TEXAS REGISTER

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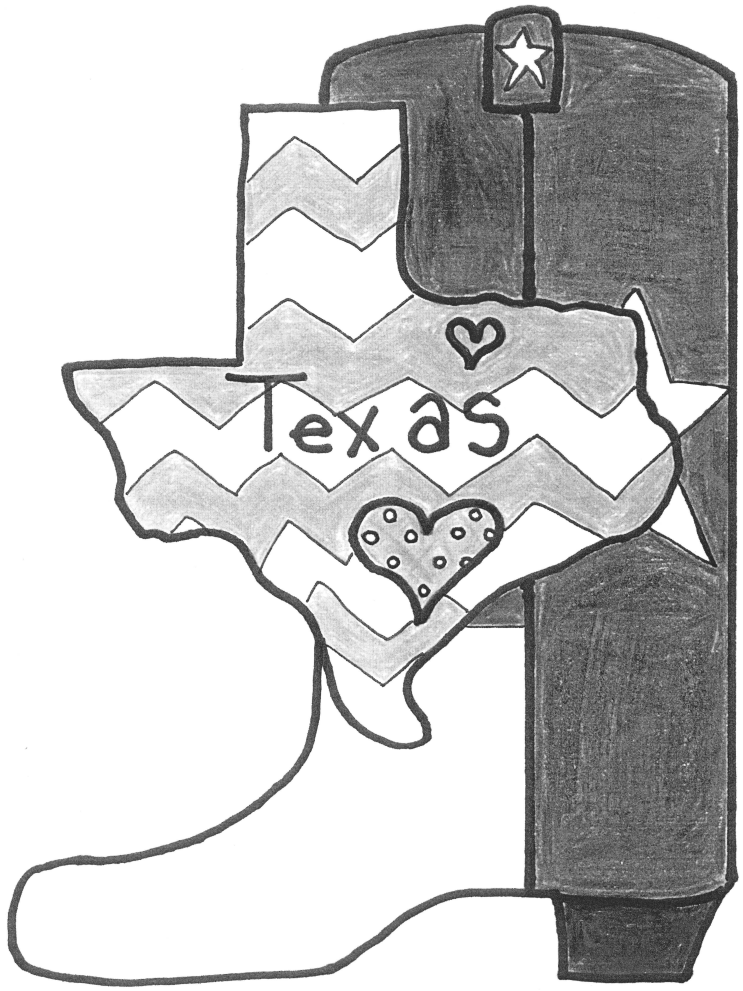

Texas

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 April 2, 2026

Appointed to be the State Board of Education Chair for a term to expire April 1, 2028, Aaron G. Kinsey of Midland, Texas (Chairman Kinsey is being reappointed).

Appointed to the Correctional Managed Health Care Committee for a term to expire February 1, 2029, Brandon R. Cantazaro, M.D. of McAllen, Texas (replacing Brian D. Edwards, M.D. of El Paso whose term expired).

Appointed to the Correctional Managed Health Care Committee for a term to expire February 1, 2029, Robert D. "Bobby" Greenberg, M.D. of Belton, Texas (Dr. Greenberg is being reappointed).

Appointed to the Correctional Managed Health Care Committee for a term to expire February 1, 2029, Divyansu Patel, M.D. of Austin, Texas (Dr. Patel is being reappointed).

Appointed to the Correctional Managed Health Care Committee for a term to expire February 1, 2029, Robert E. "Bob" Suter, Sr., D.O. of Dallas, Texas (replacing Julia A. Hiner, M.D. of Houston whose term expired).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, Claudia P. Cavazos of Rosharon, Texas (Ms. Cavazos is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, April Estrada, Ed.D. of Wylie, Texas (Dr. Estrada is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, Rebecca G. Faulkner of Rochelle, Texas (replacing Adrian Guerra, D.M.A. of Roma whose term expired).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, Amy E. Litzinger of Austin, Texas (Ms. Litzinger is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, Felicia A. Penn of San Antonio, Texas (replacing Kristie H. Mohajer Motlagh of Leander whose term expired).

Appointed to the Continuing Advisory Committee for Special Education for a term to expire February 1, 2029, Kristen Tuttle Urbanovsky of Elgin, Texas (replacing Diana Nelson of Martindale whose term expired).

Appointments for April 9, 2026

Appointed to the Texas State Technical College System Board of Regents for a term to expire August 31, 2031, Frank S. Denton of Conroe, Texas (replacing Keith R. Honey of Longview whose term expired).

Appointed to the Texas State Technical College System Board of Regents for a term to expire August 31, 2031, Kathy A. Powell Stewart, D.N.P. of San Angelo, Texas (Dr. Stewart is being reappointed).

Appointed to the Texas State Technical College System Board of Regents for a term to expire August 31, 2031, Ronald A. "Ron" Widup of Arlington, Texas (Mr. Widup is being reappointed).

Appointed to the Angelina and Neches River Authority Board of Directors for a term to expire September 5, 2029, Joseph L. "Jody" Anderson, II of Lufkin, Texas.

Appointed to the Angelina and Neches River Authority Board of Directors for a term to expire September 5, 2029, Kimberly "Kim" McRae Childs, Ph.D of Nacogdoches, Texas.

Appointed to the Angelina and Neches River Authority Board of Directors for a term to expire September 5, 2029, Thomas R. "Tom" Murphy of Crockett, Texas.

Appointed as president of the Angelina and Neches River Authority Board of Directors for a term to expire at the pleasure of the Governor, Joseph L. "Jody" Anderson, II of Lufkin, Texas.

Appointments for April 10, 2026

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2029, Alan Schoolcraft of McQueeney, Texas (replacing Stephanie Klick of Fort Worth whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2029, Mandy M. Young of Cedar Park, Texas (replacing Terrie Breeden of Wimberley who resigned).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Rachel C. Bowden of Austin, Texas (Ms. Bowden is being reappointed).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Rebecca A. Ciesielski of Spring, Texas (replacing Stephanie E. Perry of Denton whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Susana Perez Kantor of Brownsville, Texas (replacing Hanna H. English of Houston whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Cynthia D. "Cindy" Lee, Ed.D. of Plano, Texas (Dr. Lee is being reappointed).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Jennifer E. Villarreal, Ed.D. of Roanoke, Texas (replacing Diana A. Ruiz, D.N.P. of Odessa whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee for a term to expire February 1, 2031, Allison P. Wilson of Austin, Texas (Ms. Wilson is being reappointed).

Appointments for April 13, 2026

Appointed to the Texas Funeral Service Commission for a term to expire February 1, 2029, Ivan A. Andarza of Austin, Texas (replacing Dianne W. Hefley of Amarillo who resigned).

Appointed to the Texas Funeral Service Commission for a term to expire February 1, 2029, Jay P. Carnes of Texas City, Texas (replacing Kristin D. Tips of San Antonio who resigned).

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2031, Lance S. Etcheverry of Athens, Texas.

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2031, Shanda G. Perkins of Burleson, Texas.

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2031, Benjamin E. "Ben" Streusand of Spring, Texas.

Appointed to the University of North Texas System Board of Regents for a term to expire May 22, 2031, Frankie "Lynn" Gravley of Gunter, Texas (replacing Daniel R. Feehan of Fort Worth whose term expired).

Appointments for April 14, 2026

Appointed to the Gulf States Marine Fisheries Commission for a term to expire March 17, 2029, Douglass W. "Doug" Boyd of Boerne, Texas (Mr. Boyd is being reappointed).

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Nathan A. Byman of Austin, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Allan T. Couch of McKinney, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Jose A. "Joe" Esparza of Oatmeal, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Maria E. "Malena" Gonzalez Dabdoub of Cedar Park, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Ryan C. Gustafson of New Braunfels, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Glenn E. Isbell, Jr. of Aledo, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Lawrence J. "Larry" McManus, III of Round Rock, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Thomas McNutt of Corsicana, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Nahum Pacheco Salazar of Austin, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Jason J. Shawhan, Ph.D. of Bastrop, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Ian N. Weiswurm of New Braunfels, Texas.

Appointed to the Task Force on Modernizing Manufacturing for a term to expire September 1, 2027, Lacy H. Wolf, Jr. of Houston, Texas.

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2027, Alfred W. "Al" Henderson of Fort Worth, Texas (replacing Chelsea L. Elliot of Austin who resigned).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, Kori A. Allen of McKinney, Texas (Ms. Allen is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, William R. "Billy" Blanchard, Jr. of Victoria, Texas (Mr. Blanchard being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, Evelyn Cano of Pharr, Texas (Ms. Cano is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, Shelbi A. Davenport of College Station, Texas (replacing Emma Faye Rudkin of San Antonio whose term expired).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, Juan Carlos Lopez of Edinburg, Texas (Mr. Lopez is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2028, Benjamin J. "Ben" Willis of Lumberton, Texas (Mr. Willis is being reappointed).

Greg Abbott, Governor

TRD-202601636

♦ ♦ ♦

Proclamation 41-4274

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation related to fire weather conditions that began on August 10, 2025, as amended and renewed in subsequent proclamations, certifying that increased fire weather conditions pose an imminent threat of widespread or severe damage, injury, or loss of life or property in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same increased fire weather conditions persist in certain counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Andrews, Aransas, Armstrong, Atascosa, Bailey, Baylor, Bee, Borden, Brazoria, Brewster, Briscoe, Brooks, Calhoun, Cameron, Carson, Castro, Childress, Cochran, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, DeWitt, Dickens, Dimmit, Donley, Duval, Ector, El Paso, Fisher, Floyd, Foard, Fort Bend, Frio, Gaines, Garza, Glasscock, Goliad, Gray, Hale, Hall, Hansford, Hardeman, Hardin, Hartley, Haskell, Hemphill, Hidalgo, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Jones, Karnes, Kenedy, Kent, King, Kinney, Kleberg, Knox, La Salle, Lamb, Lavaca, Lipscomb, Live Oak, Loving, Lubbock, Lynn, Martin, Matagorda, Maverick, McMullen, Medina, Midland, Mitchell, Moore, Motley, Nolan, Nueces, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Refugio, Roberts, San Patricio, Scurry, Sherman, Starr, Sterling, Stonewall, Swisher, Terrell, Terry, Tyler, Upton, Uvalde, Val Verde, Victoria, Ward, Webb, Wharton, Wheeler, Wilbarger, Willacy, Wilson, Winkler, Yoakum, Zapata, and Zavala Counties.

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

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be

suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

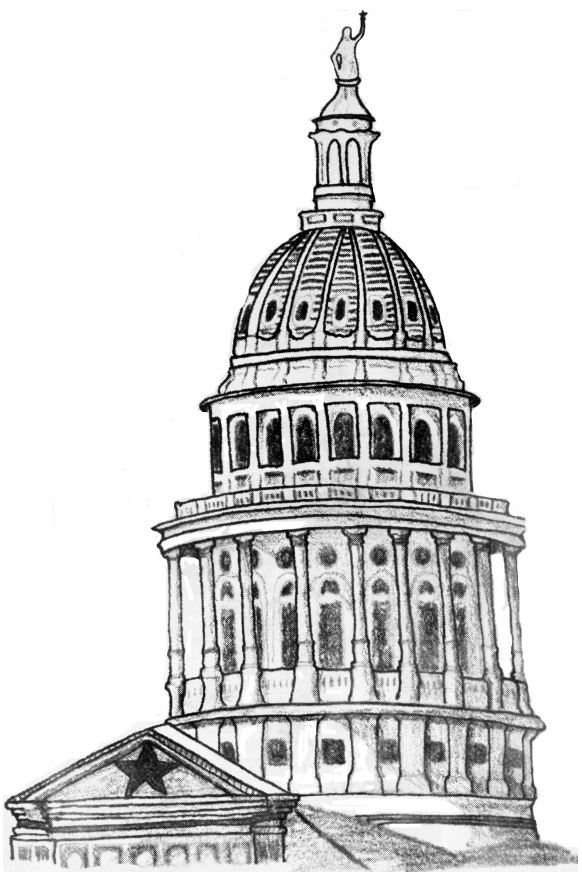
In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 8th day of April, 2026.

Greg Abbott, Governor

TRD-202601598

♦ ♦ ♦



THE ATTORNEY GENERAL

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

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

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

Requests for Opinions

RQ-0638-KP

Requestor:

The Honorable Bryan Hughes

Chair, Senate Committee on State Affairs

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Legality of copay maximizer and alternative funding programs under the ACA and Texas law (RQ-0638-KP)

Briefs requested by May 7, 2026

RQ-0639-KP

Requestor:

The Honorable Dawn B. Cahill

Sutton County Attorney

105 SW Main Street

Sonora, Texas 76950-1508

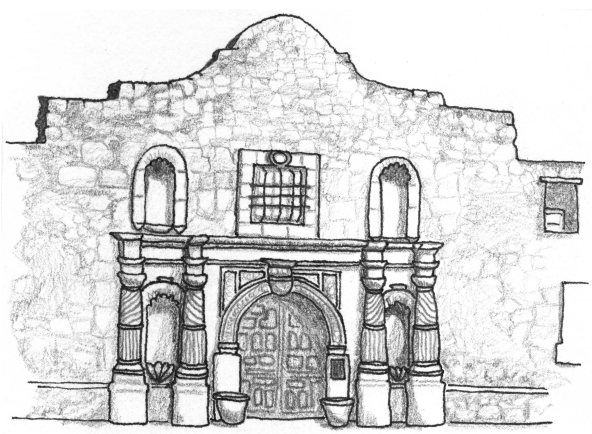
Re: County authority over donated park land and application of Texas Local Government Code §317.004 (RQ-0639-KP)

Briefs requested by May 8, 2026

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202601610
Justin Gordon
General Counsel
Office of the Attorney General
Filed: April 14, 2026

♦ ♦ ♦



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

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING

10 TAC §10.1204

The Executive Director of the Texas Department of Housing and Community Affairs (the Department) adopts on an emergency basis, an amendment to 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §10.1204, Audit Requirements. As authorized by Texas Government Code §2001.034, the Department may adopt an emergency rule with abbreviated prior notice or hearing if it is necessary due to imminent peril to the public welfare, or finds that it is necessary as a requirement of state or federal law, and requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

a. BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to implement in rule changes that require immediate correction to place the rule into alignment with HB 21 as it relates to the calculation of the Rent Reduction Test on units occupied by households using rental assistance vouchers. The Department accordingly finds that the state requirement warrants immediate adoption of this emergency amendment.

b. FINDING REGARDING EMERGENCY RULEMAKING

On March 17, 2026, TDHCA received comment from stakeholders and members of the Texas Legislature challenging the propriety of the rent reduction calculation distinction in cases of Housing Choice Vouchers, and stating that it fails to comport with the statutory definition of "rent." Furthermore, they purport that failing to remove this distinction will jeopardize the "real, measurable benefits to Texas renters and taxpayers" of having reduced rents at HFC developments. These challenges to a single sentence in rule (distinguishing how voucher-supplemented rent is considered for audit purposes) have been raised as a requirement under state law, as well as creating imminent danger to the welfare of Texans seeking affordable rents in HFC developments under HB21. Audit reports under HB21 are due beginning June 1, 2026, raising the need for immediate adoption. TDHCA accepts the concerns raised and finds the amendment is justified to be brought forward as an emergency rule under Tex. Gov't Code §2001,034, to become immediately effective upon filing with the secretary of state pursuant to §2001.036.

c. STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §§2001.034 and 2001.036.

§10.1204. Audit Requirements.

Multifamily Residential Developments must comply with the Audit Report requirements identified in this section:

(1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. For example, 1204(1): If a Development is refinanced on July 15, 2027, the tax year would be 2027, and the second tax year after refinance would be 2028; so the previous Audit Report requirements would be due on June 1, 2028. The above would no longer be exempt for Tax Year 2028 and should be included in the Audit Report submitted June 1, 2029. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved into the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied Restricted Units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the Auditor with supporting documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code such as a GIS boundary

map, recorded legal description, local-government resolution, or other source approved by TDHCA.

(ii) confirms that a Multifamily Residential Development that is outside of the Sponsor's jurisdiction has been approved in accordance with Section 394.031(d) of Texas Local Government Code. For a Development not located within the Sponsor's jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted Units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance. The Auditor may rely on a written certification and photographic evidence from the HFC User to support that a Development has equitable finishes, equipment and access to amenities and programs. Such certification must be submitted with the Audit Report.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented in the following manner:

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(2): Development Regulatory Agreement includes units at 80% and 120%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than 120% AMI. The unit should be redesignated as 120% at the time the determination is made and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household. At the time of determination that the unit should be 120%, with proper notification, the household rent may increase to the new rent designation.

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(3): Development Regulatory Agreement includes units at 80% and 120%. Unit 201, a two-bedroom Unit Type is designated as 120%. At the annual income recertification, household income was determined to exceed 120% AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a 120% household. Unit 201 retains the 120% status until such time that the Available Unit Rule, as described here, is complied with or violated.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The home page of the internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders or any other rental assistance.

