215. Financial Review.
Subchapter E. Enforcement by HHSC, Termination by Contractor, and No Offer of Standard Contract by HHSC	Subchapter E. Enforcement by HHSC, Termination by Contractor, and No Offer of Standard Contract by HHSC
Division 1. Applicability of Subchapter	Division 1. Applicability of Subchapter
§49.501. Contractors Not Subject to Certain Portions of Subchapter E.	§52.231. Contractors Not Subject to Certain Portions of Subchapter E.
Division 2. Immediate Protection	Division 2. Immediate Protection
§49.511. Immediate Protection and Immediate Protection Plan.	§52.251. Immediate Protection and Immediate Protection Plan.
Division 3. Actions	Division 3. Actions
§49.521. Action by HHSC.	§52.271. Action by HHSC.
§49.522. Corrective Action Plan.	§52.273. Corrective Action Plan.
§49.523. Referral Hold.	§52.275. Referral Hold.
Division 4. Sanctions	Division 4. Sanctions
§49.531. Sanction by HHSC.	§52.301. Sanction by HHSC.
§49.532. Vendor Hold.	§52.311. Vendor Hold.
§49.533. Recoupment.	§52.313. Recoupment.
§49.534. Termination of Contract by HHSC.	§52.315. Termination of Contract by HHSC.
§49.535. Administrative Penalties in the HCS and TxHmL Programs.	§52.317. Administrative Penalties in the HCS and TxHmL Programs.
Division 5. Appeals	Division 5. Appeals
§49.541. Contractor's Right to Appeal.	§52.351. Contractor's Right to Appeal.
Division 6. Contractor Terminating Contract or Not Entering into Standard Contract	Division 6. Contractor Terminating Contract or Not Entering into Standard Contract
§49.551. Contractor Terminating Contract or Not Entering into a Standard Contract.	§52.371. Contractor Terminating Contract or Not Entering into a Standard Contract.
Division 7. HHSC Does Not Offer a Standard Contract	Division 7. HHSC Does Not Offer a Standard Contract
§49.561. HHSC Does Not Offer a Standard Contract.	§52.391. HHSC Does Not Offer a Standard Contract.
Subchapter F. Review by HHSC of Expiring or Terminated Contract	Subchapter F. Review by HHSC of Expiring or Terminated Contract
§49.601. HHSC Review and Contractor Requirements Related to Expiring or Terminated Contract.	§52.601. HHSC Review and Contractor Requirements Related to Expiring or Terminated Contract.
Subchapter G. Application Denial Period	Subchapter G. Application Denial Period
§49.701. Contractors Not Subject to Subchapter G.	§52.701. Contractors Not Subject to Subchapter G.
§49.702. Application Denial Period.	§52.702. Application Denial Period.





REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code:

Chapter 395, Civil Rights

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

Comments on the review of Chapter 395, Civil Rights, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to Chapter395review@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 395" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the chapter being reviewed will not be published, but may be found in Title 1, Part 15, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202401156

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: March 13, 2024



Office of Consumer Credit Commissioner

Title 7, Part 5

On behalf of the Finance Commission of Texas (commission), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for re adoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 87, concerning Tax Refund Anticipation Loans.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before the 30th day after the date this notice is published

in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

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

TRD-202401215

Matthew Nance

General Counsel

Office of Consumer Credit Commissioner

Filed: March 19, 2024



Joint Financial Regulatory Agencies

Title 7, Part 8

On behalf of the Finance Commission of Texas and the Texas Credit Union Commission (commissions), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for re adoption, revision, or repeal, the following chapters in Texas Administrative Code, Title 7, Part 8: Chapter 151, concerning Home Equity Lending Procedures; Chapter 152, concerning Repair, Renovation, and New Construction on Homestead Property; and Chapter 153, concerning Home Equity Lending.

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

The Joint Financial Regulatory Agencies (Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department), which administer these rules, believe that the reasons for adopting the rules contained in these chapters continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to rule.comments@occc.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and

will be open for an additional public comment period prior to final adoption or repeal by the commissions.

TRD-202401217

Matthew Nance

General Counsel, Office of Consumer Credit Commissioner

Joint Financial Regulatory Agencies

Filed: March 19, 2024



Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) files this notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the following chapter contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2022 rule review plan adopted by the Board at its April 2022 meeting.

Chapter 220. Nurse Licensure Compact §220.1

Chapter 223. Fees §223.1, §223.2

Chapter 224. Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments §§224.1 - 224.11

Chapter 226. Patient Safety Pilot Programs on Nurse Reporting Systems §§226.1 - 226.7

In conducting its review, the Board will assess whether the reasons for originally adopting these chapters continue to exist. Each section of these chapters will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations and current procedures and practices of the Board, and whether it is in compliance with Chapter 2001 of the Government Code (Administrative Procedure Act).

The public has thirty (30) days from the publication of this rule review in the *Texas Register* to comment and submit any response or suggestions. Written comments may be submitted to Dusty Johnston, General Counsel, Texas Board of Nursing, 1801 Congress Ave., Suite 10-200, Austin, Texas 78701, by email to dusty.johnston@bon.texas.gov, or by fax to Dusty Johnston at (512) 305-8101. Any proposed changes to this chapter as a result of this review will be published separately in the Proposed Rules section of the *Texas Register* and will be open for an additional comment period prior to the final adoption or repeal by the Board.

TRD-202401198

James W. Johnston

General Counsel

Texas Board of Nursing

Filed: March 18, 2024



Department of State Health Services

Title 25, Part 1

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

Chapter 401, Mental Health System Administration

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

Comments on the review of Chapter 401, Mental Health System Administration, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to bhs_rules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 401" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202401202

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: March 18, 2024



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

Chapter 404, Protection of Clients and Staff--Mental Health Services

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

Comments on the review of Chapter 404, Protection of Clients and Staff--Mental Health Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to bhs_rules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 404" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at (www.sos.texas.gov).

TRD-202401203

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: March 18, 2024



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

Chapter 412, Local Mental Health Authority Responsibilities

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

Comments on the review of Chapter 412, Local Mental Health Authority Responsibilities, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to bhs_rules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 412" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at (www.sos.texas.gov).

TRD-202401158

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: March 14, 2024



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

Chapter 415, Provider Clinical Responsibilities--Mental Health Services

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

Comments on the review of Chapter 415, Provider Clinical Responsibilities--Mental Health Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to healthandspecialtycare@hhsc.state.tx.us. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 415" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202401170

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: March 15, 2024



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter

listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 555, Nursing Facility Administrators

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

Comments on the review of Chapter 555, Nursing Facility Administrators, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HH-SCLTCRRules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 555" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202401211

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: March 19, 2024



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

Chapter 556, Nurse Aides

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

Comments on the review of Chapter 556, Nurse Aides, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HH-SCLTCRRules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 556" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202401204

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: March 18, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter

listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 557, Medication Aides--Program Requirements

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

Comments on the review of Chapter 557, Medication Aides--Program Requirements, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 557" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202401213

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: March 19, 2024



Texas Emergency Services Retirement System

Title 34, Part 11

The Board of Trustees of the Texas Emergency Services Retirement System ("Board") files this notice of intent to review the following chapters in 34 Texas Administrative Code: Chapter 302, General Provisions Relating to the Texas Emergency Retirement System, Chapter 304, Membership in the Texas Emergency Services Retirement System, Chapter 306, Creditable Service for Members of the Texas Emergency Services Retirement System, Chapter 308, Benefits from the Texas Emergency Services Retirement System, and Chapter 310, Administration of the Texas Emergency Services Retirement System. This review is done pursuant to Texas Government Code §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the Board will assess whether the reasons for initially adopting these rules continue to exist.

Comments on the review may be submitted in writing to Jessica O'Brien, Acting Executive Director for the Texas Emergency Services Retirement System, at 208 E. 10th Street, Suite 309, Austin, Texas 78701 or via email at rulereview@tesrs.texas.gov. The deadline for receiving comments is April 28, 2024. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption.

TRD-202401221

Jessica O'Brien

Acting Executive Director

Texas Emergency Services Retirement System

Filed: March 19, 2024



Texas Workforce Commission

Title 40, Part 20

The Texas Workforce Commission (TWC) files this notice of its intent to review Chapter 800, General Administration, Chapter 802, Integrity of the Texas Workforce System, and Chapter 811, Choices, in accordance with Texas Government Code §2001.039.

TWC will assess whether the reasons for adopting the rules in Chapter 800, Chapter 802, and Chapter 811 continue to exist. Each rule in the chapters will be reviewed to determine whether the rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of TWC.

Comments on the proposed rule reviews may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than April 29, 2024.

TRD-202401201

Les Trobman

General Counsel

Texas Workforce Commission

Filed: March 18, 2024



Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code:

Chapter 357, Hearings

Notice of the review of this chapter was published in the January 26, 2024, issue of the *Texas Register* (49 TexReg 423). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 357 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 357. Any amendments or repeals to Chapter 357 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 357 as required by the Texas Government Code §2001.039.

TRD-202401168

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: March 15, 2024



The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 393, Informal Dispute Resolution and Informal Reconsideration

Notice of the review of this chapter was published in the January 26, 2024, issue of the *Texas Register* (49 TexReg 424). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 393 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every

four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 393. Any amendments or repeals to Chapter 393 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 393 as required by the Texas Government Code §2001.039.

TRD-202401169

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: March 15, 2024



State Securities Board

Title 7, Part 7

Pursuant to the notice of proposed rule review published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4867), the State Securities Board (Board) has reviewed and considered for readoption, revision, or repeal all sections of the following chapters of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039, Agency Review of Existing Rules: Chapter 109, Transactions Exempt from Registration; Chapter 111, Securities Exempt from Registration; and Chapter 139, Exemptions by Rule or Order. The text of these rules may be found in the Texas Administrative Code, Title 7, Part 7 or through the Board's website at www.ssb.texas.gov/texas-securities-act-board-rules.

The Board considered, among other things, whether the reasons for adoption of these rules continue to exist. After its review, the Board finds that the reasons for adopting these rules continue to exist and readopts these chapters, pursuant to the requirements of the Texas Government Code.

Any revisions to Chapter 109, 111, or Chapter 139 identified by the Board in the rule review will be proposed in a future issue of the *Texas Register*.

No comments were received regarding the readoption of Chapters 109, 111, or 139.

This concludes the review of 7 TAC Chapters 109, 111, and 139.

Issued in Austin, Texas on March 18, 2024.

TRD-202401196

Travis J. Iles

Securities Commissioner

State Securities Board

Filed: March 18, 2024



Pursuant to the notice of proposed rule review published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7619), the State Securities Board (Board) has reviewed and considered for readoption,

revision, or repeal all sections of the following chapter of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039, Agency Review of Existing Rules: Chapter 133, Forms. The text of these rules may be found in the Texas Administrative Code, Title 7, Part 7 or through the Board's website at www.ssb.texas.gov/texas-securities-act-board-rules.

The Board considered, among other things, whether the reasons for adoption of these rules continue to exist. After its review, the Board finds that the reasons for adopting these rules continue to exist and readopts this chapter pursuant to the requirements of the Texas Government Code.

Any revisions to Chapter 133 identified by the Board in the rule review will be proposed in a future issue of the *Texas Register*.

No comments were received regarding the readoption of Chapter 133.

This concludes the review of 7 TAC Chapter 133.

Issued in Austin, Texas on March 18, 2024.

TRD-202401197

Travis J. Iles

Securities Commissioner

State Securities Board

Filed: March 18, 2024



Records Management Interagency Coordinating Council

Title 13, Part 4

The Records Management Interagency Coordinating Council (RMICC) has completed its review of Title 13 Texas Administrative Code, Part 4, Chapter 50, Council Procedures. The council published its Notice of Intent to Review the chapter in the December 8, 2023, issue of the *Texas Register* (48 TexReg 7179). The council received no comments on the proposed rule review.

The council reviewed the following rules: §50.1, Purpose; §50.3, Officers; §50.5, Meetings; §50.7, Committees; §50.9, Staff; and §50.11, Rules.

As a result of the review, the council finds that the reasons for initially adopting the rules continue to exist. Therefore, the council readopts Chapter 50 in its entirety in accordance with the requirements of Government Code, §2001.039.

This concludes the council's review of Chapter 50 as required by Government Code, §2001.039.

TRD-202401205

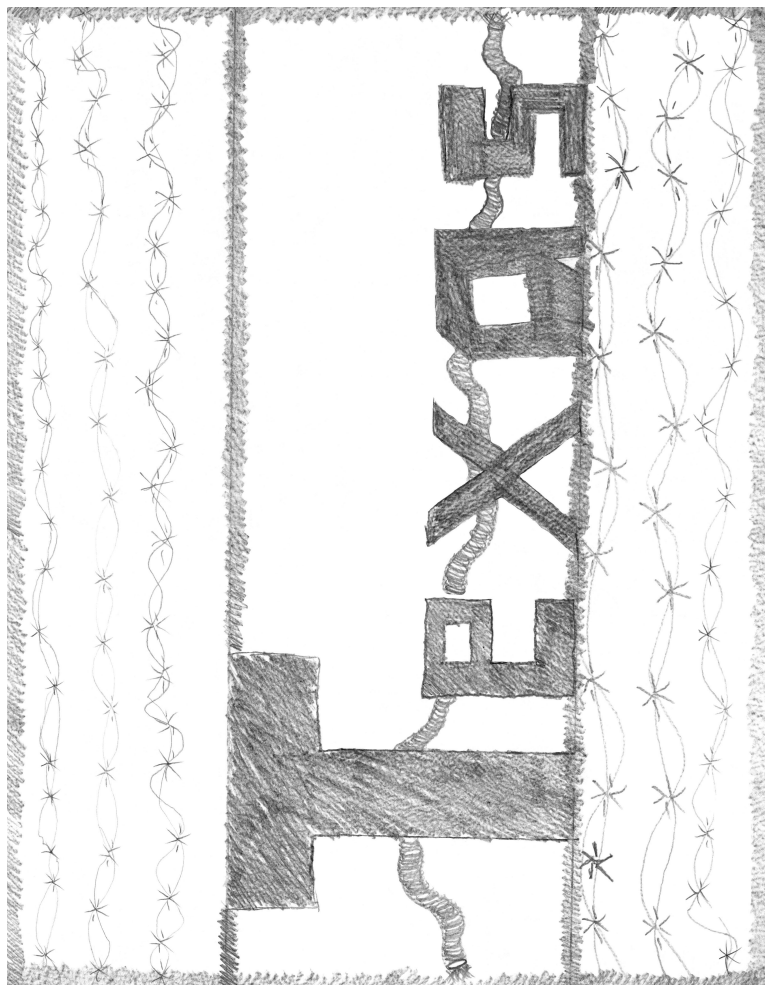
April Norris

Records Management Interagency Coordinating Council Chair

Records Management Interagency Coordinating Council

Filed: March 18, 2024





IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

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 and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 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: *City of Dallas and State of Texas v. Blue Star Recycling LLC; Almira Industrial and Trading Corp.; Chris Ganter; Laura Ganter; Jim McDonough; Keith Kruse; and Kevin C. Hassell*; Cause No. DC-18-18651, in the 191st Judicial District, Dallas County, Texas.

Background: The State of Texas filed suit as Intervenor-Plaintiff in the referenced case in March 2020 to enforce the Texas Solid Waste Disposal Act, and rules promulgated by the Texas Commission on Environmental Quality relating to the unauthorized acceptance, storage, and disposal of solid waste at 9505 and 9527 S. Central Expressway, Dallas (the "Site"). Defendant Almira Industrial and Trading Corporation ("Almira") owns property at the Site. It has voluntarily cleaned up its portion of the Site after suit was filed. The proposed settlement is between the State of Texas and Almira only. Plaintiffs City of Dallas and the State will proceed with the remaining Defendants in the case.

Proposed Settlement: The State and Almira propose an Agreed Final Judgment that includes the payment of \$11,000 in civil penalties and \$5,000 in attorney's fees to the State.

For a complete description of the proposed settlement, the Agreed Final Judgment should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Phillip Ledbetter, 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, email: Phillip.Ledbetter@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202401230
Justin Gordon
General Counsel
Office of the Attorney General
Filed: March 20, 2024

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil -
February 2024

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period February 2024 is \$47.12 per barrel for the three-month period beginning on November 1, 2023, and ending January 31, 2024. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of February 2024, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period February 2024 is \$1.39 per mcf for the three-month period beginning on November 1, 2023, and ending January 31, 2024. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of February 2024, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of February 2024 is \$76.61 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of February 2024, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of February 2024 is \$1.80 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of February 2024, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

Issued in Austin, Texas, on March 19, 2024.

TRD-202401208
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: March 19, 2024

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, §303.009, and §304.003 Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/25/24 - 03/31/24 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/25/24 - 03/31/24 is 18.00% for commercial² credit.

The postjudgment interest rate as prescribed by §304.003 for the period of 04/01/24 - 04/30/24 is 8.50%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202401237

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: March 20, 2024

◆ ◆ ◆
Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Transtar Federal Credit Union (Houston) seeking approval to merge with MemberSource Credit Union (Houston), with the latter being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all the information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202401225

Michael S. Riepen

Commissioner

Credit Union Department

Filed: March 20, 2024

◆ ◆ ◆
Application to Expand Field of Membership

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Community Service Credit Union, Huntsville, Texas, to expand its field of membership. The proposal would permit persons who reside, worship, attend school or work in and businesses and entities located in Montgomery County, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-character-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202401224

Michael S. Riepen

Commissioner

Credit Union Department

Filed: March 20, 2024

◆ ◆ ◆
Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following application:

Field of Membership - Approved

Members Choice Credit Union (Houston) - See *Texas Register* dated on January 26, 2024.

TRD-202401223

Michael S. Riepen

Commissioner

Credit Union Department

Filed: March 20, 2024

◆ ◆ ◆
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 **April 29, 2024**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **April 29, 2024**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: A.J. Brauer Stone, Incorporated; DOCKET NUMBER: 2023-0553-EAQ-E; IDENTIFIER: RN106619265; LOCATION: Jarrell, Williamson County; TYPE OF FACILITY: limestone quarry and stone fabrication; RULES VIOLATED: 30 TAC §213.4(j) and Edwards Aquifer Protection Plan ID Number 11003429, Standard

Conditions Number 6, by failing to obtain approval of a modification to an approved Water Pollution Abatement Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$2,375; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: CAL'S CONVENIENCE, INCORPORATED dba Stripes 262 - 80014256; DOCKET NUMBER: 2023-0488-PST-E; IDENTIFIER: RN102021953; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Celicia Garza, (512) 239-2095; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(3) COMPANY: Cape Carancahua Water Supply Corporation; DOCKET NUMBER: 2022-1713-PWS-E; IDENTIFIER: RN101245249; LOCATION: Palacios, Jackson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a total storage capacity of 112 gallons per connection; PENALTY: \$1,350; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: City of Grandview; DOCKET NUMBER: 2023-0605-PWS-E; IDENTIFIER: RN101211357; LOCATION: Grandview, Johnson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(q)(1)(A)(i), formerly 290.46(q)(2), by failing to institute special precautions as described in the flowchart found in 30 TAC §290.47(e) in the event of low distribution pressure and water outages; PENALTY: \$720; ENFORCEMENT COORDINATOR: Daphne Greene, (903) 535-5157; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: City of Pottsboro; DOCKET NUMBER: 2021-1605-MWD-E; IDENTIFIER: RN101920072; LOCATION: Pottsboro, Grayson County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010591001, Interim Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$11,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$9,300; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: CSWR-Texas Utility Operating Company, LLC; DOCKET NUMBER: 2022-0820-MLM-E; IDENTIFIER: RN101264372; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §288.20(a) and §288.30(5)(B) and TWC, §11.1272(c), by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public supplier; 30 TAC §290.41(c)(1), by failing to locate groundwater sources so that there will be no danger of pollution from flooding or from unsanitary surroundings, such as privies, sewage, sewage treatment plants, livestock and animal pens, solid waste disposal sites or underground petroleum and chemical storage tanks and liquid transmission pipelines or abandoned and improperly sealed wells; 30 TAC §290.43(d)(2), by failing to provide the facility's pressure tank with a pressure release device and an easily readable pressure gauge; 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide

a well capacity of 0.6 gallons per minute (gpm) per connection; 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.45(b)(1)(C)(iii) and THSC, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection; 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; and 30 TAC §290.46(u), by failing to plug an abandoned public water supply well with cement in accordance with 16 TAC Chapter 76 or submit test results proving that the well is in a non-deteriorated condition; PENALTY: \$37,250; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: Eagles Peak Ranch Water Supply Corporation; DOCKET NUMBER: 2023-1202-PWS-E; IDENTIFIER: RN101437788; LOCATION: Fisher, Comal County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of four milligrams per liter for fluoride based on a running annual average; PENALTY: \$1,437; ENFORCEMENT COORDINATOR: Hannah Shakir, (512) 239-1142; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: Gary Michael Null; DOCKET NUMBER: 2021-1259-WR-E; IDENTIFIER: RN111322004; LOCATION: Mineola, Wood County; TYPE OF FACILITY: holistic health and wellness retreat; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.121, by failing to obtain authorization prior to diverting, storing, impounding, taking, or using state water; PENALTY: \$940; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(9) COMPANY: IGH HOLDINGS LLC; DOCKET NUMBER: 2024-0045-WQ-E; IDENTIFIER: RN111835617; LOCATION: Godley, Johnson County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$875; ENFORCEMENT COORDINATOR: Margaux Liz-Marie Ordoveza, (512) 239-1128; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: Johnny Ivie dba Kemo Sabe RV Park and Johnny Ivie, Trustee, Carol Ivie Revocable Trust dba Kemo Sabe RV Park; DOCKET NUMBER: 2022-0606-PWS-E; IDENTIFIER: RN110873510; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; and 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$2,079; ENFORCEMENT COORDINATOR: Iliia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: LQC, INCORPORATED; DOCKET NUMBER: 2023-1371-WQ-E; IDENTIFIER: RN111780193; LOCATION: Mag-