(G) Multifamily Residential Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) Multifamily Residential Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document. In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison. It the sole responsibility of HFC User to:

(i) Identify the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted. For Developments where all of the Units are Restricted Units, the HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) The Audit Report shall include the following public benefit test:

(I) The Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(4): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(5): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

(II) The Rent Reduction calculation for each Restricted Unit must be the difference between the Maximum Market Rent for the same Unit Type and the Rent on the rent roll for the Rent for the Restricted Unit. [~~Restricted Units occupied by households with Housing Choice Vouchers or rental assistance will utilize the tenant-paid portion of the Rent for the Rent Reduction calculation.~~] Units that are vacant for any portion of the Tax Year will be considered as follows for the for the purposes of the Rent Reduction calculation:

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement will be utilized for all months of vacancy, and

(-b-) for any market rate unit the Maximum Market Rent that would be charged for that Unit Type will be utilized in the months that the Unit was vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor Report must include evidence of any payments made by the HFC User to each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development.

(IV) In estimating the ad valorem taxes that would have been imposed, the HFC User may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable no earlier than the Tax Year prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes must be based on the public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes must be based on public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the Tax Year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.

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

Filed with the Office of the Secretary of State on April 9, 2026.

TRD-202601543
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 9, 2026
Expiration date: August 6, 2026
For further information, please call: (512) 475-3959

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TEXAS
Lone Star State

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

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

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 174. INDIGENT DEFENSE POLICIES AND STANDARDS

SUBCHAPTER C. POLICY MONITORING REQUIREMENTS

DIVISION 2. POLICY MONITORING PROCESS AND BENCHMARKS

1 TAC §174.28

The Texas Indigent Defense Commission (Commission) is a permanent Standing Committee of the Texas Judicial Council. The Commission proposes amendments to Texas Administrative Code, Title 1, Part 8, Chapter 174, Subchapter C, Division 2, §174.28, concerning On-Site Monitoring Process.

EXPLANATION OF PROPOSED AMENDMENTS

The proposed amendment to §174.28(c)(4)(B) would direct monitoring staff to review cases in which the State filed an appeal under Article 44.01(a)(7), Code of Criminal Procedure, of the amount of bail set by a court. Staff would examine each case containing a request for the appointment of counsel. The monitor would make a finding if any request for counsel made before, on, or after the date the State filed its notice of appeal were not ruled upon by the earlier of the date required by Article 1.051(c), Code of Criminal Procedure, or when the State files its brief in the case.

The proposed amendment to §174.28(c)(4)(C) would direct monitoring staff to review cases in which the State sought to deny a defendant bail under Section 11d, Article 1, Texas Constitution, and determine which of those cases contains a request for the appointment of counsel. The monitor would make a finding if the monitor determines that any such requests were not ruled upon (either the appointment of counsel or denial of indigence) and counsel not appointed and present at the hearing.

FISCAL NOTE

Mr. Scott Ehlers, Executive Director, Texas Indigent Defense Commission, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the sections will have no fiscal impact on state or local governments.

PUBLIC BENEFIT AND COSTS

Mr. Ehlers has determined that for each of the first five-year period the amendment is in effect the public benefit will be an improvement in the indigent defense services by helping the Commission assure the requirements of federal and state law related to indigent defense are followed. There are no anticipated economic costs to persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Ehlers has determined that for each year of the first five years in which the proposed amendments are in effect, the amendments will have the following effect on government growth. The proposed amendments will not create or eliminate any government programs or employee positions. Additionally, the proposed amendments will not require an increase or decrease in future legislative appropriations to the Commission or change any fees paid to the Commission. The proposed amendments do not create a new regulation. The proposed amendments expand certain existing regulations, including providing for Commission staff to begin monitoring the timely appointment of counsel to represent indigent defendants against whom the State seeks to either deny bail or increase the bail amount set by the magistrate. The proposed amendments would not repeal any rules, nor increase or decrease the number of individuals subject to the applicability of the rules. The proposed amendments are not anticipated to affect this state's economy.

SUBMITTAL OF COMMENTS

Comments on the proposed amendments may be submitted in writing to Wesley Shackelford, Deputy Director, Texas Indigent Defense Commission, 209 West 14th Street, Room 202, Austin, Texas 78701 or by email to wshackelford@tidc.texas.gov no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

STATUTORY AUTHORITY

The amendments are proposed under the Texas Government Code §79.037(a) and (b), which requires the Commission to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense.

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

§174.28. On-Site Monitoring Process.

(a) Purpose. The monitoring process promotes local compliance with the requirements of the Fair Defense Act and Commission rules and provides technical assistance to improve processes where needed.

(b) Monitoring Process. The policy monitor examines the local indigent defense plans and local procedures and processes to determine if the jurisdiction meets the statutory requirements and rules adopted by the Commission. The policy monitor also attempts to randomly select samples of actual cases from the period of review by using a 15% confidence interval for a population at a 95% confidence level.

(c) Core Requirements. On-site policy monitoring focuses on the six core requirements of the Fair Defense Act and related rules. Policy monitoring may also include a review of statutorily required reports to the Office of Court Administration and Commission. This rule establishes the process for evaluating policy compliance with a requirement and sets benchmarks for determining whether a county is in substantial policy compliance with the requirement. For each of these elements, the policy monitor shall review the local indigent defense plans and determine if the plans are in compliance with each element.

(1) Prompt and Accurate Magistration.

(A) The policy monitor shall check for documentation indicating that the magistrate or county has:

(i) Informed and explained to an arrestee the rights listed in Article 15.17(a), Code of Criminal Procedure, including the right to counsel;

(ii) Maintained a process to magistrate arrestees within 48 hours of arrest;

(iii) Maintained a process for magistrates not authorized to appoint counsel to transmit requests for counsel to the appointing authority within 24 hours of the request; and

(iv) Maintained magistrate processing records required by Article 15.17(a), (e), and (f), Code of Criminal Procedure, and records documenting the time of arrest, time of magistration, whether the person requested counsel, and time for transferring requests for counsel to the appointing authority.

(B) A county is presumed to be in substantial compliance with the prompt magistration requirement if magistration in at least 98% of the policy monitor's sample is conducted within 48 hours of arrest.

(2) Indigence Determination. The policy monitor checks to see if procedures are in place that comply with the indigent defense plan and the Fair Defense Act.

(3) Minimum Attorney Qualifications. The policy monitor shall check that attorney appointment lists are maintained according to the requirements set in the indigent defense plans. Only attorneys approved for an appointment list are eligible to receive appointments.

(4) Prompt Appointment of Counsel.

(A) The policy monitor shall check for documentation of timely appointment of counsel in criminal and juvenile cases.

(i) Criminal Cases. The policy monitor shall determine if counsel was appointed or denied for arrestees within one working day of receipt of the request for counsel in counties with a population of 250,000 or more, or three working days in other counties. If the policy monitor cannot determine the date the appointing authority received a request for counsel, then the timeliness of appointment will be based upon the date the request for counsel was made plus 24 hours for the transmittal of the request to the appointing authority plus the time allowed to make the appointment of counsel. The policy monitor will determine if any waivers of counsel do not comply with the requirements of Article 1.051, Code of Criminal Procedure. The policy monitor will make a finding if the monitor finds the court did not always explain the procedures for requesting counsel to unrepresented defendants or identifies any cases where a defendant requested counsel and later entered an uncounseled plea without their counsel request being ruled upon.

(ii) Juvenile Cases. The policy monitor shall determine if counsel was appointed prior to the initial detention hearing for eligible in-custody juveniles. If counsel was not appointed, the policy monitor shall determine if the court made a finding that appointment of counsel was not feasible due to exigent circumstances. If exigent circumstances were found by the court and the court made a determination to detain the child, then the policy monitor shall determine if counsel was appointed for eligible juveniles immediately upon making this determination. For out-of-custody juveniles, the policy monitor shall determine if counsel was appointed within five working days of service of the petition on the juvenile.

(iii) [~~(B)~~] A county is presumed to be in substantial compliance with the prompt appointment of counsel requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), at least 90% of appointments of counsel and denials of indigence determinations in the policy monitor's sample are timely.

(B) Bail Appeals in Criminal Cases. The policy monitor shall examine cases in which the State filed an appeal of the bail amount under Article 44.01(a)(7), Code of Criminal Procedure, and determine which of those cases contains a request for the appointment of counsel. The monitor shall make a finding if the monitor determines that any request for counsel made before, on, or after the date the State filed its notice of appeal were not ruled upon by the date required by Article 1.051(c), Code of Criminal Procedure, or the date the State files its brief in the case, whichever is earlier, to facilitate the defense meeting its reply brief filing deadline under Texas Rule of Appellate Procedure 31.8.

(C) Denial of Bail. The policy monitor shall examine cases in which the State sought the denial of bail under Section 11d, Article 1, Texas Constitution, and determine which of those cases contains a request for the appointment of counsel. The monitor shall make a finding if the monitor determines that any such requests were not ruled upon (either the appointment of counsel or denial of indigence) and counsel not appointed and present at the hearing.

(5) Attorney Selection Process. The policy monitor shall check for the following documentation indicating:

(A) In the case of a contract defender program, that all requirements of §§174.10 - 174.25 of this title are met;

(B) In the case of a public defender's office, that appointments to the office are made in accordance with Article 26.04(f), Code of Criminal Procedure.

(C) In capital felony cases, the policy monitor shall determine if appointments are made in accordance with Article 26.052, Code of Criminal Procedure.

(i) In counties with a public defender's office that handles capital felony cases, the policy monitor shall determine if a public defender's office is appointed in each capital case. If the office is not, the policy monitor will determine whether the court or its designee made a finding of good cause on the record for appointing other counsel in accordance with Article 26.04(f)(1), Code of Criminal Procedure.

(ii) In capital felony cases where a public defender's office is not appointed, the policy monitor shall determine if two attorneys were appointed, at least one of whom is qualified to serve as lead counsel under Article 26.052(e), Code of Criminal Procedure, unless

the state gives notice in writing that the state will not seek the death penalty.

(D) In the case of a managed assigned counsel program, that counsel is appointed according to the entity's plan of operation;

(E) That the attorney selection process actually used matches what is stated in the indigent defense plans; and

(F) For assigned counsel and managed assigned counsel systems, the number of appointments in the policy monitor's sample per attorney at each level (felony, misdemeanor, juvenile, and appeals) during the period of review and the percentage share of appointments represented by the top 10% of attorneys accepting appointments. A county is presumed to be in substantial compliance with the fair, neutral, and non-discriminatory attorney appointment system requirement of 26.04(b)(6), Code of Criminal Procedure, if, in each level of proceedings (felony, misdemeanor, and juvenile cases), the percentage of appointments received by the top 10% of recipient attorneys does not exceed three times their respective share. The top 10% of recipient attorneys is the whole attorney portion of the appointment list that is closest to 10% of the total list. For this analysis, the monitor will include only attorneys who were on an appointment list for the entire time period under review.

(6) Data Reporting. The policy monitor shall check for documentation indicating that the county has established a process for collecting and reporting itemized indigent defense expense and case information.

(d) Report.

(1) Report Issuance. For full and limited-scope reviews, the policy monitor shall submit a draft report to the Commission's Policies and Standards Committee within 60 days after staff receives required data for the monitoring review, unless a documented exception is provided by the director, with an alternative deadline provided, not later than 120 days from the date required data is received. The report shall contain recommendations to address findings of noncompliance. For drop-in visits, the policy monitor may issue a letter with recommendations.

(2) County Response. Within 60 days of the date a report is issued by the policy monitor to the county, the authorized official shall respond in writing to each finding of noncompliance, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 60 days.

(3) Follow-up Reviews. The policy monitor shall conduct follow-up reviews of counties where a report included noncompliance findings. The follow-up review shall occur within a reasonable time but not more than two years following receipt of a county's response to a report. The policy monitor shall review a county's implementation of corrective actions and shall report to the county and to the Commission any remaining issues not corrected. Within 30 days of the date the follow-up report is issued by the policy monitor, the authorized official shall respond in writing to each recommendation, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 30 days. If the county provides extenuating circumstances, the Executive Director may grant an additional extension of time to respond.

(4) Failure to Respond to Report. If a county fails to respond to a monitoring report or follow-up report within the required time, then a certified letter shall be sent to the authorized official, financial officer, county judge, local administrative district court judge, local administrative statutory county court judge, and chair of the juvenile board notifying them that all further formula grant payments will be withheld if no response to a report is received by the Commission within 10 days of receipt of the letter. If formula grant funds are withheld under this section, the funds will not be reinstated until the Commission or the Policies and Standards Committee approves the release of the funds.

(5) Noncompliance. If a county fails to correct any noncompliance findings, the Commission may require regular additional reporting of data to determine if process changes are being implemented, and other requirements, as appropriate. The Commission may also impose a remedy under §173.307 of this title (relating to Remedies for Noncompliance).

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 April 8, 2026.

TRD-202601494
Wesley Shackelford
Deputy Director
Texas Judicial Council
Earliest possible date of adoption: May 24, 2026
For further information, please call: (737) 279-9208

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TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING

10 TAC §10.1204

The Texas Department of Housing and Community Affairs (the Department) proposes an amendment to 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §10.1204 Audit Requirements. The purpose of the amendment is to bring the rule into greater harmony with HB 21 (89th Regular Legislature). HB 21 tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments.

In §10.1204 relating to Audit Requirements, the rule requires that a Rent Reduction calculation be performed that identifies the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted.

On March 17, 2026, TDHCA received comment from stakeholders and members of the Texas Legislature challenging the propriety of the rent reduction calculation distinction in cases of Housing Choice Vouchers, and stating that it fails to comport with the statutory definition of "rent." Furthermore, they purport that failing to remove this distinction will jeopardize the "real, measurable benefits to Texas renters and taxpayers" of having reduced rents at HFC developments. These challenges to a single sentence in rule (distinguishing how voucher-supplemented rent is considered for audit purposes) have been raised as a requirement under state law, as well as creating imminent danger to the welfare of Texans seeking affordable rents in HFC developments

under HB21. TDHCA accepts the concerns raised and finds the amendment is justified.

The rule revision is being made to ensure that in the case of units assisted with vouchers, the HFC User is only being attributed their actual rent reduction contribution and not the contribution of the public housing authority supporting the voucher.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed for action because it is necessary to implement the requirements of legislation, HB 21.

The Department has analyzed this 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 amendment is in effect:

1. The amendment does not create or eliminate a government program but clarifies a provision relating to audit requirements.

2. The amendment will neither increase nor decrease the number of employees of the Department.

3. The amendment will not require additional future legislative appropriations.

4. The amendment will not increase or decrease fees paid to the Department.

5. The amendment is not creating a new regulation but amending an existing regulation to bring the rule into greater alignment with the requirements of HB 21.

6. The amendment will not limit or repeal an existing regulation.

7. The amendment will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The amendment 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.

1. The Department has evaluated this amendment and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because these rules apply to all Housing Finance Corporation multifamily residential developments equally and this amendment revises how a particular calculation is determined.

3. The Department notes that the proposed amendment will make satisfying the public benefit test more difficult than the current version of the rule (for those Developments with voucher holders), but the current version was not required by statute and no audit reports utilizing the version adopted less than a month ago have been submitted. As stated in the referenced letter, the longer the voucher distinction remains in rule, the greater the perceived financial effect would be on HFC developments.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment 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 amendment as to its possible effects on local economies and has determined that for the first five years the amendment will be in effect the amendment does not create a local employment impact except a potentially more accurate reflection of rent reduction at HFC developments.

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 no impact is expected on a statewide basis, there are no "probable" effects of the rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the amendment will be to provide a rule in greater harmony with HB 21 and ensure that when calculating rent reductions the public benefit is attributed accurately to a HFC development.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the amendment and also requests information related to the cost, benefit, or effect of the amendment, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held April 24, 2026 to May 24, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, May 24, 2026.

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

Except as described herein the amendment affects no other code, article, or statute.

§10.1204. Audit Requirements.

Multifamily Residential Developments must comply with the Audit Report requirements identified in this section:

(1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. For example, 1204(1): If a Development is refinanced on July 15, 2027, the tax year would be 2027, and the second tax year after refinance would be 2028; so the previous Audit Report requirements would be due on June 1, 2028. The above would no longer be exempt for Tax Year 2028 and should be included in the Audit Report submitted June

1, 2029. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved into the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied Restricted Units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the Auditor with supporting documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code such as a GIS boundary map, recorded legal description, local-government resolution, or other source approved by TDHCA.

(ii) confirms that a Multifamily Residential Development that is outside of the Sponsor's jurisdiction has been approved in accordance with Section 394.031(d) of Texas Local Government Code. For a Development not located within the Sponsor's jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted Units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance. The Auditor may rely on a written certification and photographic evidence from the HFC User to support that a Development has equitable finishes, equipment and access to amenities and programs. Such certification must be submitted with the Audit Report.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented in the following manner:

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(2): Development Regulatory Agreement includes units at 80% and 120%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than 120% AMI. The unit should be redesignated as 120% at the time the determination is made and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household. At the time of determination that the unit should be 120%, with proper notification, the household rent may increase to the new rent designation.