nolia, Montgomery County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26, by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$1,875; ENFORCEMENT COORDINATOR: Shane Glantz, (325) 698-6124; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(12) COMPANY: Miramar Brands Incorporated dba 7-Eleven Store 27427; DOCKET NUMBER: 2023-0470-PST-E; IDENTIFIER: RN102049475; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.225 and Texas Health and Safety Code, §382.085(b), by failing to comply with annual Stage I vapor recovery testing requirements; and 30 TAC §334.50(b)(1)(B) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for tanks installed on or after January 1, 2009; PENALTY: \$5,507; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: NEWCOR VENTURES, INCORPORATED; DOCKET NUMBER: 2023-0879-WQ-E; IDENTIFIER: RN111744314; LOCATION: Montgomery, Montgomery County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$6,900; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: NRG Texas Power LLC; DOCKET NUMBER: 2023-1277-AIR-E; IDENTIFIER: RN100542927; LOCATION: Jewett, Limestone County; TYPE OF FACILITY: electric power generating plant; RULES VIOLATED: 30 TAC §§101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), New Source Review Permit Numbers 8576 and PSDTX371M5, Special Conditions Number 5, Federal Operating Permit Number O75, General Terms and Conditions and Special Terms and Conditions Number 9, and Texas Health and Safety Code, §382.085(b), by failing to prevent an excess opacity event; PENALTY: \$5,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$2,250; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(15) COMPANY: Oliver and Thompson Companies, LLC dba Rangers RV; DOCKET NUMBER: 2023-0168-PWS-E; IDENTIFIER: RN109861591; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$6,100; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 881-6991; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(16) COMPANY: PetroSwift, L.L.C.; DOCKET NUMBER: 2023-0990-WQ-E; IDENTIFIER: RN111629606; LOCATION: Kerrville, Kerr County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(17) COMPANY: Pioneer Natural Resources USA, Incorporated; DOCKET NUMBER: 2023-0993-AIR-E; IDENTIFIER: RN11329447; LOCATION: Garden City, Glasscock County; TYPE OF FACILITY: natural gas, oil, and water production site; RULES VIOLATED: 30 TAC §116.115(c) and §116.615(2), Standard Permit Registration Number 166381, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$4,688; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$1,875; ENFORCEMENT COORDINATOR: Matthew Perez, (325) 659-6707; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(18) COMPANY: Pioneer Natural Resources USA, Incorporated; DOCKET NUMBER: 2023-1317-AIR-E; IDENTIFIER: RN111543385; LOCATION: Tarzan, Martin County; TYPE OF FACILITY: tank battery; RULES VIOLATED: 30 TAC §116.115(c) and §116.615(2), Standard Permit Registration Number 169792, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$6,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$2,500; ENFORCEMENT COORDINATOR: Matthew Perez, (325) 659-6707; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(19) COMPANY: Targa Midstream Services LLC; DOCKET NUMBER: 2020-1162-AIR-E; IDENTIFIER: RN100222900; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review (NSR) Permit Numbers 101616, PSDTX696M2, GHGSPDXTX26M1, and N214M1, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O612, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 20, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rates; 30 TAC §§116.110(a), 116.116(a)(1), and 122.143(4), NSR Permit Number 5452, SC Number 1, FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to comply with the representations with regard to construction plans and operation procedures in a permit application; 30 TAC §§116.115(c), 116.615(2), and 122.143(4), Standard Permit Registration Number 119145, Air Quality Standard Permit for Boilers, General Requirements Number (4)(B)(ii), FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to comply with the emissions limit; 30 TAC §§116.115(c), 116.615(2), and 122.143(4), Standard Permit Registration Number 119145, Air Quality Standard Permit for Boilers, General Requirements Number (4)(B)(v), FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to comply with the concentration limit; 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 56431, SC Number 1, FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §116.615(2) and §122.143(4), Standard Permit Registration Number 110145, FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to comply with all representations with regard to construction plans, operating procedures, pollution control methods, and maximum emission rates in any registration for a standard permit; 30 TAC §117.8130(3) and §122.143(4), FOP Number O612, GTC and STC Number 1.A, and THSC, §382.085(b), by failing to conduct weekly sorbent or stain tube testing to measure ammonia; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O612, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$406,204; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$162,482; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(20) COMPANY: Trinity Rural Water Supply Corporation; DOCKET NUMBER: 2023-0400-PWS-E; IDENTIFIER: RN101267383; LOCATION: Trinity, Trinity 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: \$2,800; ENFORCEMENT COORDINATOR: Miles Caston, (512) 239-4593; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

TRD-202401207

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 19, 2024



Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater New Permit No. WQ0016391001

APPLICATION AND PRELIMINARY DECISION. Wilco-Thrall 79 WWTP LLC, P.O. Box 9971, Austin, Texas 78766, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016391001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 3,000,000 gallons per day. TCEQ received this application on August 11, 2023.

The facility will be located approximately 1.78 miles west of the intersection of South Bounds Street and U.S. Highway 79, in Williamson County, Texas 76578. The treated effluent will be discharged to an unnamed tributary, thence to Long Branch, thence to Soil Conservation Service Site (SCSS) 18 Reservoir, thence to Long Branch, thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary, and high aquatic life use for SCSS Site 18 Reservoir. The designated uses for Segment No. 1244 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 Texas Administrative Code § 307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in SCSS 18 Reservoir, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.32281,30.588503&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this application. The TCEQ will hold a public meeting on this application because of the significant public interest.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, April 29, 2024 at 7:00 p.m.

The Venue Taylor

115 W. 2nd Street

Taylor, Texas 76574

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and

the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Wilco-Thrall 79 WWTP LLC, at the address stated above or by calling Mr. Michael

Bevilacqua, P.E., Senior Project Manager, Green Civil Design, at (737) 358-8103.

Issuance Date: March 15, 2024

TRD-202401231

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2024



Notice and Comment Hearing Draft Permit No.: O1553

This is a notice for a notice and comment hearing on Federal Operating Permit Number O1553. During the notice and comment hearing informal questions on the Federal Operating Permit will be answered and formal comments will be received. The Texas Commission on Environmental Quality (TCEQ) has scheduled the notice and comment hearing regarding this application and draft permit as follows:

Date: May 6, 2024

Time: 6:00 p.m.

Location: Marriott SpringHill Suites

5169 I-10 East

Baytown, Texas

Location phone: (281) 421-1200

Application and Draft Permit. Exxon Mobil Corporation, P.O. Box 100, Baytown, Texas 77522-0100, an All Other Basic Organic Chemical Manufacturing facility, has applied to the TCEQ for a Renewal of Federal Operating Permit (herein referred to as permit) No. O1553, Application No. 23071 to authorize operation of the Baytown Olefins Plant. The area addressed by the application is located at 3525 Decker Dr in Baytown, Harris County, Texas 77520-1646. This application was received by the TCEQ on June 26, 2015.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, will codify the conditions under which the site must operate. The TCEQ Executive Director recommends issuance of the draft permit. The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code §122.10. The permit will not authorize new construction or new emissions.

Notice and Comment Hearing. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration and an informal discussion period with commission staff members will begin during the first 30 minutes. During the informal discussion period, the public is encouraged to ask questions and engage in open discussion with the applicant and the TCEQ staff concerning this application and draft permit. Issues raised during this discussion period **will only** be addressed in the formal response to comments if the issue is also presented during the hearing. After the conclusion of the informal discussion period, the TCEQ will conduct a notice and comment hearing regarding the application and draft permit. Individuals may present oral statements when called upon in order of registration. A reasonable time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing. The purpose of this hearing will be to receive formal public comment which the TCEQ will consider in determining whether to revise and/or issue the permit and in determining the accuracy and completeness of the permit. Any person may attend

this meeting and submit written or oral comments. The hearing will be conducted in accordance with the Texas Clean Air Act § 382.0561, as codified in the Texas Health and Safety Code, and 30 Texas Administrative Code §122.340.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the TCEQ Public Education Program toll free at (800) 687-4040 or (800) RELAY-TX (TDD), at least five business days prior to the hearing.

Any person may also submit written comments before the hearing to the Texas Commission on Environmental Quality, Office of Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Written comments should include (1) your name, address, and daytime telephone number, and (2) the draft permit number found at the top of this notice.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted: written comments and/or hearing requests, attended and signed in at the hearing, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with applicable requirements or the requirements of 30 Texas Administrative Code Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the TCEQ Office of the Chief Clerk at the address above. Those on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box 13087, Austin, Texas 78711-3087 or toll free at (800) 687-4040. General information about the TCEQ can be found at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained for Exxon Mobil Corporation by calling Santhosh Kapildev, BOP NSR Permitting & Title V Advisor at (254) 545-3949.

Notice Issuance Date: March 14, 2024

TRD-202401234

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2024



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 166500

APPLICATION. Cowboys Ready Mix LLC, 24015 I-10, Wallisville, Texas 77597-3032 has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 166500 to authorize the modification of an existing concrete batch plant facility located at 6740 Highway 146, Dayton, Liberty County, Texas 77535. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. **AVISO**

DE IDIOMA ALTERNATIVO. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/air/newsource/airpermits-pending/permit-apps>. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/Location-Mapper/?marker=-94.909316,29.981718&level=13>. This application was submitted to the TCEQ on February 23, 2024. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on March 15, 2024.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Thursday, April 25, 2024, at 6:00 p.m.

Dayton Senior Citizen Center

801 South Cleveland Street

Dayton, Texas 77535

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Houston Regional Office, located at 5425 Polk St., Ste. H, Houston, Texas 77023-1452, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Edu-

ation Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Cowboy's Ready Mix, LLC, 24015 I-10, Wallisville, Texas 77597-3032, or by calling Mr. Josh Butler, Principal Consultant, Elm Creek Environmental, LLC, at (469) 946-8195.

Notice Issuance Date: March 18, 2024

TRD-202401235

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2024



Notice of Draft Federal Operating Permit and Notice and Comment Hearing Draft Permit No.: 04603

Application and Draft Permit. Western Refining Terminals, LLC, 212 N Clark Dr, El Paso, Texas 79905-3106, has applied to the Texas Commission on Environmental Quality (TCEQ) for an initial issuance of Federal Operating Permit (herein referred to as Permit) No. O4603, Application No. 36219, to authorize operation of the Western Refining Terminals, a Petroleum Refineries facility. The area addressed by the application is located at 6501 Trowbridge Dr. in El Paso, El Paso County, Texas 79905-3401. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to the application. You can find an electronic map of the facility at: <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-106.395277,31.7675&level=13>. This application was received by the TCEQ on January 15, 2024.

The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code §122.10 (30 Texas Administrative Code §122.10). The draft permit, if approved, will codify the conditions under which the area must operate. The permit will not authorize new construction. The executive director has completed the technical review of the application and has made a preliminary decision to prepare a draft permit for public comment and review. The executive director recommends issuance of this draft permit. The permit application, statement of basis, and draft permit will be available for viewing and copying at the TCEQ Central Office, 12100 Park 35 Circle, Building E, First Floor, Austin, Texas 78753; and the TCEQ El Paso Regional Office, 401 E Franklin Ave Ste. 560, El Paso, Texas 79901-1212, beginning the first day of publication of this notice. The draft permit and statement of basis are available at the TCEQ Website:

www.tceq.texas.gov/goto/tvnotice

At the TCEQ central and regional offices, relevant supporting materials for the draft permit, as well as the New Source Review permits which have been incorporated by reference, may be reviewed, and copied. Any person with difficulties obtaining these materials due to travel constraints may contact the TCEQ central office file room at (512) 239-2900.

Public Comment. Any person may submit written comments on the draft permit. Comments relating to the accuracy, completeness, and appropriateness of the permit conditions may result in changes to the draft permit.