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(3): Development Regulatory Agreement includes units at 80% and 120%. Unit 201, a two-bedroom Unit Type is designated as 120%. At the annual income recertification, household income was determined to exceed 120% AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a 120% household. Unit 201 retains the 120% status until such time that the Available Unit Rule, as described here, is complied with or violated.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The home page of the internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders or any other rental assistance.

(G) Multifamily Residential Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) Multifamily Residential Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an

adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document. In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison. It the sole responsibility of HFC User to:

(i) Identify the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted. For Developments where all of the Units are Restricted Units, the HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) The Audit Report shall include the following public benefit test:

(I) The Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(4): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(5): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

(II) The Rent Reduction calculation for each Restricted Unit must be the difference between the Maximum Market Rent for the same Unit Type and the Rent on the rent roll for the Rent for the Restricted Unit. [~~Restricted Units occupied by households with Housing Choice Vouchers or rental assistance will utilize the tenant-paid portion of the Rent for the Rent Reduction calculation.~~] Units that are vacant for any portion of the Tax Year will be considered as follows for the for the purposes of the Rent Reduction calculation:

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement will be utilized for all months of vacancy, and

(-b-) for any market rate unit the Maximum Market Rent that would be charged for that Unit Type will be utilized in the months that the Unit was vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor Report must include evidence of any payments made by the HFC User to each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development.

(IV) In estimating the ad valorem taxes that would have been imposed, the HFC User may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable no earlier than the Tax Year prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes must be based on the public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes must be based on public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the Tax Year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.

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 April 9, 2026.

TRD-202601550
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 475-3959

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

SUBCHAPTER R. TEXAS MENTAL HEALTH PROFESSION PIPELINE PROGRAM

19 TAC §§2.500 - 2.503

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter R, §§2.500 - 2.503, concerning Texas Mental Health Profession Pipeline Program. Specifically, this new section will establish the requirements for participation in the Texas Mental Health Profession Pipeline Program.

Texas Education Code, §61.070, creates the Texas Mental Health Profession Pipeline Program and requires the Coordinating Board to develop rules relating to program administration.

Section 2.500, Purpose and Authority, establishes the purpose of the subchapter and defines the statutory authority for developing rules.

Section 2.501, Definitions, establishes definitions specific to the subchapter.

Section 2.502, Requirements for the Texas Mental Health Pipeline Program, establishes general requirements of program, including roles and responsibilities of the Coordinating Board.

Section 2.503, Requirements for Participating Institutions, establishes requirements for each participating institution including expectations, deliverables, and annual reporting.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a clear pathway for public junior college students to transfer to a participating institution and prepare for licensure in a mental health profession. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHA-Comments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 61.070, which provides the Coordinating Board with the authority to adopt rules for the Texas Mental Health Profession Pipeline Program.

The proposed new section affects Texas Education Code, Section 61.070.

§2.500. Purpose and Authority.

(a) The purpose of this subchapter is to establish the Texas Mental Health Profession Pipeline Program to provide a clear, guided pathway for public junior college students to transfer to a participating general academic teaching institution or private institution to pursue a baccalaureate degree and a postbaccalaureate degree or certificate in a mental health profession.

(b) The authority for this subchapter is Texas Education Code, §61.070, which creates the Texas Mental Health Profession Pipeline Program.

§2.501. Definitions.

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

(1) Field of Study Curriculum--Has the meaning prescribed in §4.23(10) of this title (relating to Definitions).

(2) Participating Institution--A general academic teaching institution as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15), that offers baccalaureate degree programs and postbaccalaureate degree and certificate programs.

(3) Participating Student--A student identified by a participating institution as enrolled in the pipeline program.

(4) Texas Direct--An associate degree as prescribed in §4.39 of this title (relating to Texas Direct Associate Degree).

(5) Texas Mental Health Profession Pipeline Program (Pipeline Program)--A program created that meets the requirements of this subchapter and provides a clear pathway for public junior college students to transfer to a participating institution and prepare for licensure in a mental health profession.

§2.502. Requirements for the Texas Mental Health Profession Pipeline Program.

(a) A pipeline program shall prepare a student for licensure in one or more of the following professions:

(1) A psychologist, as defined by Section 501.002, Occupations Code;

(2) A licensed professional counselor, as defined by Section 503.002, Occupations Code;

(3) An advanced practice registered nurse, as defined by Section 301.152, Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing;

(4) A licensed master social worker or a licensed clinical social worker, as defined by Section 505.002, Occupations Code;

(5) A licensed specialist in school psychology, as defined by Section 501.002, Occupations Code; or

(6) A licensed marriage and family therapist, as defined by Section 502.002, Occupations Code.

(b) The Board shall maintain and promote information about the program on its website that includes:

(1) Board-approved field of study curricula relevant to the pipeline program;

(2) A list of pipeline programs in Texas and each participating institution;

(3) A map showing the location of participating institutions; and

(4) Program data based on reports submitted by participating institutions.

(c) The Board delegates to the Commissioner with the assistance of the Texas Transfer Advisory Committee authority to identify which existing field of study curricula may be used in pipeline programs. The Commissioner may approve additional field of study curricula to support the pipeline program using the approval procedures under §4.33 of this title (relating to Approval of Field of Study Curricula).

§2.503. Requirements for Participating Institutions.

(a) A participating institution that creates a pipeline program shall partner with one or more public junior colleges to create a guided transfer pathway for a participating student.

(b) Each participating institution shall ensure that each participating student:

(1) Completes a Texas Direct associate degree pursuant to §4.39 of this title (relating to Texas Direct Associate Degree) that includes a field of study curriculum for the pipeline program as defined by the Board;

(2) Does not lose any academic credit when transferring to a participating institution;

(3) May earn a baccalaureate degree after transferring to a participating institution in two years or less; and

(4) Is automatically admitted to a related postbaccalaureate degree or certificate program after completing the baccalaureate degree if:

(A) The student meets the minimum academic requirements set by the participating institution; and

(B) The program has space available based on:

(i) student-to-faculty ratios required by law, accreditation, or institutional policy; and

(ii) available clinical placements and supervisors.

(c) Each participating institution shall submit an annual report in a manner prescribed by the Board. The report shall include:

(1) The total number of students enrolled in the pipeline program;

(2) The number of students who transferred from a public junior college without losing academic credit;

(3) The number of students who completed a baccalaureate degree within two years after transfer during the previous academic year;

(4) The program's capacity to prepare additional students for mental health professions;

(5) The financial resources the institution used to support the pipeline program;

(6) The average time it takes a student to complete the program from enrollment at a public junior college to final graduation; and

(7) Any additional information required by the Board.

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 April 10, 2026.

TRD-202601585
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 427-6299

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER T. COMMUNITY COLLEGE FINANCE PROGRAM: HIGH-DEMAND FIELDS

19 TAC §13.595, §13.597

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter T, §13.595 and §13.597, concerning Community College Finance Program: High-Demand Fields. Specifically, this amendment will correct a typographical error that incorrectly refers to Emerging Occupations rather than Essential Occupations and adds a reference to Chapter 13, Subchapter V and Subchapter W. This amendment also removes the word standard when referencing the Regional High-Demand Fields list.

Texas Education Code, §130A.101(c)(1), provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

Rule 13.595(a), Essential Occupations, is amended to add a reference to §13.648, which references the current fiscal year 2026 rules in Subchapter V, and a reference to §13.668, which references the new rules beginning in fiscal year 2027 in Subchapter W. This amendment ensures that this subchapter is in line with the current rules in place for the Community College Finance Program.

Rule 13.595(b)(4) is amended to make grammatical changes to update the rule to *Texas Register* publishing requirements.

Rule 13.595(c)(5) is amended to correct a typographical error that incorrectly noted "Emerging Occupations" to "Essential Occupations", as this rule is specifically relating to Essential Occupations.

Rule 13.597(1), Effective Dates: High-Demand Fields, is amended to remove the word "Standard" before Regional High-Demand Fields List to eliminate confusion around the regional list the Coordinating Board provides alongside the statewide list at the beginning of the biennium. This will clarify that the Regional High-Demand Fields List refers to the high-demand occupations identified as published by the Coordinating Board and excludes additional occupations as determined through the Essential and Emerging Occupations processes.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved accuracy and clarity in the methodology for determining High-Demand Fields under the community college finance system to create a more effective incentive for community colleges to produce credentials responsive to the workforce needs of the state. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 130A.101(c)(1), which provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

The proposed amendment affects Texas Education Code, Section 130A.101.

§13.595. Essential Occupations.

(a) To respond to the rapidly evolving economic needs of the state and any regional labor shortages in critical occupations, this section provides an alternative pathway for the Coordinating Board to include fields linked to occupations not otherwise generated by the methodology described in §13.594 of this subchapter (relating to High-Demand Fields Methodology) to the list of High-Demand Fields for which a college receives additional funding under:

(1) Rule 13.648 [~~§13.558~~] of this chapter (relating to Performance Tier: High-Demand Fields) for Fiscal Year 2026 only; or[~~,~~]

(2) Rule 13.668 of this chapter (relating to Performance Tier: High-Demand Fields) for all other fiscal years.

(b) Petition Process for Essential Occupations. For including Essential Occupations on a region's high-demand occupations list under §13.594(4) of this subchapter, the Coordinating Board shall utilize the following process:

(1) A public junior college or consortium of public junior colleges assigned to the same region under §13.592 of this subchapter (relating to Regions) may petition the Coordinating Board to add no more than five Essential Occupations using a form approved by the Commissioner of Higher Education.

(2) Whether individually or as a member of a consortium, a public junior college may submit only one petition to the Coordinating Board during each time period when petitions are accepted pursuant to paragraph (5) of this subsection [~~paragraph (b)(5) of this section~~].

(3) A petition under this section may request that specific occupations identified by six-digit SOC codes be added to the list of high-demand occupations on the regional high-demand fields list for the requestor(s) pursuant to §13.594(4) of this subchapter.

(4) A petition under this section shall name the Workforce Development Area (WDA) in the institution's service area whose board has designated as a Targeted Occupation pursuant to Texas Government Code, Chapter [~~chapter~~] 2308, each occupation that the petition seeks to add to a regional high-demand occupations list. The petition shall also include, for the occupation(s) and region in question:

(A) evidence of current job vacancies or growth, whether recent or projected, in the number of job openings;

(B) evidence of prevailing compensation or growth, whether recent or projected, in prevailing compensation;

(C) evidence of the importance of the occupation(s) to the regional economy; and

(D) evidence that the occupation typically requires for entry completion of an academic or workforce credential that the requestor(s) currently offers or will begin offering by the start of the fiscal year for which the occupation would take effect as a high-demand occupation if approved.

(5) Beginning in fiscal year 2025, in each odd-numbered year the Coordinating Board shall accept petitions under this section for a time period beginning on the earlier of May 1 or the day after the TWC publishes a new list of Target Occupations and ending May 31.

(c) Review Process and Criteria for Essential Occupations. The Coordinating Board shall utilize the following method for reviewing all petitions properly submitted pursuant to subsection (b) of this section:

(1) In consultation with the Texas Workforce Commission, the Coordinating Board shall discard as ineligible any occupation(s) not included on the Targeted Occupations list of a Workforce Development Area within the region to which the petitioner(s) is assigned under §13.592 of this subchapter, as well as any occupations already included among the region's high-demand occupations.

(2) If, considering all eligible occupations on all petitions for a region, all public junior colleges in the region request five or fewer unduplicated eligible Essential Occupations for addition to the region's high-demand occupations, the Assistant Commissioner shall recommend that the Commissioner of Higher Education approve the occupations for inclusion on the region's high-demand occupations list.

(3) If multiple public junior colleges in a region request more than five unduplicated eligible Essential Occupations in total for addition to a region's high-demand occupations, the Coordinating Board shall score each occupation according to a rubric developed in consultation with the Texas Workforce Commission and approved by the Commissioner of Higher Education. The rubric shall specify scoring standards that may include the following:

(A) Workforce demand;

(B) Prevailing compensation;

(C) Regional economic importance;

(D) Typical education and training requirements;

(E) Demand among institutions, such as the percentage of the public junior colleges assigned to the region that petitioned for its inclusion as an Essential Occupation, and

(F) Other criteria or evidence relevant to the determination of need for the occupation in the scoring rubric approved by the Commissioner of Higher Education.

(4) Not later than July 15 of each odd-numbered year, the Assistant Commissioner shall review and approve the scores assigned to each occupation and recommend the five (5) highest scoring occupations for each region to the Commissioner of Higher Education for approval. The Commissioner of Higher Education shall review the occupations recommended by the Assistant Commissioner for each region for addition as an Essential Occupation to the region's list of high-demand occupations. The Commissioner of Higher Education in his or her sole discretion based on the petitions and demonstration of need may approve or deny approval of any occupation recommended by the Assistant Commissioner.

(5) An Essential Occupation shall remain on a region's list of high-demand occupations under §13.594 of this subchapter [~~(relating to High-Demand Fields Methodology)~~] as an Essential [~~Emerging~~] Occupation for not fewer than two (2) fiscal years.

§13.597. Effective Dates: High-Demand Fields.

This section establishes the schedule upon which the Coordinating Board will create updated lists of high-demand fields, essential occupations, and emerging occupations, and the amount of time that a field identified as high-demand will remain on a high-demand fields list.

(1) [~~Standard~~] Regional High-Demand Fields.

(A) The Board shall adopt the Regional High-Demand Fields lists for each biennium not later than its July board meeting of each odd-numbered year.

(B) The new Regional High-Demand Fields lists shall be effective for each biennium beginning September 1 of each odd-numbered year.

(C) Applying first to the High-Demand Fields list adopted under subparagraph (B) of this paragraph [~~§(2)(B) of this section~~] in FY 2024, a field that the Board removes from a Regional High-Demand Fields list shall continue to be funded as a high-demand field for the following biennium.

(2) Standard Regional High-Demand Fields Conferred in FY 2023 - 2025. For calculating FY 2025 funding amounts based on the greater of FY 2025 credentials awarded or the three-year average of FY 2023 - 2025, the Coordinating Board shall apply High-Demand Fields lists as follows:

(A) For credentials awarded in FY 2023, notwithstanding §13.594 of this subchapter (relating to High-Demand Fields Methodology), the Coordinating Board shall use the list of High-Demand Fields for FY 2023 adopted by the Board at its July 2024 board meeting, which it shall also publish publicly.

(B) For credentials awarded in FY 2024 and FY 2025 the Coordinating Board shall identify credentials conferred in High-Demand Fields based on the list developed in accordance with §13.594 of this subchapter and adopted by the Board at its July 2024 board meeting, which it shall also publish publicly.

(3) Emerging and Essential Occupations.

(A) Academic fields linked to Essential Occupations designated pursuant to §13.595(c) of this subchapter (relating to Essential Occupations) shall be effective for the following biennium beginning September 1 of each odd-numbered year but may be renewed subject to approval of a new petition under §13.595(b) and (c) of this subchapter.

(B) Academic fields linked to Emerging Occupations designated pursuant to §13.595(d) of this subchapter shall be effective for two (2) fiscal years but may be renewed pursuant to §13.595(d) of this subchapter.

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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For further information, please call: (512) 427-6495

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SUBCHAPTER U. COMMUNITY COLLEGE FINANCE PROGRAM: FORECASTING METHODOLOGY AND FINANCE POLICY

19 TAC §13.624

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter U, §13.624, concerning Forecasting Fundable Outcomes. Specifically, this amendment will correct an imbedded rule reference and remove the upper bounding parameter to increase the precision of the forecasting methodology to fund student outcomes for public community colleges.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.624(c), Forecasting Fundable Outcomes, is amended to correct a reference that was inadvertently not updated when Chapter 13, Subchapter U, was amended in August 2025.

Rule 13.624(e) is amended to remove the upper bounding limitation on the forecasted outcomes. This will ensure closer alignment to forecasted outcomes and outcome growth trends.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing House Bill 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the Texas workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rule will not create or eliminate a government program;

(2) implementation of the rule will not require the creation or elimination of employee positions;

(3) implementation of the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

(8) the rule will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code (TEC), Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendment affects TEC, Chapter 130A, and TEC, Sections 61.059 and 130.0031.

§13.624. Forecasting Fundable Outcomes.

(a) Purpose. The purpose of this section is to establish the methodology for forecasting fundable performance outcome counts to calculate performance tier funding amounts covering a time period for which performance data are not yet available. Using historical data for each public junior college, the Coordinating Board shall forecast each performance tier fundable outcome based on the applicable performance tier funding rules of this chapter in effect for the fiscal year for which the Coordinating Board is calculating performance tier funding. The Coordinating Board shall use these figures to calculate each performance tier payment for the fiscal year as established in this chapter.

(b) Methodology for Fiscal Year 2025 and Foundation Payment for Fiscal Year 2026. To calculate payment adjustments to Fiscal Year 2025 and the foundation payment for Fiscal Year 2026, the Coordinating Board shall forecast the total annual count of a fundable performance tier outcome for a public junior college using the exponential triple smoothing method of trend analysis with additive error, trend, and seasonality parameters applied to time series data. Except as specified in subsection (d)(1) of this section, this time series data shall use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during no fewer than the six most recent years for which data are available except as otherwise provided by subsection (c) of this section.