Written public comments should be submitted to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/ and be received by the conclusion of the notice and comment hearing. Written comments should include (1) your name, address, and daytime telephone number, and (2) the draft permit number found at the top of this notice. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

Notice and Comment Hearing. The TCEQ has scheduled the notice and comment hearing regarding this application and draft permit as follows:

Date: May 14, 2024

Time: 7:00 p.m.

Location: Riverside High School, Theater

301 Midway Drive

El Paso, Texas 79915

Location phone: VJ Smith, (915) 775-3319

The hearing will be structured for the receipt of oral or written comments by interested persons. Registration and an informal discussion period with commission staff members will begin during the first 30 minutes. During the informal discussion period, the public is encouraged to ask questions and engage in open discussion with the applicant and the TCEQ staff concerning this application and draft permit. Issues raised during this discussion period **will only** be addressed in the formal response to comments if the issue is also presented during the hearing. After the conclusion of the informal discussion period, the TCEQ will conduct a notice and comment hearing regarding the application and draft permit. Individuals may present oral statements when called upon in order of registration. A reasonable time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing. The purpose of this hearing will be to receive formal public comment which the TCEQ will consider in determining whether to revise and/or issue the permit and in determining the accuracy and completeness of the permit. Any person may attend this meeting and submit written or oral comments. The hearing will be conducted in accordance with the Texas Clean Air Act § 382.0561, as codified in the Texas Health and Safety Code, and 30 Texas Administrative Code §122.340.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the TCEQ Public Education Program toll free at (800) 687-4040 or (800) RELAY-TX (TDD), at least five business days prior to the hearing.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted public comments, a hearing request, attended and signed in at the hearing, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with the applicable requirements or the requirements of 30 Texas Administrative Code Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the Office of the Chief Clerk at the address above. Those

on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box 13087, Austin, Texas 78711-3087 or toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained for Western Refining Terminals, LLC by calling Ms. Rebecca Ayala, Advanced EHS Professional at (915) 526-6394.

Notice Issuance Date: March 13, 2024

TRD-202401232

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2024



Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 29, 2024**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 29, 2024**. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: U.S. National Park Service; DOCKET NUMBER: 2022-0142-PWS-E; TCEQ ID NUMBER: RN101607208; LOCATION: 20301 Park Road 22 near Corpus Christi, Kleberg County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code, §341.0315 and 30 TAC §290.39(j)(1)(A), by failing to notify the commission prior to making any significant change or addition where the change in the existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance capacity; and 30 TAC §290.46(m)(6), by failing to maintain all pumps, motors, valves, and other mechanical devices in good working condition; PENALTY: \$690; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175,

(512) 239-6860; REGIONAL OFFICE: Corpus Christi Regional Office, 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

TRD-202401209

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 19, 2024



Notice of Water Quality Application

The following notice was issued on March 19, 2024:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER*.

INFORMATION SECTION

The Texas Commission on Environmental Quality has initiated a minor amendment of Texas Pollutant Discharge Elimination System Permit No. WQ0004086000 (EPA I.D. TX0117757), held by Clean Harbors San Leon, Inc., which operates Clean Harbors San Leon, a recycling and storage facility that manages catalyst and oily wastes from the petroleum refining and petrochemical industries, to correct the scientific name of the mysid shrimp and to update ICIS codes for the inland silverside. The draft permit authorizes the discharge of stormwater associated with industrial activity and previously monitored effluent (treated process wastewater and treated contaminated stormwater from internal Outfalls 101 and 102) on an intermittent and flow-variable via Outfall 001 in both interim phase and final phase. The facility is located at 2700 Avenue South, in the City of San Leon, Galveston County, Texas 77539.

TRD-202401236

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2024



Revised Notice of an Application for a Water Use Permit Application No. 13728

Notice Issued March 14, 2024

The Lavaca-Navidad River Authority (LNRA/Applicant), 4631 FM 3131, Edna, Texas 77957, has applied for a water use permit (Permit) to construct and maintain a reservoir impounding 240 acre-feet of water on the Lavaca River, Lavaca River Basin, divert 96,022 acre-feet of water per year from a diversion reach on the Lavaca River for municipal, industrial, and mining purposes in Calhoun, Jackson, Matagorda, Wharton, and Victoria counties in the Lavaca River Basin and the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, authorize use of the bed and banks of the Navidad River (Lake Texana) to convey the diverted water and/or store the diverted water in an off-channel reservoir, overdraft Lake Texana under specified conditions, authorize reuse of the water diverted and used under the permit and temporarily use 1,500 acre-feet of the authorized water for industrial purposes.

More information on the application and how to participate in the permitting process is given below.

The application and fees were received on March 23, 2020. Additional information was received on June 25, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on July 10, 2020. Additional information was received on February 24, and March 19, 2021, and March 8, 2023.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions and maintenance of an accounting plan. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13728 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202401233

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 20, 2024

Texas Health and Human Services Commission

Public Hearing - Texas State Hospital Long-Range Planning Report Meetings - Updated 03/14/2024

HHSC will conduct the next hybrid (in-person and virtual) meeting on April 16th, 2024, to receive public comment on the draft long-range planning report for the Texas State Hospitals. A draft report will be available to the public on the HHS website one week prior to the April 16th meeting. The report will address:

- (1) projected future bed requirements for state hospitals;
- (2) documenting the methodology used to develop the projection of future bed requirements;
- (3) projected maintenance costs for institutional facilities;
- (4) recommended strategies to maximize the use of institutional facilities; and
- (5) how each state hospital will:
 - (A) serve and support the communities and consumers in its service area; and
 - (B) fulfill statewide needs for specialized services.

The initiatives outlined in this report will guide the Texas State Hospitals for the next six years. This report is developed under the authority of Texas Health and Safety Code §533.032.

What Meeting on the Texas State Hospitals Long-Range Plan

When Tuesday, April 16, 2024 - 1:00 p.m.

Where John H. Winters Building - Room 125E - 701 W. 51st St. Austin, Texas 78751

Virtual: Access a live stream of the meeting here.

Virtual Oral Comments

Members of the public must pre-register to provide oral comments virtually during the meeting by completing a Public Comment Registration form for April 16th at <https://forms.office.com/r/DL7fFaUi3t>. The forms must be completed no later than 5:00 p.m. Monday, April 15, 2024.

Please mark the correct box on the Public Comment Registration form and provide your name, either the organization you are representing or that you are speaking as a private citizen, and your direct phone number. If you have completed the Public Comment Registration form, you will receive an email the day before the meeting with instructions for providing virtual public comment. Public comment is limited to three minutes. Each speaker providing oral public comments virtually must ensure their face is visible and their voice audible to the other participants while they are speaking. Each speaker must state their name and for whom they are speaking (if anyone). If you pre-register to speak and wish to provide a handout before the meeting, please submit an electronic copy in accessible PDF format that will be distributed to the appropriate HHSC staff. Handouts are limited to two pages (paper size: 8.5" by 11", one side only). Handouts must be emailed to SHS_Central_Administration@hhsc.state.tx.us immediately after pre-registering, but no later than 5:00 p.m. Monday, April 15th, 2024, and must include the name of the person who will be com-

menting. Do not include health or other confidential information in your comments or handouts. Staff will not read handouts aloud during the hearing, but handouts will be provided to the appropriate HHSC staff.

In-Person Oral Comments

Members of the public may provide oral public comment during the hearing in person at the hearing location either by pre-registering using the form above or without pre-registering by completing a form at the entrance to the meeting room. Do not include health or other confidential information in your comments.

Written Comments

A member of the public who wishes to provide written public comments must either email the comments to SHS_Central_Administration@hhsc.state.tx.us no later than 5:00 p.m. Monday, April 15th, 2024, or send written comments via U.S. mail, overnight mail, special deliver mail, or hand delivery to the mailing address at the bottom of this notice. Please include your name and the organization you are representing or that you are speaking as a private citizen. Written comments are limited to two pages (paper size: 8.5" by 11", one side only). Do not include health or other confidential information in your comments. Staff will not read written comments aloud during the meeting, but comments will be provided to the appropriate HHSC staff.

Additional Information for Written Comments

Written comments, requests to review comments, or both may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email.

U.S. Mail

Texas Health and Human Services Commission Health and Specialty Care System / Texas State Hospitals Attention: Terina McIntyre, Mail Code 2023 Austin State Hospital 4110 Guadalupe Street, Austin, Texas 78751

Overnight Mail, Special Delivery Mail or Hand Delivery

Texas Health and Human Services Commission Health and Specialty Care System / Texas State Hospitals Attention: Terina McIntyre, Mail Code 2023 Austin State Hospital 4110 Guadalupe Street, Austin, Texas 78751

Email

Terina.McIntyre01@hhs.texas.gov

Contact

If you have any questions, please contact Terina McIntyre at (512) 574-3218 or Terina.McIntyre01@hhs.texas.gov.

TRD-202401165

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 15, 2024



Department of State Health Services

Legislative Appropriations Request (LAR) Notice of Public Hearing on 2026-2027 Biennium LAR

Date/Time:

Wednesday, May 1, 2024

2:00 p.m.

Location:

Texas Department of State Health Services (DSHS)

Robert D. Moreton Building

Public Hearing Room M-100, First Floor

1100 West 49th Street

Austin, Texas 78756

This public hearing will be webcast. Members of the public may attend the public hearing in person at the address above or access a live stream of the public hearing at <https://texashhsm meetings.org/HHSWebcast>. Select the tab for Moreton M-100 Live on the date and time for this public hearing. Please e-mail Webcasting@hhsc.state.tx.us if you have any problems with the webcasting function.

Agenda

1. Welcome and call to order
2. Agency overview
3. Budget overview: 2026-2027 Biennium
4. Public comment
5. Closing remarks
6. Adjourn

DSHS will conduct a public hearing to receive input on public health program funding for the 2026-2027 biennium Legislative Appropriations Request. DSHS is seeking your ideas and recommendations for funding public health programs such as disease and injury prevention, public health data, maternal and child wellness, emergency preparedness and response, vital statistics, and health-related consumer protection.

Public Comment

Stakeholder input is a critical element of this process. DSHS will accept public comments at the Austin location in person and virtually. To provide time to all persons wishing to speak, DSHS will observe a three-minute time limit per speaker. Please include the following in your comments:

- Your name or the name of your organization and a contact person.
- A clear, concise description of the recommendation.
- What need would be addressed by this recommendation and the expected impact or benefit to the state or the people we serve.

Members of the public who would like to provide public comments may register at this link <https://www.surveymonkey.com/r/L8W7NF7> and choose from the following options:

Oral comments provided virtually: Members of the public must pre-register to provide oral comments virtually during the public hearing by completing a Public Comment Registration form at <https://www.surveymonkey.com/r/L8W7NF7> no later than 5:00 p.m., Sunday, April 28, 2024. Please mark the correct box on the Public Comment Registration form and provide your name, either the organization you are representing or that you are speaking as a private citizen, and your direct phone number. If you have completed the Public Comment Registration form, you will receive an email the day before the public hearing with instructions for providing virtual public comment. Oral comments are limited to three minutes. Each speaker providing oral public comments virtually must ensure their face is visible and their voice audible to the other participants while they are speaking. Each speaker must state their name and on whose behalf they are speaking (if anyone). If you pre-register to speak and wish to provide a handout before the public

hearing, please submit an electronic copy in accessible PDF format that will be distributed to the appropriate DSHS staff. Handouts are limited to two pages (paper size: 8.5" by 11", one side only). Handouts must be emailed to DSHSPublicHearings@dshs.texas.gov immediately after pre-registering, but no later than 5:00 p.m., Sunday, April 28, 2024, and include the name of the person who will be commenting. Do not include health or other confidential information in your comments or handouts. Staff will not read handouts aloud during the public hearing, but handouts will be provided to the appropriate DSHS staff.