(c) Methodology. Except for forecasts conducted to calculate amounts of payments under subsection (b) of this section, the Coordinating Board shall forecast the total annual count of a performance tier fundable outcome for a public junior college using the model of those provided in subsection (c)(4)(A) - (C) [~~(b)(1)(A)~~] of this sec-

tion demonstrating the lowest root mean square error (RMSE) as established by time series cross validation, according to the following:

(1) The model demonstrating the lowest RMSE for each fundable performance outcome for a public junior college will be selected and used for forecasting the total annual count of that fundable performance outcome for that public junior college.

(2) For the purposes of forecasting total annual count of a fundable performance outcome for a public junior college, the Coordinating Board will use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during no fewer than the six most recent years for which data are available except as otherwise provided by subsection (d) of this section.

(3) For the purposes of determining the lowest RMSE model for forecasting each fundable performance outcome for each public junior college for a given fiscal year, fundable certified data with the counts of fundable outcomes achieved annually by the public junior college no more recently than two years prior to the fiscal year for which the forecast is conducted will be included in model selection.

(4) In forecasting performance tier fundable outcome counts, the Coordinating Board shall select between the models listed below. Each model's parameter specifications will be the set of parameters that produces the lowest corrected Akaike information criterion (AICc).

(A) Autoregressive integrated moving average (ARIMA).

(B) Exponential triple smoothing (ETS).

(C) Random walk with drift (RWD).

(d) Other time series data.

(1) In calculating amounts of payments under subsection (b) of this section, the time series data for forecasting Occupational Skills Awards and Institutional Credentials Leading to Licensure or Certification shall consist of fundable certified data with the counts of each performance tier fundable outcome achieved annually by a public junior college during no fewer than the four most recent fiscal years for which data are available. For Institutional Credentials Leading to Licensure or Certification, the Coordinating Board shall use the definition and limitations for the credential in effect during the fiscal year for which the credential was reported.

(2) In conducting forecasting according to subsection (c) of this section, the Coordinating Board shall forecast performance outcome counts for which four or five years of fundable certified data are available using the available data. If fewer than four years of fundable certified data are available, the Coordinating Board shall forecast the performance outcome count as the greater of the count for the most recent available year of fundable certified data and the average of the counts for all available years of fundable certified data.

(e) Bounded projections. The forecasted total annual count of a fundable performance outcome for a fiscal year shall not [~~exceed 110 percent nor~~] be less than 95 percent of the count for the prior year. If the count for the prior year is also a forecasted value, then the maximum allowable change for the current year shall be calculated against the prior year's forecasted value as adjusted pursuant to this rule. If the value for a fundable performance outcome for the most recent actual, not forecasted data is zero, the forecast shall not be bounded in the next fiscal year. In no circumstances may an estimated fundable performance outcome be negative.

(f) The Coordinating Board shall forecast the number of each fundable credential in a high-demand field, as defined under subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), for a fiscal year by multiplying the average annual percentage of the credential conferred in a high-demand field in the institution's time series data by the total count of the credential forecast to be conferred in that year.

(g) The Coordinating Board shall forecast the number of each fundable credential receiving an additional weight based on academically disadvantaged, economically disadvantaged, and adult learners status, as provided by §13.556 and §13.646 of this chapter (relating to Performance Tier: Fundable Outcomes) establishing performance outcome definitions for the fiscal year for which it is calculating performance funding, for a fiscal year by multiplying the average percentage of the credential conferred by the institution to students in each respective subgroup in the institution's time series data by the total count of the credential forecast to be conferred by the institution in that year.

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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SUBCHAPTER V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

19 TAC §§13.643, 13.644, 13.646

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter V, §§13.643, 13.644, and 13.646 concerning Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026. Specifically, these amendments will correct typographical errors and will codify that the Credential of Value Baseline list for associate degrees for fiscal year 2026 will not change after its adoption.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement. House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.643(17), Definitions, is amended to correctly reference definition (34) for Semester Credit Hour.

Rule 13.644(c)(2), Base Tier Allotment, is amended to replace the phrase "funding certified data" with "fundable certified data", which is defined in Chapter 13, Subchapter U. This ensures alignment of terms across the subchapters that govern the Community College Finance Program.

Rule 13.646(b)(2)(F), Performance Tier: Fundable Outcomes, is added to clarify that the associate degrees that are identified as

credentials of value will remain unchanged for the duration of all payment calculations for fiscal year 2026. This codifies the current practice of not updating the list of fundable credentials after its initial adoption, and maintaining that list during any updates to the fiscal year 2026 funding model during subsequent fiscal years to allow for consistency in budgeting for the community colleges.

Minor non-substantive grammatical errors have been corrected. Capitalization of the word chapter when preceding a number and the word subchapter when preceding a letter has been standardized throughout the rules for consistency.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing HB 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement. HB 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendments affect Texas Education Code, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352, and Chapter 130A.

§13.643. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards), and who were not classified as either waived or exempt pursuant to §4.54 of this title (relating to Exemption).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. The Base Year for a funded fiscal year consists of the reported Summer I and II academic term from the fiscal year two years prior to the funded fiscal year; the Fall academic term one fiscal year prior to the funded fiscal year; and the Spring academic term one fiscal year prior to the funded fiscal year.

(8) Basic Allotment--A calculation of the dollar value per Weighted FTSE, based on appropriations made in that biennium's General Appropriations Act pursuant to §13.644(c) of this subchapter (relating to Base Tier Allotment).

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Confer--An institution of higher education confers a credential when it determines that a student has met all requirements to earn the credential, as defined in paragraph (17) of this section, and

updates the student's transcript to reflect completion of the credential program. Confer and award may be used synonymously.

(11) Continuing Education Certificate--A credential awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns continuing education units. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession; and is listed in an institution's approved program inventory.

(12) Credential of Value Baseline--A credential earned by a student that would be expected to provide a positive return on investment. Credential of Value Baseline methodology is described in §13.646 of this subchapter (relating to Performance Tier: Fundable Outcomes).

(13) Credential of Value Premium Fundable Outcome--A fundable outcome earned by an institution for a credential earned by a student that would be expected to provide a wage premium. Credential of Value Premium methodology is described in §13.646 of this subchapter.

(14) Credential Reporting--An institution of higher education reports a credential when it includes it in data submitted to the Coordinating Board pursuant to §13.524 of this chapter (relating to Required Reporting). An institution shall report a credential as having been conferred in the year or other applicable reporting period in which it was conferred pursuant to paragraph (10) of this section.

(15) Credentialing Examination--A licensure or registration exam required by a state or national regulatory entity or a certification exam required by an authorized professional organization. An authorized professional organization is a national, industry-recognized organization that sets occupational proficiency standards, conducts examinations to determine candidate proficiency, and confers an industry-based certification.

(16) Dual Credit or Dual Enrollment Fundable Outcome--An outcome achieved when a student earns at least 15 SCH or the equivalent of fundable dual credit or dual enrollment courses, defined as follows:

(A) Courses that qualify as dual credit courses as defined in §4.83(10) of this title (relating to Definitions); and:

(i) Apply toward an academic or career and technical education program requirement at the postsecondary level; or

(ii) Are completed by a student who graduates with a Texas First Diploma, as codified in Chapter 4 [~~chapter 21~~], Subchapter AA [~~subchapter D~~] of this title (relating to Texas First Early High School Completion Program).

(B) All dual credit courses taken by a student enrolled in an approved Early College High School program, as provided by Texas Education Code, §28.009, or a student enrolled in the Windham School District, pursuant to Education Code, Chapter [~~chapter~~] 19, or a P-TECH program pursuant to Education Code, chapter 29, Subchapter N, except a physical education course taken by a high school student for high school physical education credit.

(17) Earned--A student earns a credential when the student successfully completes the final semester credit hour or equivalent of a semester credit hour, as defined in paragraph (34) [~~(33)~~] of this section, for the credential and has satisfied all other academic program requirements.

(18) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C. §1070a.

(19) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. One semester credit hour of instruction equals 1.6 continuing education units of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(20) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(21) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(22) Fundable Credential--As defined in §13.646(b) of this subchapter.

(23) Fundable Outcome Weights--A multiplier applied to eligible fundable outcomes to generate a Weighted Outcome Completion for use in determining the Performance Tier allocation. The methodology for each Fundable Outcome Weight is defined in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

(24) High-Demand Fields--A field in which an institution awards a credential that provides a graduate with specific skills and knowledge required for the graduate to be successful in a high-demand occupation, based on the list of high-demand fields as defined in Subchapter [~~subchapter~~] T of this chapter (relating to Community College Finance Program: High-Demand Fields).

(25) Individual Self-Sufficient Wage--The Coordinating Board calculates the Individual Self-Sufficient Wage for the purpose of this subchapter as the statewide median of county-level median self-sufficient wages as determined by the Texas Workforce Commission under Government Code, §2308A.012, rounded up to the nearest thousand dollars.

(26) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list.

(27) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(28) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting col-

lege readiness standards set forth in §4.57 of this title and other eligibility requirements determined by the institution.

(29) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(30) Net Cost of Attendance--Expenses incurred by a student in attending a particular college, including tuition, fees, books and supplies, room and board, transportation, and other personal expenses, less the student's estimated merit- and need-based grant aid.

(31) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(32) Occupational Skills Award (OSA)--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144-359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;

(B) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used if recommended by the external committee and if appropriate for the content of the credential;

(C) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(D) The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.

(33) Opportunity High School Diploma Fundable Outcome--An alternative means by which adult students enrolled in a workforce program at a public junior college may earn a high school diploma at a college through concurrent enrollment in a competency-based program, as codified in Texas Education Code, Chapter [~~chapter~~] 130, Subchapter [~~subchapter~~] O, and Texas Administrative Code, Title 19, Part 1, Chapter 12.

(34) Semester Credit Hour (SCH)--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(35) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a program structured through a binding written agreement between a general academic teaching institution and a community college submitted and certified to the Coordinating Board pursuant to §13.524 of this chapter (related to Required Reporting). Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently. The Structured Co-enrollment Fundable Outcome does not include courses fundable under the Dual Credit or Dual Enrollment Fundable Outcome.

(36) Third-Party Credential--A certificate as defined in Texas Education Code, §61.003(12)(C), that is conferred by a third-party provider. The third-party provider of the certificate develops the instructional program content, develops assessments to evaluate student mastery of the instructional content, and confers the third-party credential. A third-party credential that meets the requirements of §13.646 of this subchapter is fundable in accordance with that section.

(37) Transfer Fundable Outcome--An institution earns a fundable outcome in the Performance Tier under §13.645 of this subchapter (relating to Performance Tier Funding) when a student enrolls in a general academic teaching institution or a private or independent institution of higher education, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district as established under §13.646(e) of this subchapter. For the purpose of this definition, semester credit hours (SCH) shall refer to semester credit hours or the equivalent of semester credit hours.

(38) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the fiscal year two years prior to the one for which formula funding is being calculated, where the hours delivered to students with certain characteristics carry a value other than one.

(39) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

§13.644. Base Tier Allotment.

(a) Coordinating Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount calculated by the Commissioner of Higher Education as provided in subsection (c) of this section and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of formula funding for the fiscal year under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 900.

(B) The Coordinating Board shall apply a weight to the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%;

(ii) if a student is classified as academically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%; and

(iii) if a student is classified as an adult learner on September 1 of the fiscal year two years prior, FTSE generated by that student shall have an additional value of 50%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating formula funding amounts for the fiscal year, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the Base Year of the fiscal year by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses in accordance with §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by a rate calculated by the Commissioner of Higher Education as provided in subsection (c) of this section in accordance with the General Appropriations Act to calculate the district's Contact Hour Funding.

(c) The Commissioner shall calculate the Basic Allotment and the rate to be used for calculating districts' Contact Hour Funding such that:

(1) Contact Hour Funding is equivalent to Basic Allotment Funding for the fiscal year; and

(2) The sum of base tier funding to all districts for the fiscal year equals one-nineteenth of the sum of performance tier foundation payments calculated using fundable [~~funding~~] certified data as described in Subchapter [~~subchapter~~] U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy) by June 1 prior to the fiscal year.

(3) The Commissioner may modify the base tier funding on a pro rata basis in accordance with this subsection to account for any changes to performance tier totals arising from any amendments to rule adopted by the Board between June 1 and the beginning of the fiscal year.

(d) For the purpose of calculating formula funding amounts for the fiscal year, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a $0.05 maintenance and operations ad valorem tax on each $100 of taxable property value in its taxing district, as reported under §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for fiscal year two years prior multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FTSE two fiscal years prior as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by a rate calculated by the Commissioner of Higher Education, which is the enrollment-weighted statewide average of tuition and fees charges to full-time equivalent students residing within the district of the public junior college they attend, as reported by the public junior colleges in the Integrated Fiscal Reporting System for the fiscal year two fiscal years prior; and

(B) the total semester credit hours of dual credit courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in the fiscal year two years prior, multiplied by the Financial Aid for Swift Transfer (FAST) tuition rate as codified in §13.504 of this chapter (relating to Financial Aid for Swift Transfer (FAST) Tuition Rate) in the fiscal year two years prior.

§13.646. Performance Tier: Fundable Outcomes.

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.647(a)(1) - (3) of this subchapter; all other Fundable Outcomes receive a weight of one under §13.647 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

(1) Fundable Credentials;

(2) Credential of Value Premium;

(3) Dual Credit Fundable Outcomes;

(4) Transfer Fundable Outcomes;

(5) Structured Co-Enrollment Fundable Outcomes; and

(6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or paragraph (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible for funding is conferred and that the institution reported and certified to the Coordinating Board:

(i) An associate degree;

(ii) A baccalaureate degree;

(iii) A Level 1 or Level 2 Certificate;

(iv) An Advanced Technical Certificate; and

(v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(D) A Third-Party Credential that meets the following requirements:

(i) The third-party credential is listed in the American Council on Education's ACE National Guide with recommended semester credit hours;

(ii) The third-party credential program content is either embedded in a course, embedded in a program, or is a stand-alone program;

(iii) The third-party credential is conferred for successful completion of the third-party instructional program in which a student is enrolled;

(iv) The third-party credential is included on the workforce education, continuing education, or academic transcript from the college; and

(I) The third-party credential includes no fewer than the equivalent of nine (9) semester credit hours or 144 contact hours; or

(II) The third-party credential is awarded in a high-demand field as defined in Coordinating Board rule, and includes no fewer than the equivalent of five (5) semester credit hours or 80 contact hours; and

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure 1, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure 1, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure 1, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.646(b)(2) (No change.)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.643(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize other recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board [~~Bard~~] to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(F) The associate degrees identified as credentials of value under this paragraph shall be used for any subsequent calculation for fiscal year 2026.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), or (1)(A)(v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

(i) Four years for baccalaureate degree holders;

(ii) Two years for associate degree holders; or

(iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.643(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15) after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI or private or independent institution and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI or private or independent institution, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.643(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.643(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance

with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2026 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2026, and the recipient must have earned the credential no earlier than June 1, 2025.

(A) An associate degree that the institution conferred in and reported for fiscal year 2026 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2025.

(B) A credential earned prior to September 1, 2025, but reported for fiscal year 2026 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2025, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, an Institutional Credential Leading to Licensure or Certification, or Third-Party credential;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.

(3) An institution may not receive funding for more than one credential of each type listed in subsections (h)(2)(A)- (F), where each Subparagraph corresponds to a type, conferred to an individual student in a single reporting year.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a single reporting year and conferred at least one such credential in a discipline designated as a high-demand field for that institution, as described in Subchapter [~~subchapter~~] T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

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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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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SUBCHAPTER W. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY BEGINNING IN FISCAL YEAR 2027

19 TAC §§13.660 - 13.670

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter W, §§13.660 - 13.670, concerning Community College Finance Program: Base and Performance Tier Methodology Beginning in fiscal year 2027. Specifically, this new section will clarify that Chapter 13, Subchapter W, rules apply to the Coordinating Board's calculation of foundation payments made beginning in fiscal year 2027 and future adjustments of those payments under the dynamic funding model, and it also contains a number of modifications relating to specific issue areas, as detailed below. Subsequently, Subchapter V, has continued authority for fiscal year 2026 only.

The Coordinating Board initially adopted the regular rules relating to the community college finance system in April 2025 for fiscal year 2026, including Chapter 13, Subchapter V. These proposed rules, for Subchapter W, would perform the same functions as Chapter 13, Subchapter V, which establishes all definitions, methods, weights and rates for the base and performance tiers, but would apply beginning with funding year FY2027. The proposed rules would make the following substantive changes for fiscal year 2027 to the rules previously adopted by the Coordinating Board for fiscal year 2026:

1. Removal of the Third-Party Credentials as a fundable outcome, as the Coordinating Board does not have the data to analyze or calculate funding for this outcome and how those credentials related to state education and workforce needs.

2. Modification of the Academically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

3. Modification of the Economically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

4. Modification of the Adult Learner weight from 50% to 40% in both the Base Tier and Performance Tier calculations.

5. Modification of the three-year average to a two-year average when calculating the funding amounts after eligible outcomes are weighted.