Oral comments provided in-person at the public hearing location: Members of the public may provide oral public comments during the public hearing in person at the public hearing location by pre-registering online using the Public Comment Registration form at <https://www.surveymonkey.com/r/L8W7NF7>. Do not include health information or other confidential information in your comments or handouts.

Written comments: A member of the public who wishes to provide written public comments only must email the comments to DSHSPublicHearings@dshs.texas.gov no later than 5:00 p.m., Sunday, April 28, 2024. Please include your name and the organization you are representing or that you are commenting as a private citizen. Written comments are limited to two pages (paper size: 8.5" by 11", one side only). Do not include health or other confidential information in your comments. Staff will not read written comments aloud during the public hearing, but comments will be provided to the appropriate DSHS staff.

Note: These procedures may be revised at the discretion of DSHS.

Contact: Questions regarding agenda items, content, or public hearing arrangements should be directed to:

Mail: Department of State Health Services (DSHS)

Center for System Coordination and Innovation (CSCI)

P. O. Box 149347, Mail Code 1911, Austin, Texas 78714-9347

Or street address

1100 West 49th Street, Austin, Texas 78756

Fax: Attention: DSHS Public Hearing at (512) 776-7671

E-mail: DSHSPublicHearings@dshs.texas.gov

Phone: (512) 776-6206

This forum is open to the public. No reservations are required, and there is no cost to attend. People with disabilities who wish to attend the public hearing and require auxiliary aids or services should call (512) 776-6206 at least 72 hours before the public hearing so appropriate arrangements can be made.

TRD-202401222

Cynthia Hernandez

General Counsel

Department of State Health Services

Filed: March 20, 2024



Order Placing Zuranolone into Schedule IV, Placing Nine Specific Fentanyl-Related Substances into Schedule I, and Temporarily Placing MDMB-4en-PINACA, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, and 5F-EDMB-PICA, and MMB-FUBICA into Schedule I

The U.S. Drug Enforcement Administration issued an interim final rule placing zuranolone (chemically known as 1-[2-[(3*R*,5*R*,8*R*,9*R*,10*S*,13*S*,14*S*,17*S*)-3-hydroxy-3,13-dimethyl-2,4,5,6,7,8,9,10,11,12,14,15,16,17-tetradecahydro-1*H*-cyclopenta[*a*]phenanthren-17-yl]-2-oxoethyl]pyrazole-4-carbonitrile), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule IV of the Controlled Substances Act effective October 31, 2023. This final rule was published in the *Federal Register*, Volume 88, Number 209, pages 74347-74352.

This scheduling action was taken pursuant to the following:

1. Zuranolone has a potential for abuse similar to the drugs or other substances in schedule IV;
2. Zuranolone has a currently accepted medical use in treatment in the United States; and,
3. Abuse of zuranolone may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III but similar to other substances in schedule IV.

The U.S. Drug Enforcement Administration issued a final rule placing the following nine specific fentanyl-related substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, in schedule I of the Controlled Substances Act effective December 7, 2023:

- *meta*-fluorofentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide);
- *meta*-fluoroisobutyryl fentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide);
- *para*-methoxyfuranyl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
- 3-furanyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-phenylfuran-3-carboxamide);
- 2',5'-dimethoxyfentanyl (*N*-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-*N*-phenylpropionamide);
- isovaleryl fentanyl (3-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);

- *ortho*-fluorofuranyl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
- *alpha'*-methyl butyryl fentanyl (2-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide); and
- *para*-methylcyclopropyl fentanyl (*N*-(4-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide).

This final rule was published in the *Federal Register*, Volume 88, Number 234, pages 85104-85109.

This scheduling action was taken pursuant to the following:

1. The abuse potential of *meta*-fluorofentanyl, *meta*-fluoroisobutyryl fentanyl, *para*-methoxyfuranyl fentanyl, 3-furanyl fentanyl, 2',5'-dimethoxyfentanyl, isovaleryl fentanyl, *ortho*-fluorofuranyl fentanyl, *alpha'*-methyl butyryl fentanyl, and *para*-methylcyclopropyl fentanyl is associated with each substance's pharmacological similarity to other schedule I and II mu-opioid receptor agonist substances which have a high potential for abuse. Similar to morphine (schedule II), fentanyl (schedule II), and several schedule I opioid substances that are structurally related to fentanyl, these nine fentanyl-related substances have been shown to bind and act as mu-opioid receptor agonists;

2. *meta*-Fluorofentanyl, *meta*-fluoroisobutyryl fentanyl, *para*-methoxyfuranyl fentanyl, 3-furanyl fentanyl, 2',5'-dimethoxyfentanyl, isovaleryl fentanyl, *ortho*-fluorofuranyl fentanyl, *alpha'*-methyl butyryl fentanyl, and *para*-methylcyclopropyl fentanyl, have no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of *meta*-fluorofentanyl, *meta*-fluoroisobutyryl fentanyl, *para*-methoxyfuranyl fentanyl, 3-furanyl fentanyl, 2',5'-dimethoxyfentanyl, isovaleryl fentanyl, *ortho*-fluorofuranyl fentanyl, *alpha'*-methyl butyryl fentanyl, and *para*-methylcyclopropyl fentanyl under medical supervision.

The U.S. Drug Enforcement Administration issued temporary order placing MDMA-4en-PINACA, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA including their optical and geometric isomer, salts, and salts of isomers, whenever the existence of such isomers and salts is possible, in schedule I of the Controlled Substance Act effective December 12, 2023:

This temporary order was published in the *Federal Register*, Volume 88, Number 237, pages 86040-86046.

This scheduling action was taken pursuant to the following:

1. MDMA-4en-PINACA, 4F-MDMA-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA pose an imminent hazard to the public safety;
2. MDMA-4en-PINACA, 4F-MDMA-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA have a high potential for abuse;
3. MDMA-4en-PINACA, 4F-MDMA-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA have no currently accepted medical use in treatment in the United States; and
4. MDMA-4en-PINACA, 4F-MDMA-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA have a lack of accepted safety for use under medical supervision.

Pursuant to Section 481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced actions were published in the Federal Register. In the capacity as Commissioner of the Texas Department of State Health Services, Jennifer Shuford, M.D., does hereby order that the substance zuranolone be placed into schedule IV, nine specific fentanyl-related substances be placed into schedule I, and MDMA-4en-PINACA, 4F-MDMA-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA be temporarily placed into schedule I.

-Schedule I opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts are possible within the specific chemical designation:

- (1) Acetyl- α -methylfentanyl (*N*-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-*N*-phenylacetamide);
- (2) Acetylmethadol;
- (3) Acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide);

- (4) Acryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide) (Other name: acryloylfentanyl);
- (5) AH-7921 (3,4-dichloro-*N*-[1-(dimethylamino) cyclohexymethyl]benzamide);
- (6) Allylprodine;
- (7) Alphacetylmethadol (except levo- α -cetylmethadol, levo- α -acetylmethadol, levomethadyl acetate, or LAAM);
- *(8) α' -Methyl butyryl fentanyl (2-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);
- (9) α -Methylfentanyl or any other derivative of fentanyl;
- (10) α -Methylthiofentanyl (*N*-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl] *N*-phenylpropanamide);
- (11) Benzethidine;
- (12) β -Hydroxyfentanyl (*N*-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-*N*-phenylpropanamide);
- (13) β -Hydroxy-3-methylfentanyl (*N*-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-*N*-phenylpropanamide);
- (14) β -hydroxythiofentanyl (Other names: *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide; *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-*N*-phenylpropanamide);
- (15) β -Methyl fentanyl (*N*-phenyl-*N*-(1-(2-phenylpropyl)piperidin-4-yl)propionamide);
- (16) β' -Phenyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide) (Other name: 3-phenylpropanoyl fentanyl);
- (17) Betaprodine;
- (18) Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one);
- (19) Butyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);
- (20) Clonitazene;
- (21) Crotonyl fentanyl (Other name: (6-2-5) (E)-*N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide);
- (22) Cyclopentyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-Phenylcyclopentanecarboxamide);
- (23) Cyclopropyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide);
- (24) Diampromide;
- (25) Diethylthiambutene;
- (26) Difenoxyin;
- (27) Dimenoxadol;
- *(28) 2',5'-Dimethoxyfentanyl (*N*-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-*N*-phenylpropionamide);
- (29) Dimethylthiambutene;
- (30) Dioxaphetyl butyrate;
- (31) Dipipanone;
- (32) Ethylmethylthiambutene;
- (33) Etonitazene;

- (34) Etoxeridine;
- (35) Fentanyl carbamate (ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate);
- (36) 4-Fluoroisobutyryl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide) (Other name: *p*-fluoroisobutyryl fentanyl);
- (37) 2'-Fluoro *o*-fluorofentanyl (*N*-(1-(2-fluorophenethyl)piperidin-4-yl)-*N*-(2-fluorophenyl)propionamide (Other name: 2'-fluoro 2-fluorofentanyl);
- (38) Furanyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide);
- *(39) 3-Furanyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-3-carboxamide);
- (40) Furethidine;
- (41) Hydroxypethidine;
- (42) Isobutyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide);
- (43) Isotonitazene (*N,N*-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine);
- *(44) Isovaleryl fentanyl (3-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);
- (45) Ketobemidone;
- (46) Levophenacylmorphan;
- *(47) *m*-Fluorofentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide);
- *(48) *m*-Fluoroisobutyryl fentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide)
- (49) Meprodine;
- (50) Methadol;
- (51) Methoxyacetyl fentanyl (2-methoxy-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide);
- (52) 4'-Methyl acetyl fentanyl (*N*-(1-(4-methylphenethyl)piperidin-4-yl)-*N*-phenylacetamide);
- (53) 3-Methylfentanyl (*N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide);
- (54) 3-Methylthiofentanyl (*N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-*N*-phenylpropanamide);
- (55) Metonitazene (*N,N*-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine);
- (56) Moramide;
- (57) Morpheridine;
- (58) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (59) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- (60) Noracymethadol;
- (61) Norlevorphanol;
- (62) Normethadone;
- (63) Norpipanone;
- (64) Ocfentanil (*N*-(2-fluorophenyl)-2-methoxy-*N*-(1-phenethylpiperidin-4-yl)acetamide);

- (65) *o*-Fluoroacryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)acrylamide);
- (66) *o*-Fluorobutyryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide (Other name: 2-fluorobutyryl fentanyl);
- (67) *o*-Fluorofentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide) (Other name: 2-fluorofentanyl);
- * (68) *o*-Fluorofuranyl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
- (69) *o*-Fluoroisobutyryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide);
- (70) *o*-Methyl acetylfentanyl (*N*-(2-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: 2-methyl acetylfentanyl);
- (71) *o*-Methyl methoxyacetyl fentanyl (2-methoxy-*N*-(2-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: 2-methyl methoxyacetyl fentanyl);
- (72) *p*-Chloroisobutyryl fentanyl (*N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide);
- (73) *p*-Fluorobutyryl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide);
- (74) *p*-Fluorofentanyl (*N*-(4-fluorophenyl)-*N*-[1-(2-phenethyl)-4 piperidinyl]propanamide);
- (75) *p*-Fluoro furanyl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
- (76) *p*-Methoxybutyryl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide);
- * (77) *p*-Methoxyfuranyl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
- * (78) *p*-Methylcyclopropyl fentanyl (*N*-(4-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide);
- (79) *p*-Methylfentanyl (*N*-(4-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide (Other name: 4-methylfentanyl);
- (80) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (81) Phenadoxone;
- (82) Phenampromide;
- (83) Phencyclidine;
- (84) Phenomorphan;
- (85) Phenoperidine;
- (86) Phenyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbenzamide (Other name: benzoyl fentanyl);
- (87) Piritramide;
- (88) Proheptazine;
- (89) Properidine;
- (90) Propiram;
- (91) Tetrahydrofuranyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenyltetrahydrofuran-2-carboxamide);

- (92) Thiofentanyl (*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
(93) Thiofuranyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylthiophene-2-carboxamide (Other names: 2-thiofuranyl fentanyl; thiophene fentanyl);
(94) Tilidine;
(95) Trimeperidine;
(96) U-47700 (3,4-dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide);
(97) Valeryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide); and,
(98) Zipeprol (1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol).