6. Further limits the number of outcomes eligible to be funded in which one outcome of each type can be earned within a 5-year time frame, with the exception of two Level 1 certificates or continuing education certificates being allowed.

The proposed Subchapter W, maintains continuity with existing rules in Subchapter V, while proposing the changes listed above and ensuring the applicability of the rules beyond the 2026 fiscal year.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.660, Purpose, establishes that the purpose of Subchapter W, is to implement the community college finance system established by HB 8, 88th Texas Legislature, Regular Session.

Rule 13.661, Authority, establishes the portions of the TEC that authorize the Coordinating Board to adopt rules pertaining to community college finance.

Rule 13.662, Applicability, establishes that the Coordinating Board will apply the rules in effect for the fiscal year in which the funding was delivered, unless otherwise provided. This provision provides guidance to institutions on which rules will apply as the Coordinating Board iterates and refines the community college finance framework. This also clarifies that this subchapter is applicable beginning with fiscal year 2027 base tier and performance tier calculations for funding purposes.

Rule 13.663, Definitions, lists definitions pertinent to the community college finance system. This section provides only general meanings of terms and reserves substantive policy detail for the sections described below.

Rule 13.664, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the legislature entitled community colleges to receive under TEC, §§130A.051 - 130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instructions and Operations, then Base Tier funding is zero.

Rule 13.665, Performance Tier Funding, establishes the components of the Performance Tier portion of community college funding, codified under TEC, Chapter 130A, Subchapter C. Performance Tier funding consists of the number of Fundable Outcomes each community college produces, weighted according to certain Fundable Outcome Weights and multiplied by relevant rates. The Coordinating Board determines institutions' weighted fundable outcome completions based on the better of the average of three fiscal years or the current fiscal year.

Rule 13.666, Performance Tier: Fundable Outcomes, describes the outcomes that are eligible to receive performance tier funding. Outcomes consist of the categories of 1) fundable credentials; 2) credential of value premium; 3) dual credit fundable outcomes; 4) transfer fundable outcomes; 5) structured co-enrollment fundable outcomes; and (6) Opportunity High School Diploma fundable outcomes. The paragraphs concerning §13.666 below focus on the specific ways in which the differs substantively from the analogous current rule governing fundable outcomes for fiscal year 2026.

Rule 13.666(b)(1)(D), removes the third-party credentials as a fundable outcome.

Rule 13.666(h)(3), extends the limitation of one outcome per student over a 5-year timeframe, with the exception of allowing for two certificate outcomes per student per year.

Rule 13.667, Performance Tier: Fundable Outcome Weights, establishes the weights that the Coordinating Board applies to the fundable outcomes achieved by students in the categories of economically disadvantaged, academically disadvantaged, and adult learners, for the purposes of performance tier funding, as required by Education Code, §130A.101. Institutions earn an additional weight of 20% for a fundable outcome when that outcome is achieved by an economically disadvantaged or academically disadvantaged student, and 40% for an adult learner.

Rule 13.668, Performance Tier: High-Demand Fields, establishes that an institution will receive additional weight for awarding credentials delivered in disciplines listed as a High-Demand Field. This is described in more detail in Subchapter T of this chapter.

Rule 13.669, Performance Tier: Rates, sets the monetary rates for each type of fundable outcome achieved by an institution. These fundable outcomes include the conferring of fundable credentials (including associate degrees, bachelor's degrees, and many types of workforce credentials), the credential of value premium, student completion of 15 dual credit hours, and successful student transfer to a public four-year institution. Rates are generally maintained for consistency with those set for fiscal year 2026 formula funding.

Rule 13.670, Shared Services Report, stipulates that smaller community college districts receiving a Base Tier scale adjustment must submit a report on their participation in shared services, and describes the content of this shared report. This provision carries out a statutory requirement for small schools to submit this report, codified in TEC, §130A.054(e).

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there may be fiscal implications for state or local governments as a result of enforcing or administering the rules, as required to continue administration of the public junior college finance system established by HB 8, 88th Texas Legislature, Regular Session. Such ancillary fiscal implications may include the need to collect and report additional data in order to obtain additional outcome-based funding.

Fiscal implications of increased funding to institutions of higher education are funded as part of the new public junior college finance system in statute and the General Appropriations Act. The rules do not impose additional costs of compliance beyond those provided for in statute. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing HB 8, 88th Texas Legislature, Regular Session, and SB 1786, 89th Texas Legislature, Regular Session, which established and further refined a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under TEC, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement Tex. HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The new section affects TEC, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352 and Chapter 130A.

§13.660. Purpose.

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

§13.661. Authority.

The Coordinating Board adopts this subchapter pursuant to Texas Education Code, §130A.005, requiring the Coordinating Board to adopt rules to implement the Community College Finance Program created in Texas Education Code, Chapters 61, 130, and 130A.

§13.662. Applicability.

Unless otherwise provided, the Coordinating Board shall apply this subchapter to the calculation of base tier funding beginning in fiscal year 2027 and to the calculation of performance tier fundable outcome counts achieved or forecasted to be achieved beginning in fiscal year 2027 in all instances where the fundable performance outcome counts achieved or forecasted to be achieved beginning in fiscal year 2027 are a direct input to funding calculations. This subchapter does not apply to the calculation of performance tier fundable outcome counts achieved in years prior to fiscal year 2027, even when such counts are a direct input to funding calculations for funding amounts disbursed beginning in fiscal year 2027.

§13.663. Definitions.

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

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards), and who were not classified as either waived or exempt pursuant to §4.54 of this title (relating to Exemption).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. The Base Year for a funded fiscal year consists of the reported Summer I and II academic term from the fiscal year two years prior to the funded fiscal year; the Fall academic term one fiscal year prior to the funded fiscal year; and the Spring academic term one fiscal year prior to the funded fiscal year.

(8) Basic Allotment--A calculation of the dollar value per Weighted FTSE, based on appropriations made in that biennium's General Appropriations Act pursuant to §13.664(c) of this subchapter (relating to Base Tier Allotment).

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Confer--An institution of higher education confers a credential when it determines that a student has met all requirements to earn the credential, as defined in paragraph (17) of this section, and updates the student's transcript to reflect completion of the credential program. Confer and award may be used synonymously.

(11) Continuing Education Certificate--A credential awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns continuing education units. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession; and is listed in an institution's approved program inventory.

(12) Credential of Value Baseline--A credential earned by a student that would be expected to provide a positive return on investment. Credential of Value Baseline methodology is described in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes).

(13) Credential of Value Premium Fundable Outcome--A fundable outcome earned by an institution for a credential earned by a student that would be expected to provide a wage premium. Credential of Value Premium methodology is described in §13.666 of this subchapter.

(14) Credential Reporting--An institution of higher education reports a credential when it includes it in data submitted to the Coordinating Board pursuant to §13.524 of this chapter (relating to Required Reporting). An institution shall report a credential as having been conferred in the year or other applicable reporting period in which it was conferred pursuant to paragraph (10) of this section.

(15) Credentialing Examination--A licensure or registration exam required by a state or national regulatory entity or a certification exam required by an authorized professional organization. An authorized professional organization is a national, industry-recognized organization that sets occupational proficiency standards, conducts examinations to determine candidate proficiency, and confers an industry-based certification.

(16) Dual Credit or Dual Enrollment Fundable Outcome--An outcome achieved when a student earns at least 15 SCH or the equivalent of fundable dual credit or dual enrollment courses, defined as follows:

(A) Courses that qualify as dual credit courses as defined in §4.83(10) of this title (relating to Definitions); and:

(i) Apply toward an academic or career and technical education program requirement at the postsecondary level; or

(ii) Are completed by a student who graduates with a Texas First Diploma, as codified in Chapter 4, Subchapter AA of this title (relating to Texas First Early High School Completion Program).

(B) All dual credit courses taken by a student enrolled in an approved Early College High School program, as provided by Texas Education Code, §28.009, or a student enrolled in the Windham School District, pursuant to Education Code, Chapter 19, or a P-TECH program pursuant to Education Code, Chapter 29, Subchapter N, except a physical education course taken by a high school student for high school physical education credit.

(17) Earned--A student earns a credential when the student successfully completes the final semester credit hour or equivalent of a semester credit hour, as defined in paragraph (34) of this section, for the credential and has satisfied all other academic program requirements.

(18) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C., §1070a.

(19) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. One semester credit hour of instruction equals 1.6 continuing education units of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(20) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(21) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(22) Fundable Credential--As defined in §13.666(b) of this subchapter.

(23) Fundable Outcome Weights--A multiplier applied to eligible fundable outcomes to generate a Weighted Outcome Completion for use in determining the Performance Tier allocation. The methodology for each Fundable Outcome Weight is defined in §13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

(24) High-Demand Fields--A field in which an institution awards a credential that provides a graduate with specific skills and knowledge required for the graduate to be successful in a high-demand occupation, based on the list of high-demand fields as defined in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

(25) Individual Self-Sufficient Wage--The Coordinating Board calculates the Individual Self-Sufficient Wage for the purpose of this subchapter as the statewide median of county-level median self-sufficient wages as determined by the Texas Workforce Commission under Government Code, §2308A.012, rounded up to the nearest thousand dollars.

(26) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list.

(27) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(28) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting college readiness standards set forth in §4.57 of this title and other eligibility requirements determined by the institution.

(29) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(30) Net Cost of Attendance--Expenses incurred by a student in attending a particular college, including tuition, fees, books and supplies, room and board, transportation, and other personal expenses, less the student's estimated merit- and need-based grant aid.

(31) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(32) Occupational Skills Award (OSA)--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144 - 359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;

(B) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used if recommended by

the external committee and if appropriate for the content of the credential;

(C) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(D) The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.

(33) Opportunity High School Diploma Fundable Outcome--An alternative means by which adult students enrolled in a workforce program at a public junior college may earn a high school diploma at a college through concurrent enrollment in a competency-based program, as codified in Texas Education Code, Chapter 130, Subchapter O, and Chapter 12 of this title (relating to Opportunity High School Diploma Program).

(34) Semester Credit Hour (SCH)--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(35) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a program structured through a binding written agreement between a general academic teaching institution and a community college submitted and certified to the Coordinating Board pursuant to §13.524 of this chapter. Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently. The Structured Co-enrollment Fundable Outcome does not include courses fundable under the Dual Credit or Dual Enrollment Fundable Outcome.

(36) Transfer Fundable Outcome--An institution earns a fundable outcome in the Performance Tier under §13.665 of this subchapter (relating to Performance Tier Funding) when a student enrolls in a general academic teaching institution or a private or independent institution of higher education, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district as established under §13.666(e) of this subchapter. For the purpose of this definition, semester credit hours (SCH) shall refer to semester credit hours or the equivalent of semester credit hours.

(37) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the fiscal year two years prior to the one for which formula funding is being calculated, where the hours delivered to students with certain characteristics carry a value other than one.

(38) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

§13.664. Base Tier Allotment.

(a) Coordinating Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount calculated by the Commissioner of Higher Education as provided in subsection (c) of this section and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of formula funding for the fiscal year under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 900.

(B) The Coordinating Board shall apply a weight to the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 20%;

(ii) if a student is classified as academically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 20%; and

(iii) if a student is classified as an adult learner on September 1 of the fiscal year two years prior, FTSE generated by that student shall have an additional value of 40%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating formula funding amounts for the fiscal year, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the Base Year of the fiscal year by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses in accordance with §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by a rate calculated by the Commissioner of Higher Education as provided in subsection (c) of this section in accordance with the General Appropriations Act to calculate the district's Contact Hour Funding.

(c) The Commissioner shall calculate the Basic Allotment and the rate to be used for calculating districts' Contact Hour Funding such that:

(1) Contact Hour Funding is equivalent to Basic Allotment Funding for the fiscal year; and

(2) The sum of base tier funding to all districts for the fiscal year equals one-nineteenth of the sum of performance tier foundation payments calculated using fundable certified data as described in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy) by June 1 prior to the fiscal year.

(3) The Commissioner may modify the base tier funding on a pro rata basis in accordance with this subsection to account for any changes to performance tier totals arising from any amendments to rule adopted by the Board between June 1 and the beginning of the fiscal year.

(d) For the purpose of calculating formula funding amounts for the fiscal year, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a $0.05 maintenance and operations ad valorem tax on each $100 of taxable property value in its taxing district, as reported under §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for fiscal year two years prior multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FTSE two fiscal years prior as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by a rate calculated by the Commissioner of Higher Education, which is the enrollment-weighted statewide average of tuition and fees charges to full-time equivalent students residing within the district of the public junior college they attend, as reported by the public junior colleges in the Integrated Fiscal Reporting System for the fiscal year two fiscal years prior; and

(B) the total semester credit hours of dual credit courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in the fiscal year two years prior, multiplied by the Financial Aid for Swift Transfer (FAST) tuition rate as codified in §13.504 of this chapter (relating to FAST Tuition Rate) in the fiscal year two years prior.

§13.665. Performance Tier Funding.

(a) Each public junior college district shall receive Performance Tier funding under Texas Education Code, Chapter 130A, Subchapter C. A district increases its Performance Tier funding amount by producing Fundable Outcomes, with Fundable Outcomes achieved in certain categories eligible for an additional multiplier (Fundable Outcome Weights), as calculated by the Coordinating Board, in accordance with this subchapter, and subject to the limitations in §13.666(h) (relating to Performance Tier: Fundable Outcomes). A Fundable Outcome multiplied by the Fundable Outcome Weight constitutes a Weighted Outcome Completion. A district's Performance Tier funding amount equals the total of each Weighted Outcome Completion multiplied by the funding rates for that completion, as identified in §13.669 of this subchapter (relating to Performance Tier: Rates). Funding rates include an additional weight for fundable credentials delivered in a high-demand field.

(b) Fundable Outcomes. Section 13.666 of this subchapter defines each Fundable Outcome type, including the methodology used to calculate each outcome.

(c) Fundable Outcome Weight. Section 13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) and Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields) define each Fundable Outcome Weight type, including the methodology used to calculate each outcome. Fundable Outcome Weights consist of the following categories:

(1) Fundable Outcomes achieved by economically disadvantaged students;

(2) Fundable Outcomes achieved by academically disadvantaged students; and

(3) Fundable Outcomes achieved by adult learners.

(d) For the purposes of calculating Weighted Outcome Completions for formula funding amounts for a fiscal year, the Coordinating Board shall calculate the funded number of Weighted Outcome Completions as the greater of the average of the district's Weighted Outcome Completion counts for the fiscal year being funded and one fiscal year prior, as calculated by Subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), and the count for the fiscal year being funded, as calculated according to Subchapter U.

(e) Fundable Outcome Rates. Section 13.668 of this subchapter (relating to Performance Tier: High-Demand Fields) and §13.669 of this subchapter defines fundable outcomes awarded in a high-demand field and the rates for each fundable outcome, including the higher rate for fundable credentials awarded in a high demand field.

§13.666. Performance Tier: Fundable Outcomes.

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.667(a)(1), §13.667(a)(2), or §13.667(a)(3) of this subchapter; all other Fundable Outcomes receive a weight of one under §13.667 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

(1) Fundable Credentials;

(2) Credential of Value Premium;

(3) Dual Credit Fundable Outcomes;

(4) Transfer Fundable Outcomes;

(5) Structured Co-Enrollment Fundable Outcomes; and

(6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible

for funding is conferred and that the institution reported and certified to the Coordinating Board:

(i) An associate degree;

(ii) A baccalaureate degree;

(iii) A Level 1 or Level 2 Certificate;

(iv) An Advanced Technical Certificate; and

(v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours;

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure: 19 TAC §13.666, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure: 19 TAC §13.666, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure: 19 TAC §13.666, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.666(b)(2)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.663(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Essential Occupations), the Coordinating Board may utilize other recent, relevant data, including:

(i) employer certifications provided under §13.595(b) of this chapter;

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Bard to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(F) The associate degrees identified as credentials of value under paragraph (2) of this subsection shall be used for any subsequent calculation for a given fiscal year.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (iii), (iv), or (v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

(i) Four years for baccalaureate degree holders;

(ii) Two years for associate degree holders; or

(iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter, the Coordinating Board may utilize recent, relevant data, including:

(i) employer certifications provided under §13.595(b) of this chapter;

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded

to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.663(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15), after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.663(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.663(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2027 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2027, and the recipient must have earned the credential no earlier than June 1, 2026.

(A) An associate degree that the institution conferred in and reported for fiscal year 2027 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2026.

(B) A credential earned prior to September 1, 2026, but reported for fiscal year 2027 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2026, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, or an Institutional Credential Leading to Licensure or Certification;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.

(3) An institution may not receive funding for more than one credential of each type listed in paragraph (2)(A) - (F) of this subsection, where each subparagraph corresponds to a type, conferred to an individual student in a five-year reporting period, with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a five-year reporting period with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period and conferred at least one such credential in a discipline designated as a high-demand field for that institution, as described in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

§13.667. Performance Tier: Fundable Outcome Weights.