-Schedule I temporarily listed substances subject to emergency scheduling by the U.S. Drug Enforcement Administration.

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances or that contains any of the substance's isomers, esters, ethers, salts and salts of isomers, esters, and ethers if the existence of the salts, esters, ethers isomers, and salts of isomers, esters, ethers is possible within the specific chemical designation:

(1) Fentanyl-related substances.

(1-1) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under Section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:

(1-1-1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle,

(1-1-2) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups,

(1-1-3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups,

(1-1-4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle, and/or

(1-1-5) Replacement of the *N*-propionyl group by another acyl group.

(1-2) This definition includes, but is not limited to, the following substances:

(1-2-1) *N*-(1-(2-Fluorophenethyl)piperidin-4-yl)-*N*-(2-fluorophenyl)propionamide (Other name: 2'-fluoro-*o*-fluorofentanyl);

(1-2-2) *N*-(2-Methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: *o*-methyl acetylfentanyl);

(1-2-3) *N*-(1-Phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide (Other names: β' -phenyl fentanyl; hydrocinnamoyl fentanyl); and,

- (1-2-4) *N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylthiophene-2-carboxamide (Other name: thiofuranyl fentanyl).
- (2) 2-(2-(4-Butoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)-*N,N*-diethylethan-1-amine (Other name: butonitazene);
- (3) 2-(2-(4-Ethoxybenzyl)-1*H*-benzimidazol-1-yl)-*N,N*-diethylethan-1-amine (Other names: etodesnitazene; etazene);
- (4) *N,N*-Diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: flunitazene);
- (5) *N,N*-Diethyl-2-(2-(4-methoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: metodesnitazene);
- (6) 2-(4-Ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1*H*-benzimidazole (Other names: *N*-pyrrolidino etonitazene; etonitazepyne);
- (7) *N,N*-Diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: protonitazene);
- (8) 4-(2-chlorophenyl)-2-ethyl-9-methyl-6*H*-thieno[3,2-*f*][1,2,4]triazolo[4,3-*α*][1,4]diazepine (Other name: etizolam);
- (9) 8-chloro-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*α*][1,4]diazepine (Other name: flualprazolam);
- (10) 6-(2-chlorophenyl)-1-methyl-8-nitro-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*α*][1,4]diazepine (Other name: clonazolam);
- (11) 8-bromo-6-(2-fluorophenyl)-1-methyl-4*H*-benzo[*f*][1,2,4]triazolo[4,3-*α*][1,4]diazepine (Other names: 8-bromo-6-(2-fluorophenyl)-1-methyl-4*H*-[1,2,4]triazolo[4,3-*α*][1,4]benzodiazepine and flubromazolam);
- (12) 7-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2*H*-benzo[*e*][1,4]diazepin-2-one (Other name: diclazepam);
- *(13) Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate (Other name: MDMB-4en-PINACA)
- *(14) Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethylbutanoate (Other names: 4F-MDMB-BUTICA; 4F-MDMB-BICA)
- *(15) *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamide (Other name: ADB-4en-PINACA)
- *(16) 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-*b*]indol-1-one (Other names: CUMYL-PEGACLONE; SGT-151)
- *(17) Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethylbutanoate (Other names: 5F-EDMB-PICA; 5F-EDMB-2201)
- *(18) Methyl 2-(1-(4-fluorobenzyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate (Other name: MMB-FUBICA)

-Schedule IV depressants

Except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances or any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of

isomers is possible within the specific chemical designation having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alfaxalone (5 α -pregnan-3 α -ol-11,20-dione);
- (2) Alprazolam;
- (3) Barbital;
- (4) Brexanolone (3 α -hydroxy-5 α -pregnan-20-one) (Other name: allopregnanolone);
- (5) Bromazepam;
- (6) Camazepam;
- (7) Chloral betaine;
- (8) Chloral hydrate;
- (9) Chlordiazepoxide;
- (10) Clobazam;
- (11) Clonazepam;
- (12) Clorazepate;
- (13) Clotiazepam;
- (14) Cloxazolam;
- (15) Daridorexant;
- (16) Delorazepam;
- (17) Diazepam;
- (18) Dichloralphenazone;
- (19) Estazolam;
- (20) Ethchlorvynol;
- (21) Ethinamate;
- (22) Ethyl loflazepate;
- (23) Fludiazepam;
- (24) Flunitrazepam;
- (25) Flurazepam;
- (26) Fospropofol;
- (27) Halazepam;
- (28) Haloxazolam;
- (29) Ketazolam;
- (30) Lemborexant;
- (31) Loprazolam;
- (32) Lorazepam;
- (33) Lormetazepam;
- (34) Mebutamate;
- (35) Medazepam;
- (36) Meprobamate;
- (37) Methohexital;
- (38) Methylphenobarbital (Other name: mephobarbital);
- (39) Midazolam;
- (40) Nimetazepam;
- (41) Nitrazepam;

- (42) Nordiazepam;
- (43) Oxazepam;
- (44) Oxazolam;
- (45) Paraldehyde;
- (46) Petrichloral;
- (47) Phenobarbital;
- (48) Pinazepam;
- (49) Prazepam;
- (50) Quazepam;
- (51) Remimazolam;
- (52) Suvorexant;
- (53) Temazepam;
- (54) Tetrazepam;
- (55) Triazolam;
- (56) Zaleplon;
- (57) Zolpidem;
- (58) Zopiclone; and
- * (59) Zuranolone.

Changes are marked by an asterisk(*)

TRD-202401216
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: March 19, 2024

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Texas Department of Housing and Community Affairs

Notice of Public Hearings and Public Comment Period on the Draft 2024 State of Texas Analysis of Impediments to Fair Housing Choice

The Texas Department of Housing and Community Affairs (TDHCA) will hold four public hearings during a 31-day Public Comment period to accept public comment on the draft 2024 State of Texas Analysis of Impediments to Fair Housing Choice (AI). The Public Comment period for the draft AI will be held Wednesday, April 3, 2024 - Friday, May 3, 2024.

The public hearings for the 2024 AI are scheduled to take place as follows:

Tuesday, April 16, 2024 - 6:30 p.m.
 Carver Branch, Austin Public Library
 Room #1
 1161 Angelina Street
 Austin, Texas 78702
 Thursday, April 18, 2024 - 6:00 p.m.
 Via GoToWebinar

<https://attendee.gotowebinar.com/register/1281746222460736607>

Dial-in number: +1 (562) 247-8422, Access Code 583-444-377 (persons who use the dial-in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments. Staff recommend that attendees without computer access use the GoToWebinar phone app in order to participate fully.)

Tuesday, April 23, 2024 - 12:30 p.m.

come. dream. come. build.

Father Armand Matthew Meeting Room
 901 E Levee Street
 Brownsville, Texas 78520

Thursday, April 25, 2024 - 11:00 a.m.

J. Erik Jonsson Central Library
 1st Floor Auditorium
 1515 Young Street
 Dallas, Texas 75201

The State of Texas is releasing for public comment the 2024 Analysis of Impediments to Fair Housing Choice (AI) planning document, which guides the state's affordable housing strategy for the next five years. This is a process required of recipients of U.S. Department of Housing and Urban Development (HUD) Community Planning and Development grant funds as part of their obligation to undertake affirmatively further fair housing (AFFH) under the Fair Housing Act. The Texas Department of Housing and Community Affairs (TDHCA) is the agency in Texas that is primarily responsible for creating the AI.

The Plan may be accessed from TDHCA's Public Comment Web page at: <https://www.tdhca.texas.gov/tdhca-public-comment-center>. The public comment period for the AI will be open from Wednesday, April 3, 2024, through Friday, May 3, 2024. Anyone may submit comments on the AI in written form or oral testimony at the public hearings. In addition, written comments concerning the AI may be submitted in the following ways:

1. by mail to: The Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box 13941, Austin, Texas 78711-3941
2. by email to: fair.housing@tdhca.texas.gov

Comments may be submitted at any time during the comment period. Comments must be received no later than Friday, May 3, 2024, at 5:00 p.m. Central Standard Time.

Individuals who require auxiliary aids or services at public hearings should contact Elizabeth Yevich, at (512) 463-7961 or Relay Texas at 1-800-735-2989 at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters at the public hearing should contact Danielle Leath by phone at (512) 475-4606 or by email at danielle.leath@tdhca.texas.gov at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Danielle Leath al siguiente número (512) 475-4606 o enviarle un correo electrónico a danielle.leath@tdhca.texas.gov por lo menos tres días antes de la junta para hacer los preparativos apropiados.

TRD-202401229
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: March 20, 2024



Texas Housing Trust Fund Fiscal Year 2024 Amy Young Barrier Removal Program Notice of Funding Availability

The Texas Department of Housing and Community Affairs (the Department) announces a Notice of Funding Availability (NOFA) of approximately \$1,466,618.40 for the 2024 Amy Young Barrier Removal (AYBR) Program funded through the Texas Housing Trust Fund (Texas HTF). The funds include \$1,333,289.45 in Project Costs, and \$133,328.95 in Administrative funds. The funds will be made available to AYBR Reservation System Participants, with a current Reservation Agreement that includes the 2024 set-aside. Applications for a Reservation Agreement are accepted on an ongoing basis. Eligible Applicants include Units of General Local Government, Nonprofit Organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.

Funds will be made available beginning April 2, 2024, in accordance with the NOFA. From time to time, additional funding may be made available under the NOFA through transfer of prior year balances, de-obligated funds, and Program Income. Amendments will be published on the TDHCA website.

The AYBR Program provides one-time grants of up to \$22,500 to Persons with Disabilities in a Household qualified as Low-Income. Grants are for home modifications that increase accessibility and eliminate life-threatening hazards, and correct substandard conditions. Specific program guidelines can be found at 10 TAC Chapter 26, Texas Housing Trust Fund Rule, Subchapter B, Amy Young Barrier Removal Program.