(a) This section contains definitions of Fundable Outcome Weights that are applied to the Fundable Outcomes specified in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes) to generate a Weighted Outcome Completion. A Fundable Outcome that does not qualify for one of the following Fundable Outcome Weight categories receives a weight of 1. The Coordinating Board will apply the following weights to Fundable Outcomes to the extent permitted by data availability. Fundable Outcome Weights consist of the following categories:

(1) Outcomes achieved by economically disadvantaged students;

(2) Outcomes achieved by academically disadvantaged students; and

(3) Outcomes achieved by adult learners.

(b) Economically Disadvantaged Students.

(1) An institution will receive an additional weight of 20% for fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes as referenced in §13.666 of this subchapter achieved by an economically disadvantaged student, as defined in §13.663(18) of this subchapter (relating to Definitions).

(2) For purposes of calculating economically disadvantaged for the Transfer Fundable Outcome and Fundable Credentials, the student must be classified as economically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating economically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as economically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at either the community college or general academic institution.

(c) Academically Disadvantaged Students.

(1) An institution will receive an additional weight of 20% for any fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes, as referenced in §13.666 of this subchapter achieved by an academically disadvantaged student, as defined in §13.663(1) of this subchapter.

(2) For purposes of calculating academically disadvantaged for Transfer Fundable Outcome and Fundable Credentials, the student must be classified as academically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating academically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as academically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(d) Adult Learners.

(1) An institution will receive an additional weight of 40% for a fundable credential, transfer fundable outcomes, and structured co-enrollment fundable outcomes as referenced in §13.666 of this subchapter achieved by an adult learner, as defined in §13.663(2) of this subchapter.

(2) For purposes of calculating an Adult Learner for a transfer fundable outcome, the Coordinating Board shall calculate age in accordance with this subsection.

(A) The student shall be 25 years of age or older in the earliest fiscal year in which they were enrolled at the public junior college during the current fiscal year or the two fiscal years prior to first enrollment in a general academic institution; or

(B) If the student was not enrolled at the public junior college during the current fiscal year or the two fiscal years prior to the first enrollment in a general academic institution, the student must be 25 years of age of older in the earliest fiscal year of enrollment at the public junior college during the prior four fiscal years.

(3) For purposes of calculating an Adult Learner for a fundable credential, the student's eligibility will be determined as follows:

(A) For a student who completes an Occupational Skills Award, Institutional Credential leading to Licensure or Certification, Third Party Credential, Level I Certificate, Level II Certificate, Continuing Education Certificate, or Advanced Technical Certificate, as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the fiscal year in which the student earned the credential;

(B) For a student who completes an associate degree as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the prior fiscal year; and

(C) For a student who completes a bachelor's degree as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the three fiscal years prior.

(4) For purposes of calculating an Adult Learner for Structured Co-Enrollment Fundable Outcome, the student must be classified as an Adult Learner in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

§13.668. Performance Tier: High-Demand Fields.

An institution will receive an additional weight, as calculated by an increased funding rate for awarding a Fundable Credential described in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes) for credentials delivered in disciplines designated as a High-Demand Field for that institution, as described in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

§13.669. Performance Tier: Rates.

An institution receives the rate in Figure: 19 TAC §13.669 for each fundable outcome, weighted according to the applicable provisions of §13.666 and §13.667 of this subchapter (relating to Performance Tier: Fundable Outcomes and Performance Tier: Fundable Outcome Weights, respectively).

Figure: 19 TAC §13.669

§13.670. Shared Services Report.

(a) This rule applies to each public junior college district of fewer than 5,000 full-time equivalent students which receives a scale adjustment under §13.664(b)(1)(C) of this subchapter (relating to Base Tier Allotment).

(b) Public junior colleges subject to this rule must submit a report on their participation in shared services to the Coordinating Board by November 1st of each even numbered year.

(c) The report will include information for each fiscal year in the previous two fiscal years in which a college received a scale adjustment.

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 April 10, 2026.

TRD-202601589
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 427-6495

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 105. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING CHARTER SCHOOL FUNDING

The Texas Education Agency (TEA) proposes the repeal of §105.1011 and new §105.1011, concerning additional state aid for open-enrollment charter school facilities. The proposed repeal and new section would implement changes made by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025, by defining eligibility criteria and implementing an annual certification provision to receive funding.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 2, 89th Texas Legislature, Regular Session, 2025, amended Texas Education Code (TEC), §12.106(d), to repeal the $60 million appropriation cap and amend the formula for the allotment to be either the lesser of the state average interest and sinking tax rate imposed by school districts for the current school year multiplied by the guaranteed level of state and local funds per student per cent of tax effort or the basic allotment multiplied by $0.06.

HB 2 amended TEC, §12.106(e), to expand the criteria under which a charter holder is not eligible to receive facilities funding. As amended, a charter holder is ineligible for funding if it has been assigned an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C; a financial accountability performance rating lower than satisfactory under TEC, Chapter 39, Subchapter D; or any combination of these ratings during the two preceding school years. Additionally, HB 2 added new TEC, §12.106(e-2), which requires charter holders to annually certify that no individual associated with the charter school, including administrators, governing body members, or their close relatives, receives a financial benefit from a real estate transaction with the school.

To implement HB 2, the proposed repeal would remove the previous requirements and proposed new §105.1011 would establish eligibility criteria and funding determination processes for open-enrollment charter schools under TEC, §12.106(d), accountability rating standards, funding timelines, and the requirement for an annual certification.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation and create a new regulation to implement the requirements in HB 2.

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

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure the rule aligns with TEC, §12.106, as amended by HB 2, which provides eligible open-enrollment charter schools with additional funding for facilities to assist with leasing, maintaining, or constructing campuses. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

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

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins April 24, 2026, and ends May 26, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 24, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

19 TAC §105.1011

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.

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 April 13, 2026.

TRD-202601595

Cristina De La Fuente Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 475-1497

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19 TAC §105.1011

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.

(a) For the purpose of determining a Texas Education Code (TEC), Chapter 12, Subchapter D open-enrollment charter school's eligibility to receive funding as provided under TEC, §12.106(d), the following apply under TEC, §12.106(e):

(1) an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C, is defined as an overall score below 60, an overall "F" rating, or an overall "D" rating that is considered an unacceptable rating under TEC, §39.0543; and

(2) a financial accountability rating lower than satisfactory under TEC, Chapter 39, Subchapter D, is defined as a score below 70 or substandard achievement.

(b) If ratings under TEC, Chapter 39, Subchapter C or D, were not issued for prior school years due to a declared natural disaster affecting the charter school's county, the most recent two available final accountability ratings from preceding school years will be used to determine eligibility.

(c) For charter schools that operated during the previous school year, the estimated funding under TEC, §12.106(d), for the current school year will be based on the school's eligibility status from the immediate prior year.

(d) During the school year for which funding under TEC, §12.106(d), is provided, the charter holder will provide an annual certification, in a manner prescribed by the commissioner of education, that no individual covered under TEC, §12.106(e-2)(1), (2), or (3), derives any financial benefit from a real estate transaction with the charter school.

(e) At settle up, for which funding under TEC, §12.106(d), would be provided, the Texas Education Agency will use the two most recent preceding school years' final accountability ratings assigned under TEC, Chapter 39, Subchapters C and D, and the applicable annual certification to determine eligibility for funding under TEC, §12.106(e).

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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Cristina De La Fuente Valadez
Director, Rulemaking
Texas Education Agency
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For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 10. TEXAS FUNERAL SERVICE COMMISSION

CHAPTER 206. ANATOMICAL FACILITIES, NON-TRANSPLANT ANATOMICAL DONATION ORGANIZATIONS, AND WILLED BODY PROGRAMS

22 TAC §206.31, §206.33

The Texas Funeral Service Commission (Commission) proposes new rules to Texas Administrative Code (TAC), Title 22, Part 10, in new Chapter 206, Non-Transplant Anatomical Donations: Inspections, §206.31 and §206.33, regarding the inspection procedures for individuals and entities applying for authorization or registration or currently authorized or registered to receive, use, distribute or transport non-transplant whole body donations for the advancement of medical and forensic science.

This section establishes the regulatory framework governing inspections conducted by the Commission for entities involved with non-transplant anatomical specimens. It outlines when inspections are required, including initial authorization, renewals, ownership changes, and routine compliance reviews, as well as the Commission's authority to perform unannounced inspections. The rule further defines the responsibilities of inspected entities, including cooperation, access to records and personnel, and participation in entrance and exit conferences. It also details the process for addressing deficiencies through formal notification and submission of a Plan of Correction, ensuring ongoing compliance with applicable statutes and regulations.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed rules under 22 TAC, Chapter 206, implement Texas Health and Safety Code §§ 691.012(a)(2)-(3), 691.022(b)-(c), and 691.034 which authorizes the Commission by rule to administer its duties to regulate the receipt, use, transport, and distribution of decedent non-transplant whole human body or body part donations for medical or forensic science.

Each proposed rule described below is in regard to the receipt, use, transport and distribution of non-transplant donations of whole human bodies or body parts for advancing medical or forensic science for purposes allowed under Texas Health and Safety Code chapter 691, unless stated otherwise.

Proposed new 22 TAC §206.31 requires the Commission to conduct an inspection of an individual or entity applying for initial authorization or registration to operate in Texas, undergoing an ownership change, relocating to a new facility or undergoing major renovations to pass the onsite inspection prior to receiving approval from the Commission. The Commission will conduct onsite inspections, which may be unannounced, of authorized entities once every three years, unless the entity is expressly exempted by statute. The inspections may be conducted at reasonable times, including when a lab or event using human bodies or body parts is occurring. Unannounced inspections may also occur to inspect, investigate or evaluate an entity's compliance with or to prevent a violation of the law; a Plan of Correction; order by the Commissioners, executive director or executive director's designee; court order for injunctive relief; or other regulatory purpose. The proposed rule establishes the scenarios in which the commission's inspections are for evaluating the individual's or entity's compliance.

The proposed rule further requires the individual or entity being inspected to cooperate with the Commission, including allowing entry to grounds and records, opportunity to interview and request a written statement from certain individuals, make copies of requested records, and if necessary, opportunity to remove records. The Commission must make reasonable effort to return any removed records in a timely manner. If the inspection purpose is to ensure compliance, the Commission must give the individual or entity opportunity to submit relevant information. Any records considered confidential or proprietary subject to the inspection will be maintained as consistent with applicable law, and released in accordance with statute.

The Commission will hold an entrance and exit conference to discuss the inspection nature, scope, time frame, findings, and possible deficiencies or violations. If deficiencies or violations are found, the individual or entity will be given an opportunity to provide information to show compliance. A report will be sent to the individual or entity seven days after the exit conference ended.

Proposed new 22 TAC §206.33 establishes procedures for a Plan of Correction should the Commission find deficiencies when inspecting an individual or entity. The plan must be sent to the individual/entity within 15 business days after the exit conference by physical or electronic mail. The recipient has 15 calendar days to respond to each cited deficiencies, propose timeframes for compliance and provide evidence of compliance. The Commission may or may not accept the recipient's Plan of Correction. If it does not accept, the recipient is given an additional 15 business days to submit a modified Plan of Correction. Even with a Plan of Correction, at any time, the Commission may take enforcement action against the individual or entity.

Advisory Committee: State Anatomical Advisory Committee were held on December 20, 2023, January 17, 2024, and July 26, 2024, and stakeholder meetings were held on January 17, 2024 and July 24-25, 2024, to discuss the rules on the implementation of Senate Bill 2040, 88th Regular Legislative Session, and Texas Health and Safety Code chapter 691. These meetings involved discussion and rule recommendations on the inspection for anatomical facilities, non-transplant anatomical donation organizations, and willed body programs. Suggestions and comments made during those meetings were considered into developing the proposed rules.

FISCAL NOTE: The Commission has determined that for the first five-year period the proposed rules are in effect, the proposed rules do not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: The Commission has also determined that for the first five-year period the proposed rules are in effect, the public benefit anticipated as a result of the proposed rules will be the protection of public safety and welfare. There is no probable economic cost to individuals and entities required to comply with the proposed rules.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: The proposed rules have no anticipated adverse economic effect on small businesses, micro-businesses, or rural communities. Therefore, an economic impact statement is not required.

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

GOVERNMENT GROWTH IMPACT STATEMENT: The Commission has determined that for the first five-year period the proposed rules are in effect, the following government growth effects apply:

(1) The proposed rules do not create or eliminate a government program.

(2) Implementation of the proposed rules do not require the creation or elimination of employee positions.

(3) Implementation of the proposed rules do not require an increase or decrease in future appropriations.

(4) The proposed rules do not require an increase in fees paid to the agency.

(5) The proposed rules do create new regulations. As mentioned previously, Senate Bill 2040, 88th regular legislative session (SB 2040), abolished the Anatomical Board of the State of Texas and transferred its duties to the Commission. Also pursuant to SB 2040, the prior Anatomical Board rules continued in effect until superseded by a rule of the Commission. Since the Commission did not have prior authority or regulations to inspect individuals or entities regarding the receipt, use, distribution and transport of non-transplant whole body donations, the proposed rules do create new regulations.

(6) The proposed rules do not expand an existing regulation. As stated above, prior to SB 2040, the Commission did not have rules governing inspections of non-transplant whole body donation receipt, use, distribution or transport. In addition, the proposed rules are to supersede and replace the prior Anatomical Board rules.

(7) The proposed rules do not increase the number of individuals subject to the rule's applicability. The rules are to implement procedures of those individuals and entities now subject to the Commission's statutory jurisdiction per SB 2040.

(8) The proposed rules do not positively or adversely affect the state's economy.

PUBLIC COMMENTS: Comments on the proposed rules may be submitted to Maria Haynes, Interim Executive Director, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701, or by email to legal@tfsc.texas.gov. The deadline for receipt of comments is 5:00 p.m., Central Time, on May 13, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY: The proposed rules are pursuant to Texas Health and Safety Code §691.022(b)-(c), which gives the Commission authority to adopt rules necessary to administer and enforce the receipt, use, distribution, and transport of a decedent's non-transplant whole body or body part donation and other activities under Texas Health and Safety Code chapter 691.

Statutes affected by the proposed rules are Texas Health and Safety Code §§ 691.022, 691.031, 691.033, and 691.034.

§206.31. Inspections.

(a) The Commission shall conduct an inspection of each applicant prior to the issuance of an initial authorization or registration certificate, and may conduct an inspection of each authorized entity applying for a renewal prior to issuing a renewal authorization or registration certificate.

(b) An individual or entity undergoing an ownership change, relocation to a new facility, or major renovations must pass an on-site inspection prior to receiving Commission approval for authorization or registration to operate in Texas.

(c) Onsite inspections of authorized entities shall occur at least once every three years, unless exempt by statute. If exempt under statute, inspections shall be conducted pursuant to the statute's inspection requirements.

(d) The Commission may conduct an unannounced, on-site inspection of an applicant or authorized entity at any reasonable time, including when a lab, training, course or other event is occurring in which donor whole bodies or anatomical specimen are being received, used, stored, distributed or transported.

(e) The Commission may also conduct unannounced inspections to inspect, to investigate or to evaluate compliance with or prevent a violation of:

(1) any applicable statute or rule;

(2) plan of correction;

(3) an order or special order of the Commissioners, executive director or the executive director's designee;

(4) a court order granting injunctive relief; or

(5) for other purposes relating to regulation of the applicant or authorized entity.

(f) Commission inspections to evaluate an individual's or entity's compliance may include:

(1) initial, change of ownership, renovations or relocation inspections for the issuance of a new license;

(2) routine inspections, which may be conducted without notice and at the Commission's discretion, or prior to renewal;

(3) follow-up on-site inspections, conducted to evaluate implementation of a Plan of Correction for previously cited deficiencies;

(4) inspections to determine if an unauthorized or unregistered individual or entity is operating, receiving, using, handling, transferring or engaging in other activities involving non-transplant donor whole bodies or anatomical specimen; and

(5) entry in conjunction with any other federal, state, or local agency's entry.

(g) An individual or entity shall cooperate with any Commission inspection and shall permit the Commission to examine the individual's or entity's grounds, buildings, books, records, video surveillance, and other documents and information maintained by or on behalf of the individual or entity, unless prohibited by law.

(h) An individual or entity subject to an inspection under this section shall permit the Commission access to interview members of the governing body, personnel, instructors, demonstrators, students, trainees, or event attendees, including the opportunity to request a written statement.

(i) An individual or entity shall permit the Commission to inspect and copy any requested information, unless prohibited by law. If it is necessary for the Commission to remove documents or other records from the individual or entity, the Commission must provide a written description of the information being removed and when it is expected to be returned. The Commission must make a reasonable effort, consistent with the circumstances, to return any records removed in a timely manner.

(j) During the inspection, the Commission representative must give the individual or entity representative an opportunity to submit information and evidence relevant to matters of compliance being evaluated.

(k) Any records or information subject to the inspection that is considered confidential or proprietary will be maintained as confidential under applicable law. The individual or entity claiming the information is proprietary or confidential must reference the appropriate statute or rule. Such information may be released in the manner and method authorized by statute.

(l) Upon entry, the Commission inspector holds an entrance conference with the individual or entity's designated representative to explain the nature, scope, and estimated duration of the inspection.

(m) When an inspection is complete, the Commission inspector holds an exit conference with the individual or entity representative to inform them of any preliminary findings of the inspection, including possible concerns, deficiencies and violations. The individual or entity may provide any final documentation regarding compliance during the exit conference. Any preliminary or final report discussed during the exit conference will be provided to the individual or entity subject to the inspection at or within 7 days following the conclusion of the exit conference.

§206.33. Notice and Plan of Correction.

(a) An individual, applicant or authorized entity is deemed to have received any Commission correspondence on the date of receipt, or three business days after mailing, whichever is earlier.

(b) When the Commission finds deficiencies:

(1) The Commission provides the individual or entity with a written Statement of Deficiencies within 15 business days after the exit conference via U.S. Postal Service or electronic mail.

(2) Within 15 calendar days after the individual's or entity's receipt of the Statement of Deficiencies, the individual or entity shall return a written Plan of Correction to the Commission that addresses each cited deficiency, including timeframes for corrections, together with any additional evidence of compliance.

(3) The Commission determines if a Plan of Correction and proposed timeframes are acceptable, and, if accepted, notifies the individual or entity in writing.

(4) If the Commission does not accept the Plan of Correction, the Commission notifies the individual or entity in writing and requests the individual or entity submit to a modified Plan of Correction to the Commission, and any additional evidence of compliance, no later than 15 business days after the Commission notifies the individual or entity in writing.

(c) Regardless of an individual's or entity's compliance with this section or the Commission's acceptance of an individual's or entity's Plan of Correction, the Commission may, at any time, propose to take enforcement action as appropriate under applicable statute and agency rule.

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 April 10, 2026.

TRD-202601579
Maria Haynes
Interim Executive Director
Texas Funeral Service Commission
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 936-2474

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 228. RETAIL FOOD ESTABLISHMENTS

SUBCHAPTER H. REQUIREMENTS APPLICABLE TO CERTAIN ESTABLISHMENTS

25 TAC §228.221

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes the repeal of §228.221, concerning Mobile Food Units.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an outdated rule related to the regulation and permitting of mobile food units, roadside food vendors, and pushcarts. House Bill (HB) 2844, 89th Legislature, Regular Session, 2025, created Texas Health and Safety Code (HSC) Chapter 437B, concerning Mobile Food Vendors (MFVs). HB 2844 made significant changes to how MFVs are regulated, licensed, and inspected in Texas. New rules were proposed in Texas Administrative Code (TAC) Title 25, Chapter 226, concerning Mobile Food Vendors. The proposed new rules were published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

SECTION-BY-SECTION SUMMARY

The proposed repeal of §228.221 deletes the rule because mobile food units will be regulated under 25 TAC Chapter 226, Mobile Food Vendors.

FISCAL NOTE

Christy Havel Burton, 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

DSHS has determined that during the first five years that the rule repeal 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 DSHS employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to DSHS;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal existing regulations;

(7) the proposed rule will not change the number of individuals subject to the rule; and

(8) DSHS has insufficient information to determine the proposed rule's effect on the state's economy.

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

Christy Havel Burton has also determined that there will be no adverse economic effect on small businesses or micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the repeal is necessary to protect the health, safety, and welfare of the residents of Texas and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rule repeal is in effect, the public will benefit from the repeal of the outdated rule which will prevent conflict with mobile food vendor rules proposed in 25 TAC Chapter 226.

Christy Havel Burton has also determined that for the first five years the rule repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule repeal because the proposed rule repeal only removes outdated information. The updated requirements for mobile food vendors was proposed in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's 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, including information related to the cost, benefit, or effect of the proposed rules, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, TX 78751; or emailed to *HHSRulesCoordinationOffice@hhs.texas.gov*.

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) 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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R068" in the subject line.

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001; and Texas Health and Safety Code Chapters 437 and 437B.

The repeal affects Texas Government Code §524.0151, Texas Health and Safety Code § 1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

§228.221. Mobile Food Units.

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 April 10, 2026.

TRD-202601562
Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 834-6753

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CHAPTER 229. FOOD AND DRUG

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes amendments to §229.372, concerning Permitting Fees and Procedures, and §229.472, concerning Inspection Fees and Procedures.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove references to the regulation and permitting of mobile food units, roadside food vendors, and pushcarts in 25 Texas Administrative Code (TAC) Chapter 229, Subchapters U and Z as part of the implementation of House Bill (HB) 2844, 89th Legislature, Regular Session, 2025. HB 2844 added Texas Health and Safety Code Chapter 437B, concerning mobile food vendors and made significant changes to how mobile food vendors are regulated, licensed, and inspected in Texas. As a result, DSHS proposed new rules in 25 TAC Chapter 226, concerning Mobile Food Vendors, which were published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013). The proposal complies with statutory requirements of HB 2844 regarding licensing and fees and refers to the changes in the proposed new Chapter 226.

This proposal also updates references in the rules.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §229.372 removes permitting language in subsection (a)(3) and (4) as part of the implementation of HB 2844, 89th Legislature, Regular Session, 2025; removes the permitting exemption for mobile food units permitted under local authority in subsection (b)(2)(K) and adds a reference to the proposed new rules in Chapter 226; removes the requirement for display of permits on mobile food units in subsection (h)(2); and removes the reference to mobile food units and roadside food vendors in subsection (j)(1)(D). The proposed amendment also updates references in subsection (b)(2)(I) and subsection (c).

The proposed amendment to §229.472 removes the permitting exemption for mobile food units permitted under local authority in subsection (d)(9) and adds a reference to the proposed new rules in Chapter 226. The proposed amendment also updates a reference in subsection (b).

FISCAL NOTE

Christy Havel Burton, 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

DSHS 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 DSHS 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 DSHS;

(5) the proposed rules will not create a new regulation;

(6) the proposed rules will not expand, limit, or repeal existing regulations;

(7) the proposed rules will not change the number of individuals subject to the rules; and

(8) DSHS has insufficient information to determine the proposed rules' effect on the state's economy.

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

Christy Havel Burton has also determined that there will not be an adverse economic effect on small businesses or micro-businesses, or rural communities because the rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

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, do not impose a cost on regulated persons, and are necessary to implement legislation that does not specifically state that Section 2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public benefit will be statewide regulation of "mobile food vendors" under 25 Texas Administrative Code Chapter 226 pursuant to HB 2844. Additionally, the proposed amendments will make the rules easier to understand by updating references.

Christy Havel Burton has also determined that for the first five years the amended rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed amended rule because the proposed amended rule only removes outdated information. The updated requirements for mobile food vendors was proposed in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's 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, including information related to the cost, benefit, or effect of the proposed rules, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to *HHSRulesCoordinationOffice@hhs.texas.gov*.

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) 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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R067" in the subject line.

SUBCHAPTER U. PERMITTING RETAIL FOOD ESTABLISHMENTS

25 TAC §229.372

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001, and Texas Health and Safety Code Chapters 437 and 437B.

The amendment implements Texas Government Code §524.0151, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

§229.372. Permitting Fees and Procedures.

(a) Permitting fees.

(1) A person who operates a food establishment shall obtain a permit from the department and pay a permit fee for each establishment unless specifically exempted under subsection (b) or (c) of this section. All permit fees are nonrefundable. Permits are issued for a two-year term. The fees are based on gross annual volume of sales as follows:

(A) for an establishment with gross annual volume of food sales of $0 - $49,999.99, the fee is $250;

(B) for an establishment with gross annual volume of food sales of $50,000 - $149,999.99, the fee is $500; or

(C) for an establishment with gross annual volume of food sales of $150,000 or more, the fee is $750.

(2) A person who contracts with a school to provide food services on a for-profit basis shall obtain a permit and pay a permit fee for each school where food services are provided. Permits are issued for a two-year term. The permit fee is $250.

[~~(3) A person who operates a mobile food unit shall obtain a permit from the department for each mobile food unit operated.~~]

[~~(A) Each mobile food unit shall be inspected and comply with §228.221 of this title (relating to Mobile Food Units) and pay a nonrefundable permit fee before a permit is issued. If a request for inspection is not received or if the mobile food unit does not meet the minimum standards contained in §228.221 of this title within two years of paying the permit fee, a new fee shall be paid.~~]

[~~(B) Mobile food unit permits are issued for a two-year term. The permit fee is $250.~~]

[~~(4) Each roadside food vendor shall obtain a permit and pay a fee. All fees are nonrefundable. A permit will be issued for a two-year term. The permit fee is $250.~~]

(3) [~~(5)~~] For all initial and renewal applications submitted through Texas.gov, the department is authorized to collect fees in amounts determined by the Department of Information Resources to recover costs associated with using Texas.gov.

(4) [~~(6)~~] If the license or permit category changes during the license or permit period, the license or permit shall be renewed in the proper category at the time of the renewal.

(5) [~~(7)~~] An establishment required to be licensed as a food manufacturer under Texas Health and Safety Code Chapter 431, and also required to be permitted under this subchapter, will be issued only one license or permit. The license or permit fee to be paid will be the higher fee of the two applicable fees.

(b) Exemptions from permit and fees.

(1) Food establishments permitted and inspected by a county or public health district under Texas Health and Safety Code Chapter 437, provided inspections are based on the requirements of §229.373 of this subchapter (relating to Minimum Standards for Permitting and Operation), are exempted from obtaining a permit and paying a fee to the department.

(2) The following meet the definition of "food establishment" in §229.371 of this subchapter (relating to Definitions), but are not required to pay a fee or obtain a Retail Food Establishment permit under this subchapter:

(A) food establishments permitted and under the inspection authority granted to municipal health departments;

(B) food establishments on federal property under federal inspection authority;

(C) food establishments under the inspection authority of state college or university personnel in accordance with the requirements of §229.373 of this subchapter;

(D) food establishments licensed under Texas Health and Safety Code Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under this section;

(E) food establishments under the inspection authority of the Texas Health and Human Services Commission (HHSC) Regulatory Services Division;

(F) facilities under the inspection authority of the HHSC Regulatory Services Division;

(G) hospitals under the inspection authority of the HHSC Regulatory Services Division and that do not serve food to the general public;

(H) correctional facilities under the inspection authority of the Texas Department of Criminal Justice;

(I) nonprofit organizations as defined in §229.371(4) [~~§229.371(3)~~] of this subchapter[~~;~~] (Nonprofit organizations which meet the definition of "manufacturers of food" under Texas Health and Safety Code Chapter 431, or the definition of "food salvage establishments" under Texas Health and Safety Code Chapter 432, are not exempt from licensure in those categories.);

(J) food and beverage vending machines; and

(K) mobile food vendors. The licensure and fee requirements for mobile food vendors are in Chapter 226 of this title (relating to Mobile Food Vendors). [~~mobile food units permitted and inspected under the authority granted to municipalities and which operate only within their respective jurisdictions. (Except for units which handle only pre-packaged, non-TCS foods, a mobile food unit is classified as a food establishment, regardless of whether food preparation occurs on the unit.)~~]

(c) Nonprofit fee exemption. Nonprofit organizations as defined in §229.371(4) [~~§229.371(3)~~] of this subchapter (relating to Definitions) are exempt from payment of the permit fee. Nonprofit organizations shall comply with the requirements of §229.373 of this subchapter. The department shall provide guidelines for the safe handling of foods prepared by nonprofit organizations. Any civic or fraternal organization, charity, lodge, association, proprietorship, corporation, or church not meeting the definition of "nonprofit organization" shall obtain a permit, pay the required fee, and comply with the requirements.

(d) Application for permit. The permit application shall be on a form furnished by the department and shall contain the following information:

(1) the name under which the establishment operates;

(2) the mailing address and street address of the establishment;

(3) if a sole proprietorship, the name of the proprietor; if a partnership, the names of all partners; if a corporation, the date and place of incorporation and the name and address of its registered agent in the State; or if any other type of association, the names of the principals of such association;

(4) the names of those individuals in an actual administrative capacity which, in the case of a sole proprietorship, shall be the managing proprietor; in a partnership, the managing partner; in a cor-

poration, the officers and directors; in any other association, those in a managerial capacity;

(5) the signature of the owner, operator, or other authorized person; and

(6) any other information the department may require issuing a permit.

(e) Temporary food establishments. An organizer of an event at which a temporary food establishment operates shall obtain a permit for each temporary food establishment. In the absence of an event organizer, each temporary event operator shall obtain a permit. The application and permit fee for a temporary food establishment must be submitted to the department at least 30 days before the event. The permit fees are as follows.

(1) Single-event permit. The permit fee is $50 and is valid for the duration of a single event not to exceed 14 consecutive days from the initial effective date specified in the permit application. The fee is non-refundable.

(2) Multiple-event permit. A multiple-event permit is issued for a two-year term and the permit fee is $200. The fee is non-refundable.

(f) Two or more establishments. Each establishment shall submit an application even if it is owned by the same person.

(g) Pre-permit inspection. The department may conduct a pre-permit inspection to determine compliance with this subchapter.

(h) Issuance of a permit. The department may issue a permit or a renewal permit for an establishment based on compliance with Chapter 228 of this title (relating to Retail Food Establishments), and payment of all fees. Copies of the permit application are available by sending a request to the department at 1100 West 49th Street, Austin, Texas 78756-3182 or by downloading online at: https://www.dshs.texas.gov/retail-food-establishments/permitting-information-retail-food-establishments.

(1) The permit or proof of permit shall be posted in a location in the food establishment conspicuous to consumers.

~~[(2) Permits for mobile food units, including pushcarts and roadside food vendors, shall be displayed on the unit at all times.]~~

(2) ~~[(3)]~~ A permit shall only be issued when all past due and delinquency fees are paid. This applies to any delinquent penalties due under an order issued by the department.

(i) Renewal of a permit.

(1) The permit holder shall submit a renewal application and permit fees before the expiration date of the permit. A person filing a renewal application after the expiration date shall pay an additional $100 as a delinquency fee.

(2) The department may renew a permit if the applicant is compliant with Chapter 228 of this title, and all fees are paid.

(3) Failure to submit a renewal application and permit fee before the expiration date, while continuing to operate, is a violation of Texas Health and Safety Code Chapter 437, and is subject to enforcement proceedings under that chapter, and §229.374 of this subchapter (relating to Refusal, Revocation, or Suspension of a Permit; Administrative Penalties).

(j) Amendment of permit.

(1) Fee. For a permit amendment, including a change of name or physical location of a food establishment requiring a permit under Texas Health and Safety Code §437.0125, the permit holder shall pay as follows:

(A) for an establishment with gross annual volume of food sales of $0 - $49,999.99, the fee is $125;

(B) for an establishment with gross annual volume of food sales of $50,000.00 - $149,999.99, the fee is $250;

(C) for an establishment with gross annual volume of food sales of $150,000.00 or more, the fee is $375; or

(D) for each [~~mobile food unit, roadside vendor,~~] school food establishment or central preparation facility, the fee is $125.

(2) Change of location. A permit is not transferrable to another location for any non-mobile food establishment except in the case of a permit amendment as described in paragraph (1) of this subsection.

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 April 10, 2026.

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Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: May 24, 2026
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SUBCHAPTER Z. INSPECTION FEES FOR RETAIL FOOD ESTABLISHMENTS

25 TAC §229.472

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001, and Texas Health and Safety Code Chapters 437 and 437B.

The amendment implements Texas Government Code §524.0151, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

§229.472. Inspection Fees and Procedures.

(a) Inspection fees. A person operating a non-permitted food establishment, who requests an inspection be conducted by the department, shall pay an inspection fee for each inspection of the establishment. All inspection fees are nonrefundable.

(1) A school food establishment requesting two inspections per year shall pay for both inspections before the first inspection is conducted by the department. The school food establishment fee is $300 for two inspections. The fee is non-refundable.

(2) A person operating a non-permitted food establishment that is not a school food establishment shall pay an inspection fee for each inspection of the establishment.

(A) The inspection fee is $150 per inspection.

(B) An application and inspection fee must be submitted to the department at least 6 weeks before the earliest desired inspection date.

(b) Non-permitted food establishments, other than schools, inspection fee requirement. Non-permitted food establishments, that are nonprofit organizations as defined in §229.471(6) [~~§229.471(7)~~] of this subchapter (relating to Definitions), are not exempt from paying an inspection fee as required under subsection (a) of this section. Nonprofit organizations are exempt from obtaining a permit as specified in §229.372(c) of this chapter (relating to Permitting Fees and Procedures). Nonprofit organizations shall comply with §229.473 of this subchapter (relating to Minimum Standards for Permitting and Operation). Any civic or fraternal organization, charity, lodge, association, proprietorship, corporation, or church not meeting the definition of "nonprofit organization" shall obtain a permit, pay the required fee, and comply with the requirements for permitted food establishments. Internal Revenue Service documentation of nonprofit status shall be provided, if requested by the department.

(c) Food establishments under the jurisdiction of county health departments or public health districts. The department shall not inspect or collect an inspection fee from food establishments permitted or inspected by a county or public health district under Texas Health and Safety Code Chapter 437, or food establishments permitted or inspected under authority granted to municipalities.