The NOFA is available on the Department's website at <https://www.tdhca.texas.gov/notices-funding-availability-nofas>. Questions regarding the 2024 Amy Young Barrier Removal Program NOFA may be addressed to the Single Family and Homeless Programs Division via email at HTF@tdhca.texas.gov.

TRD-202401181
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: March 18, 2024



Texas Housing Trust Fund Fiscal Year 2024 Texas Bootstrap Loan Program Notice of Funding Availability

The Texas Department of Housing and Community Affairs (the Department) announces the availability of approximately \$2,983,757.40 in funding for the 2024 Texas Bootstrap Loan (Bootstrap) Program funded through the Texas Housing Trust Fund (Texas HTF). The funds include \$2,712,506.73 in Project Costs, and \$271,250.67 in Administrative funds. The funds will be made available to Bootstrap Reservation System Participants, with a current Loan Origination and Reservation System Access Agreement (Reservation Agreement) that includes the 2024 set-aside. Applications for a Reservation Agreement are accepted on an ongoing basis. Eligible Applicants include Nonprofit Organizations and Colonia Self-Help Centers.

Funds will be made available beginning April 2, 2024, in accordance with the NOFA. From time to time, additional funding may be made available under the NOFA through transfer of prior year balances, de-obligated funds, and Program Income. Amendments will be published on the TDHCA website.

The Bootstrap Program provides mortgage loans up to \$45,000 to qualified as Low-Income Owner-Builders. Specific program guidelines, including all eligible activities, can be found at 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule.

Information is available on the Department's web site at <https://www.tdhca.texas.gov/notices-funding-availability-nofas>. Questions regarding the 2024 Texas Bootstrap Loan Program NOFA may be addressed to the Single Family and Homeless Programs Division via email at Bootstrap@tdhca.texas.gov.

TRD-202401178
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: March 18, 2024



Texas Department of Insurance

Notice of Rate Filing - Texas Automobile Insurance Plan Association

Docket No. 2845

On March 12, 2024, the Texas Automobile Insurance Plan Association (TAIPA) filed a request to charge new insurance rates for private passenger auto and commercial auto coverage. The filed rates represent a 15.1% increase in private passenger automobile rates and a 12.7% increase in commercial automobile rates. TAIPA proposed an effective date of September 1, 2024, for new and renewal business.

The commissioner of insurance will review the filing to determine whether TAIPA's proposed rates are just, reasonable, adequate, not

excessive, not confiscatory, and not unfairly discriminatory for the risks covered, as required by Insurance Code §2151.201. TAIPA's proposed rates must also be sufficient to carry all claims to maturity and meet the expenses incurred in writing and servicing the business.

TAIPA's average proposed rate changes by coverage exceed 5%, so a hearing will be held, as required by Insurance Code §2151.2041.

The commissioner of insurance will hold a public hearing to consider the rates TAIPA filed with the Texas Department of Insurance. The hearing will be held at 1:00 p.m., central time, on April 16, 2024, in Room 2.029 of the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701.

To Review, Request Copies, and Comment:

To review or get copies of TAIPA's rate filing:

- **Online:** Go to www.tdi.texas.gov/rules/2024/exrules.html.

- **In person:** You can review the filing at the Texas Department of Insurance, Office of the Chief Clerk, 1601 Congress Ave, Austin, Texas 78701. To schedule a time to review the materials in person, please email ChiefClerk@tdi.texas.gov.

- **By mail:** Write to the Texas Department of Insurance, Office of the Chief Clerk, MC: GC-CCO, P.O. Box 12030, Austin, Texas 78711-2030.

- To comment on the rate filing, send written comments by email to ChiefClerk@tdi.texas.gov or by mail to the Texas Department of Insurance, Office of the Chief Clerk, MC: GC-CCO, P.O. Box 12030, Austin, Texas 78711-2030. Hand-delivered comments must be directed to the Texas Department of Insurance, Office of the Chief Clerk, 1601 Congress Ave, Austin, Texas 78701, and can be delivered during regular business hours. Your comments must be received by 5:00 p.m., central time, on April 16, 2024.

TRD-202401212

Jessica Barta

General Counsel

Texas Department of Insurance

Filed: March 19, 2024

Texas Department of Insurance, Division of Workers' Compensation

Correction of Error

The Texas Department of Insurance, Division of Workers' Compensation adopted amendments to 28 TAC §§133.10, 133.20, 133.200, and 133.502 in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1478). Due to an error by the Texas Register, the incorrect effective date was published for the adoption. The correct effective date for the adoption is June 1, 2024.

TRD-202401200

Texas Lottery Commission

Correction of Error

The Texas Lottery Commission published the game procedure for Scratch Ticket Game Number 2562 "\$100,000 MONEY MANIA" in

the March 15, 2024, issue of the *Texas Register* (49 TexReg 1785). Due to an error by the Texas Register, the text for Section 2.0, Determination of Prize Winners, was published incorrectly. The correct text is as follows:

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$100,000 MONEY MANIA" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-one (61) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. \$100,000 MONEY MANIA PLAY INSTRUCTIONS: If a player matches any of the 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 "SAFE" Play Symbol, the player wins the prize for that symbol instantly. If a player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If a player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

TRD-202401206

Scratch Ticket Game Number 2564 "HIT \$5,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2564 is "HIT \$5,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2564 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2564.

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, HIT SYMBOL, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 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. 2564 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV

28	TWET
29	TWNI
30	TRTY
HIT SYMBOL	WIN\$
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$5,000	FVTH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2564), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2564-0000001-001.

H. Pack - A Pack of "HIT \$5,000" Scratch Ticket Game contains 150 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Ticket 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. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "HIT \$5,000" Scratch Ticket Game No. 2564.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set

forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$5,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eleven (11) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol 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 eleven (11) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly eleven (11) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the eleven (11) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the eleven (11) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.
- B. A Ticket can win as indicated by the prize structure.
- C. A Ticket can win up to five (5) times.

D. On winning and non-winning Tickets, the top cash prize of \$5,000 will appear at least once, except on Tickets winning five (5) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

G. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 01 and \$1, 02 and \$2, 03 and \$3, 05 and \$5, 10 and \$10 and 20 and \$20).

H. On all Tickets, a Prize Symbol will not appear more than one (1) time, except as required by the prize structure to create multiple wins.

I. On non-winning Tickets, the WINNING NUMBER Play Symbol will never match a YOUR NUMBERS Play Symbol.

J. The "HIT" (WIN\$) Play Symbol will win the prize for that Play Symbol.

K. The "HIT" (WIN\$) Play Symbol will never appear more than once on a Ticket.

L. The "HIT" (WIN\$) Play Symbol will never appear on a non-winning Ticket.

M. The "HIT" (WIN\$) Play Symbol will never appear as the WINNING NUMBER Play Symbol.

N. On Tickets winning with the "HIT" (WIN\$) Play Symbol, the YOUR NUMBERS Play Symbols will not match the WINNING NUMBER Play Symbol.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$5,000" Scratch Ticket Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$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 "HIT \$5,000" Scratch Ticket Game prize of \$5,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HIT \$5,000" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is

\$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "HIT \$5,000" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 12,960,000 Scratch Tickets in the Scratch Ticket Game No. 2564. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2564 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	1,036,800	12.50
\$2.00	820,800	15.79
\$3.00	288,000	45.00
\$5.00	475,200	27.27
\$10.00	72,000	180.00
\$20.00	28,800	450.00
\$50.00	2,340	5,538.46
\$100	1,800	7,200.00
\$5,000	15	864,000.00

*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 4.75. 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. 2564 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 Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2564, 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-202401218
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 19, 2024



Scratch Ticket Game Number 2565 "HIT \$200,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2565 is "HIT \$200,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2565 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2565.

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, 03, 04, 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, HIT SYMBOL, 2X SYMBOL, 5X SYMBOL, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, \$200, \$1,000, \$5,000 and \$200,000.

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. 2565 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
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
HIT SYMBOL	WIN\$
2X SYMBOL	DBL
5X SYMBOL	WINX5
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$1,000	ONTH
\$5,000	FVTH
\$200,000	200TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2565), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2565-0000001-001.

H. Pack - A Pack of "HIT \$200,000" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "HIT \$200,000" Scratch Ticket Game No. 2565.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$200,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-five (55) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly fifty-five (55) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-five (55) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the fifty-five (55) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-five (55) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.
- B. A Ticket can win as indicated by the prize structure.
- C. A Ticket can win up to twenty-five (25) times.
- D. On winning and non-winning Tickets, the top cash prizes of \$1,000, \$5,000 and \$200,000 will each appear at least once, except on Tickets winning twenty-five (25) times, with respect to other parameters, play action or prize structure.
- E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.
- F. A non-winning Prize Symbol will never match a winning Prize Symbol.
- G. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.
- H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.
- I. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 10 and \$10, 15 and \$15 and 25 and \$25).
- J. 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.
- K. On non-winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.
- L. The "HIT" (WIN\$) Play Symbol will never appear on the same Ticket as the "2X" (DBL) or "5X" (WINX5) Play Symbols.
- M. The "HIT" (WIN\$) Play Symbol will win the prize for that Play Symbol.
- N. The "HIT" (WIN\$) Play Symbol will never appear more than once on a Ticket.
- O. The "HIT" (WIN\$) Play Symbol will never appear on a non-winning Ticket.
- P. The "HIT" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.
- Q. The "2X" (DBL) Play Symbol will never appear more than once on a Ticket.
- R. The "2X" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.
- S. The "2X" (DBL) Play Symbol will never appear on a non-winning Ticket.
- T. The "2X" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.
- U. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.
- V. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.
- W. The "5X" (WINX5) Play Symbol will never appear on a non-winning Ticket.
- X. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.
- Y. The "2X" (DBL) and "5X" (WINX5) Play Symbols can appear on the same Ticket as per the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$200,000" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100 or \$200, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100 or \$200 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 \$200,000" Scratch Ticket Game prize of \$1,000, \$5,000 or \$200,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HIT \$200,000" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 \$200,000" 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 \$200,000" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "HIT \$200,000" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 14,040,000 Scratch Tickets in the Scratch Ticket Game No. 2565. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2565 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	1,497,600	9.38
\$10.00	624,000	22.50
\$15.00	374,400	37.50
\$25.00	717,600	19.57
\$50.00	107,250	130.91
\$100	20,280	692.31
\$200	1,950	7,200.00
\$1,000	156	90,000.00
\$5,000	8	1,755,000.00
\$200,000	6	2,340,000.00

*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 4.20. 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. 2565 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 Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2565, 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-202401219
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 19, 2024



Scratch Ticket Game Number 2566 "HIT \$500,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2566 is "HIT \$500,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2566 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2566.

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, 03, 04, 06, 07, 08, 09, 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, HIT SYMBOL, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$1,000, \$10,000 and \$500,000.

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. 2566 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXX
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH
30	TRTY

31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
HIT SYMBOL	WIN\$
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10

\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$1,000	ONTH
\$10,000	10TH
\$500,000	500TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2566), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2566-0000001-001.

H. Pack - A Pack of "HIT \$500,000" Scratch Ticket Game contains 050 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "HIT \$500,000" Scratch Ticket Game No. 2566.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$500,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "HIT" Play Symbol, the player wins the prize for that

symbol instantly. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly sixty-six (66) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-six (66) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$500,000 will each appear at least once, except on Tickets winning thirty (30) times and with respect to other parameters, play action or prize structure.

E. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

F. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

I. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

J. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbols (i.e., 20 and \$20, 30 and \$30 and 50 and \$50).

K. On all Tickets, a Prize Symbol will not appear more than five (5) times, except as required by the prize structure to create multiple wins.

L. The "HIT" (WIN\$) Play Symbol will never appear on the same Ticket as the "2X" (DBL), "5X" (WINX5) or "10X" (WINX10) Play Symbols.

M. The "HIT" (WIN\$) Play Symbol will win the prize for that Play Symbol.

N. The "HIT" (WIN\$) Play Symbol will never appear more than once on a Ticket.

O. The "HIT" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

P. The "HIT" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Q. The "2X" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

R. The "2X" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.

S. The "2X" (DBL) Play Symbol will never appear more than once on a Ticket.

T. The "2X" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

U. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

V. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

W. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

X. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

Y. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Z. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

AA. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

BB. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

CC. The "2X" (DBL) and "5X" (WINX5) Play Symbols can appear on the same winning Ticket, as per the prize structure.

DD. The "2X" (DBL), "5X" (WINX5) and "10X" (WINX10) Play Symbols can appear on the same winning Ticket, as per the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$500,000" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$100 or \$200, a claimant shall sign the back

of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100 or \$200 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 \$500,000" Scratch Ticket Game prize of \$1,000, \$10,000 or \$500,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HIT \$500,000" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 \$500,000" 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 \$500,000" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "HIT \$500,000" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 11,040,000 Scratch Tickets in the Scratch Ticket Game No. 2566. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2566 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	1,324,800	8.33
\$20.00	662,400	16.67
\$30.00	441,600	25.00
\$50.00	441,600	25.00
\$100	80,960	136.36
\$200	12,420	888.89
\$1,000	275	40,145.45
\$10,000	10	1,104,000.00
\$500,000	5	2,208,000.00

*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 3.72. 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. 2566 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 Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2566, 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-202401227
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 20, 2024



Scratch Ticket Game Number 2567 "HIT \$1,000,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2567 is "HIT \$1,000,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2567 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2567.

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, 03, 04, 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, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, HIT SYMBOL, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$20.00, \$40.00, \$50.00, \$100, \$200, \$400, \$1,000, \$20,000 and \$1,000,000.

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. 2567 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
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
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
HIT SYMBOL	WIN\$
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20

\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$400	FRHN
\$1,000	ONTH
\$20,000	20TH
\$1,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2567), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2567-0000001-001.

H. Pack - A Pack of "HIT \$1,000,000" Scratch Ticket Game contains 025 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The front of Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 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 025 will be shown on the back of the Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "HIT \$1,000,000" Scratch Ticket Game No. 2567.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIT \$1,000,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a player matches any of

the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly sixty-six (66) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-six (66) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$20,000 and \$1,000,000 will each appear at least once, except on Tickets winning thirty (30) times and with respect to other parameters, play action or prize structure.

E. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

F. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

I. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

J. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbols (i.e., 40 and \$40 and 50 and \$50).

K. On all Tickets, a Prize Symbol will not appear more than five (5) times, except as required by the prize structure to create multiple wins.

L. The "HIT" (WIN\$) Play Symbol will never appear on the same Ticket as the "2X" (DBL), "5X" (WINX5), "10X" (WINX10) or "20X" (WINX20) Play Symbols.

M. The "HIT" (WIN\$) Play Symbol will win the prize for that Play Symbol.

N. The "HIT" (WIN\$) Play Symbol will never appear more than once on a Ticket.

O. The "HIT" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

P. The "HIT" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Q. The "2X" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

R. The "2X" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.

S. The "2X" (DBL) Play Symbol will never appear more than once on a Ticket.

T. The "2X" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

U. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

V. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

W. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

X. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

Y. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Z. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

AA. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

BB. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

CC. The "20X" (WINX20) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

DD. The "20X" (WINX20) Play Symbol will win 20 TIMES the prize for that Play Symbol and will win as per the prize structure.

EE. The "20X" (WINX20) Play Symbol will never appear more than once on a Ticket.

FF. The "20X" (WINX20) Play Symbol will never appear on a Non-Winning Ticket.

GG. The "2X" (DBL) and "5X" (WINX5) Play Symbols can appear on the same winning Ticket, as per the prize structure.

HH. The "2X" (DBL), "5X" (WINX5) and "10X" (WINX10) Play Symbols can appear on the same winning Ticket, as per the prize structure.

II. The "2X" (DBL), "5X" (WINX5), "10X" (WINX10) and "20X" (WINX20) Play Symbols can appear on the same winning Ticket, as per the prize structure.

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 \$400, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00, \$100, \$200 or \$400 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 \$1,000, \$20,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HIT \$1,000,000" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "HIT \$1,000,000" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 6,000,000 Scratch Tickets in the Scratch Ticket Game No. 2567. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2567 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	720,000	8.33
\$40.00	336,000	17.86
\$50.00	384,000	15.63
\$100	288,000	20.83
\$200	26,400	227.27
\$400	4,100	1,463.41
\$1,000	245	24,489.80
\$20,000	8	750,000.00
\$1,000,000	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 3.41. 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. 2567 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 Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2567, 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-202401228

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 20, 2024

◆ ◆ ◆

Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit

Magellan Crude Oil Pipeline Company, L.P. has applied to the Texas Parks and Wildlife Department (TPWD) for a General Permit pursuant to Texas Parks and Wildlife Code, Chapter 86, to remove or disturb four cubic yards of sedimentary material within Alum Creek in Bastrop County. The purpose is to complete maintenance and repairs on an existing pipeline. The location is 0.87 miles from Highway 71 and approximately 4.68 miles from County Road 230 (N 30.055490° / W

-97.222994°). This notice is being published and mailed pursuant to 31 TAC §69.105(d).

TPWD will hold a public comment hearing regarding the application at 11:00 a.m. on Thursday, April 25, 2024, at TPWD headquarters, located at 4200 Smith School Road, Austin, Texas 78744. A remote participation option will be available upon request. Potential attendees should contact Sue Reilly at (512) 389-8622 or at sue.reilly@tpwd.texas.gov for information on how to participate in the hearing remotely. The hearing is not a contested case hearing under the Texas Administrative Procedure Act. Oral and written public comment will be accepted during the hearing.

Written comments may be submitted directly to TPWD and must be received no later than 30 days after the date of publication of this notice in the *Texas Register*. A written request for a contested case hearing from an applicant or a person with a justiciable interest may also be submitted and must be received by TPWD prior to the close of the public comment period. Timely hearing requests shall be referred to the State Office of Administrative Hearings. Submit written comments, questions, requests to review the application, or requests for a contested case hearing to: TPWD Sand and Gravel Program by mail: Attn: Sue Reilly, Texas Parks and Wildlife Department, Inland Fisheries Division, 4200 Smith School Road, Austin, Texas 78744; or via e-mail: sand.gravel@tpwd.texas.gov.

TRD-202401220
James Murphy
General Counsel
Texas Parks and Wildlife Department
Filed: March 19, 2024



Public Utility Commission of Texas

Notice of Application for Recovery of Universal Service Funding

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on March 13, 2024, for recovery of universal service funding under Public Utility Regulatory Act (PURA) § 56.025 and 16 Texas Administrative Code (TAC) §26.406.

Docket Style and Number: Application of Community Telephone Company, Inc. to Recover Funds from the Texas Universal Service Fund under PURA § 56.025 and 16 TAC §26.406 For Calendar Year 2022, Docket Number 56348.

The Application: Community Telephone Company, Inc. seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to Community Telephone Company for 2022. Community Telephone Company requests that the Commission allow recovery of funds from the TUSF in the amount of \$1,730,653.53 for 2022 to replace the projected reduction in FUSF revenue.

Persons wishing to intervene or comment on the action sought should contact the Commission 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 telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 56348.

TRD-202401160
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: March 14, 2024



Notice of Application for Recovery of Universal Service Funding

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on March 15, 2024, for recovery of universal service funding under Public Utility Regulatory Act (PURA) § 56.025 and 16 Texas Administrative Code (TAC) §26.406.

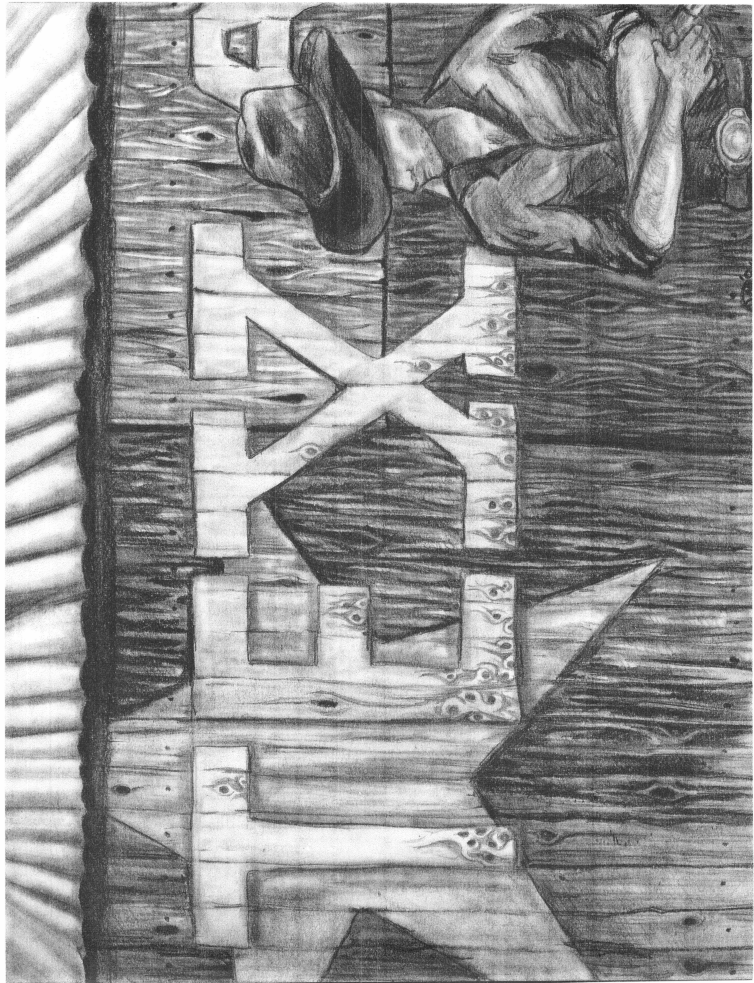
Docket Style and Number: Application of Big Bend Telephone Company, Inc. to Recover Funds from the Texas Universal Service Fund under PURA § 56.025 and 16 TAC §26.406 For Calendar Year 2022, Docket Number 56370.

The Application: Big Bend Telephone Company, Inc. seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to Big Bend Telephone Company for 2022. Big Bend Telephone Company requests that the Commission allow recovery of funds from the TUSF in the amount of \$1,980,625.55 for calendar year 2022 to replace the projected reduction in FUSF revenue.

Persons wishing to intervene or comment on the action sought should contact the Commission 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 telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 56370.

TRD-202401199
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: March 18, 2024





How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “49 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 49 TexReg 3.”

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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