(d) Exemptions from fees. The following meet the definition of "food establishment" in §229.471 of this subchapter, but are not required to pay a fee to the department or obtain a Retail Food Establishment inspection under this subchapter:

(1) food establishments permitted and inspected under authority granted to municipalities;

(2) food establishments inspected by state college or university personnel in accordance with the requirements of §229.373 of this chapter (relating to Minimum Standards for Permitting and Operation);

(3) food establishments licensed under Texas Health and Safety Code Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under §229.372 of this chapter;

(4) food establishments under the inspection authority of the Texas Health and Human Services Commission (HHSC) Regulatory Services Division;

(5) facilities under the inspection authority of the HHSC Regulatory Services Division;

(6) hospitals under the inspection authority of the HHSC Regulatory Services Division and that do not serve food to the general public;

(7) federally inspected food establishments on federal property;

(8) correctional facilities under the inspection authority of the Texas Department of Criminal Justice; and

(9) mobile food vendors. The inspection and fee requirements for mobile food vendors are found in Chapter 226 of this title (relating to Mobile Food Vendors). [~~mobile food units permitted and inspected under the authority granted to municipalities and which operate only within their respective jurisdictions. (Except for units which handle only pre-packaged, non-TCS foods, a mobile food unit is classified as a food establishment, regardless of whether food preparation occurs on the unit.)~~]

(e) Application for inspection request. The inspection request shall be submitted on an application form furnished by the department and shall contain the following information:

(1) the name under which an establishment is operated;

(2) the mailing address and street address of the establishment; and

(3) the signature of the owner, operator, or other authorized person.

(f) Two or more establishments. If a person owns or operates two or more establishments, each establishment shall request inspections separately by listing the name and address of each establishment on separate application forms. A school district may submit a single application and attach a listing of each school food establishment requesting inspection.

(g) Application form. Copies of the application for inspection request form may be obtained from the department, 1100 West 49th Street, Austin, Texas 78756-3182, or online at https://www.dshs.texas.gov/retail-food-establishments/permitting-information-retail-food-establishments.

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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Cynthia Hernandez
General Counsel
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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§745.21, 745.609, 745.615, 745.631, 745.643, 745.683, 745.695, 745.751, 745.775, and 745.8483; new §745.675; and the repeal of §745.601 and §745.607.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (SB) 1849, 88th Legislature, Regular Session, 2023. SB 1849 created Texas Health and Safety Code Chapter 810, Interagency Reportable Conduct Search Engine, and amended Texas Human Resources Code §§42.056(b), 42.159(c), and 42.206(c). The search engine created by the bill will include findings of reportable conduct by the Texas Education Agency, Texas Juvenile Justice Department, and HHSC Employee Misconduct Registry that were not previously considered by HHSC Child Care Regulation (CCR). CCR is proposing amended, new, and repealed rules to define the search engine required by statute, require CCR's use of the search engine as part of any subject's background check, and clarify that the reportable conduct findings may prevent a person from being present at an operation or

affect a person's ability to receive or maintain an administrator's license.

The purpose of the proposal is also to update rules and definitions to provide additional detail regarding background check and licensing procedures and to improve the readability and understanding of the rules.

SECTION-BY-SECTION SUMMARY

The proposed amendment to Subchapter A, Division 2, amends the title of the division.

The proposed amendment to §745.21 (1) amends the rule title; (2) amends and deletes many of the existing terms and definitions; (3) adds terms and definitions to the rule; and (4) updates and incorporates definitions from current §745.601 and §745.607, which are proposed for repeal.

The proposed repeal of Subchapter F, Division 1, deletes §745.601, the division's only rule, as it is no longer necessary because the content of the rule has been updated and added to proposed amended §745.21.

The proposed amendment to Subchapter F, Division 2, renumbers the division to Division 1.

The proposed repeal of §745.607 deletes the rule as it is no longer necessary because the content of the rule has been updated and added to proposed amended §745.21.

The proposed amendment to §745.609 (1) amends the rule title; (2) removes cross-references to other rules; (3) adds a Search Engine for Multi-Agency Reportable Conduct (SEMARC) check as part of a required background check; and (4) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to §745.615 (1) amends the rule title; (2) clarifies that a person who requires a background check in a listed family home that only provides care for related children also needs a National Sex Offender Registry check if the person lived in another state or territory within five years prior to the submission of the background check request; (3) adds a SEMARC check as part of a required background check; and (4) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 3, renumbers the division to Division 2.

The proposed amendment to §745.631 (1) amends the rule title; (2) makes nonsubstantive changes to language and punctuation for better readability and understanding; and (3) eliminates examples outlining when the Centralized Background Check Unit may place conditions on a subject's presence.

The proposed amendment to §745.643 (1) amends the rule title; and (2) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 4 (1) renumbers the division to Division 3; and (2) amends the title of the division.

Proposed new §745.675 describes the SEMARC findings that would bar a subject's presence at an operation or qualify the subject for a risk evaluation.

The proposed amendment to Subchapter F, Division 5, (1) renumbers the division to Division 4; and (2) amends the title of the division.

The proposed amendment to §745.683 (1) amends the rule title; (2) clarifies that a child-placing agency may request a risk evaluation; and (3) simplifies language for better readability and understanding.

The proposed amendment to §745.695 (1) amends the rule title; (2) removes cross-references to other rules; and (3) simplifies language and makes nonsubstantive changes to punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 7, renumbers the division to Division 6.

The proposed amendment to §745.751 (1) amends the rule title; (2) simplifies language to clarify that CCR considers the severity and circumstances of a background check result and the prospective position, role, and responsibilities of the person at the operation when determining if the person is an immediate threat to the health or safety of children; and (3) makes nonsubstantive changes to language, punctuation, and rule organization for better readability and understanding.

The proposed amendment to Subchapter F, Division 8, renumbers the division to Division 7.

The proposed amendment to §745.775 (1) amends the rule title; (2) removes rule language regarding financial crimes to match CCR's current background check process for licensed administrators and applicants for an administrator's license; and (3) eliminates duplication of content that exists in another rule.

The proposed amendment to §745.8483 (1) amends the rule title; (2) clarifies that confidentiality may be required by statute or rule; and (3) makes nonsubstantive changes to language and punctuation for better readability and understanding.

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, there will be an estimated additional cost to state government as a result of enforcing and administering the rules as proposed. Enforcing and administering the rules does not have foreseeable implications relating to costs or revenues of local governments.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated cost of $3,795,008 in fiscal year (FY) 2027, $1,209,658 in FY 2028, $1,209,658 in FY 2029, $1,209,658 in FY 2030, and $1,209,658 in FY 2031. Funds were appropriated for these costs by the 89th Legislature, Regular Session, 2025, through the Exceptional Item process for the FY 2027 and FY 2028 biennium. The costs associated with this proposal are shared with other HHSC proposals, implementing SB 1849, that will be published in future issues of the *Texas Register*.

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 create new 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 expand and repeal existing regulations;

(7) the proposed rules 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 will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities required to comply with the rules.

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: (1) are necessary to protect the health, safety, and welfare of the residents of Texas; (2) do not impose a cost on regulated persons; and (3) are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rules are in effect, the public benefit will be increased protections for children in regulated settings from persons with a history of reportable conduct.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the rules do not change background check fees or require any additional resources to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@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 (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) 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 postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R018" in the subject line.

SUBCHAPTER A. PRECEDENCE AND DEFINITIONS

DIVISION 2. DEFINITIONS [~~FOR LICENSING~~]

26 TAC §745.21

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.21. Definitions. [~~What do the following words and terms mean when used in this chapter?~~]

The following [~~words and~~] terms[~~, when used~~] in this chapter, have the following meanings unless the context clearly indicates otherwise:

(1) Abuse--As defined in the Texas Family Code[~~,~~] §261.001(1) [~~(relating to Definitions) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5 (relating to Abuse, Neglect, and Exploitation)~~].

(2) Affinity--Related by marriage, as set forth in Texas Government Code[~~,~~] §573.024 [~~(relating to Determination of Affinity)~~]

(3) Business entity--May include an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, limited liability company, political subdivision, or state agency. For purposes of this chapter, this definition does not include any type of "partnership." [~~May be an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, or limited liability company.~~]

(4) Capacity--The maximum number of children that a permit holder may care for at one time.

(5) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child.

(6) CBCU--Centralized Background Check Unit. A subdivision of Child Care Regulation that conducts background checks.

(7) CCR--Child Care Regulation. A department of the Texas Health and Human Services Commission responsible for regulatory oversight of child care operations.

(8) Central registry--A DFPS database of persons who have been found by DFPS to have abused, neglected, or exploited a child.

(9) [~~(6)~~] Child--A person under 18 years old.

(10) [~~(7)~~] Child care [~~Child-care~~] facility--An operation defined in Texas Human Resources Code §42.002(3). [~~An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, employer-based child care operations, or shelter care operations.~~]

(11) [~~(8)~~] Child day care--Taking care of, supervising, teaching, or educating:

(A) a child under 14 years old who is not related to the caregiver, for less than 24 hours a day, in a place other than the child's own home, including taking care of school-age children before or after the regular school day; or

(B) a related child under 14 years old, for less than 24 hours a day, that occurs in the caregiver's or child's home if the care is given:

(i) under the auspices of a listed family home; and

(ii) the caregiver follows the requirements in the Texas Labor Code Chapter 313, including providing care in the child's home only if:

(I) the child or one of the child's siblings is disabled;

(II) the child or one of the child's siblings is under 18 months old;

(III) the child has a parent 18 years old or younger;

(IV) the child has a parent 19 years old, who is in high school working towards a diploma;

(V) the child's parent works during the evening, overnight, or on the weekend and taking the child out of the home would be disruptive to the child; or

(VI) the Texas Workforce Commission determines there are no other child care options available in the community. [~~As defined in §745.33 of this chapter (relating to What is child day care?).~~]

[~~(9) Child-placing agency (CPA)--A person, including a sole proprietor, partnership, or business or governmental entity, other than the parents of a child, who plans for the placement of or places a child in a child care operation or adoptive home.~~]

(12) [~~(10)~~] Children related to the caregiver--Children described in Texas Human Resources Code §42.002(16) [~~who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree~~].

(13) Client in care--A child or young adult in the care of an operation.

(14) [~~(11)~~] Consanguinity--As [~~Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is~~] defined in Texas Government Code[,] §573.022 [~~(relating to Determination of Consanguinity)~~].

(15) [~~(12)~~] Contiguous [~~operations~~]--Sharing [~~Two or more operations that touch at a point on~~] a common border or [~~are~~] located in the same building.

(16) [~~(13)~~] Controlling person--A person described in Texas Human Resources Code §42.002(18). [~~As defined in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).~~]

(17) Criminal history--Information collected by criminal justice agencies about a person's interactions with the criminal justice system, including a person's record of arrests, convictions, and other types of criminal justice involvement.

(18) Days--Calendar days, unless otherwise stated.

(19) [~~(14)~~] Deficiency--Any failure to comply with a statute, administrative rule, minimum standard, condition on a permit, [~~rule, statute, specific term of your permit,~~] or condition of [~~your~~] probation.

(20) Designated finding--A finding in the DFPS central registry against a person (also known as a designated perpetrator) who has not finished challenging the finding through an administrative review, a due process hearing, or other rights of appeal.

(21) [~~(15)~~] Designated perpetrator--A person listed in the DFPS central registry who has a designated finding of child abuse, neglect, or exploitation. [~~As defined in §745.731 of this chapter (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).~~]

(22) [~~(16)~~] Designee--The person named on the application as the designated representative of the operation who is officially authorized by the owner to speak for and act on the operation's [~~operations'~~] behalf.

(23) DFPS--Texas Department of Family and Protective Services.

(24) DPS--Texas Department of Public Safety.

(25) [~~(17)~~] Employee--Any natural person who works for or has a contract [~~employed by or that contracts~~] with the permit holder [~~, including caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center or program director~~].

(26) [~~(18)~~] Endanger--To expose a child to a situation where physical or mental injury to a child is likely to occur.

(27) [~~(19)~~] Exploitation--As defined in Texas Family Code[,] §261.001(3) [~~and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5~~].

(28) FBI--Federal Bureau of Investigation.

(29) Fingerprint-based criminal history check--A search that compares a subject's fingerprints with the:

(A) DPS database of arrests and dispositions for alleged crimes committed in Texas;

(B) FBI database of arrests and dispositions for alleged crimes committed in the United States and Territories;

(C) DPS database of the Texas sex offender registry; and

(D) FBI database of the National Sex Offender Registry.

[~~(20) Finding--The conclusion of a Licensing investigation or inspection indicating compliance or deficiency with one or more minimum standards, rules, or statutes.~~]

(30) [~~(21)~~] Full license--Issued to operate a child care operation after meeting the requirements of this chapter either while maintaining a license or to issue a full license instead of an initial license as described in this chapter. [~~The type of full permit that is issued to an operation that requires a license. See also §745.341 of this chapter (relating to What type of permit does Licensing issue?) and §745.343 of this chapter (relating to What is the difference between an initial license and a full license?).~~]

(31) [~~(22)~~] Full permit--Includes a listing, registration, compliance certification, or a full license. [~~A full permit includes a listing, registration, compliance certificate, or a full license. See also §745.341 and §745.343 of this chapter.~~]

(32) [~~(23)~~] Governing body--A person or group of persons or officers of a business or governmental entity that has ultimate control over the operation [~~entity~~].

(33) [~~(24)~~] Governmental entity--A political subdivision or state agency of Texas.

(34) HHSC--Texas Health and Human Services Commission.

(35) HHSC EMR--The Employee Misconduct Registry maintained by HHSC.

(36) [~~(25)~~] Household member--A person who lives in an operation or verified foster home, who is not a caregiver or client in care. [~~An individual, other than the caregivers, who resides in an operation.~~]

(37) Initial background check--The first background check that an operation requests for a person.

(38) [~~(26)~~] Initial license--As defined in Texas Human Resources Code §42.051. An initial license is valid for 12 months from the date of issuance; however, CCR may renew an initial license for up to an additional six months. [~~A time-limited license that we issue to certain applicants for a full license in situations described in §745.345 of this chapter (relating to When does Licensing issue an initial license?).~~]

(39) [~~(27)~~] Licensed administrator--A licensed child care administrator or licensed child placing agency administrator as defined in Texas Human Resources Code §43.001. [~~As defined in §745.8905 of this chapter (relating to What is a licensed administrator?).~~]

(40) Licensing--CCR, which was formerly titled Child Care Licensing.

(41) [~~(28)~~] Minimum standards--Regulatory administrative rules that [~~Minimum requirements for~~] permit holders must follow [~~that are enforced by Licensing~~] to protect the health, safety, and well-being of children. These rules are found [~~The minimum standards consist of the rules contained~~] in:

(A) Chapter 742 of this title (relating to Minimum Standards for Listed Family Homes);

(B) Chapter 743 of this title (relating to Minimum Standards for Shelter Care);

(C) Chapter 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs);

(D) Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers);

(E) Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes);

(F) Chapter 748 of this title (relating to Minimum Standards for General Residential Operations);

(G) Chapter 749 of this title (relating to Minimum Standards for Child-Placing Agencies); and

[~~(H) Chapter 750 of this title (relating to Minimum Standards for Independent Foster Homes); and~~]

(H) [~~(I)~~] Subchapter D, Division 11 of this chapter (relating to Employer-Based Child Care).

(42) Name-based Texas criminal history check--A search that compares a subject's name with the:

(A) DPS database of arrests and dispositions for alleged crimes committed in Texas; and

(B) DPS database for the Texas sex offender registry.

(43) National Sex Offender Registry--A national database that has records on persons who are required to register on a jurisdiction's sex offender registry.

(44) [~~(29)~~] Neglect--As defined in the Texas Family Code[~~,~~] §261.001(4) [~~and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5~~].

(45) [~~(30)~~] Operation (also known as a child care [~~child care~~] operation)--Any person or entity that must have a permit according to Texas Human Resources Code Chapter 42. [~~A sole proprietor, partnership, or business or governmental entity offering a program that is subject to Licensing's regulation, including day-care operations and residential child care operations. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, employer-based child care operation, shelter care operation, or any operation that requires a permit under Chapter 42, Texas Human Resources Code.~~]

(46) Out-of-state child abuse and neglect registry check--A search that compares the subject's name with another state's or territory's database of persons who have been found to have abused or neglected a child.

(47) Out-of-state criminal history check--A search that compares the subject's name or fingerprints with another state's or territory's database of arrests and dispositions for crimes committed in the other state or territory.

(48) Out-of-state sex offender registry check--A search that compares the subject's name with another state's or territory's sex offender registry.

(49) [~~(31)~~] Owner--The sole proprietor, partnership, or business or governmental entity that owns an operation that is subject to CCR's regulation [~~by Licensing~~].

(50) [~~(32)~~] Parent--A person or entity that [~~who~~] has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian of the child or a legally authorized representative of an entity with managing conservatorship of the child.

(51) [~~(33)~~] Permit--A license, certification, registration, listing, compliance certificate, or any other written authorization granted by CCR [~~Licensing~~] to operate a child care operation. This also includes an administrator's license.

(52) [~~(34)~~] Permit holder--The owner of the operation that is granted the permit.

(53) [~~(35)~~] Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(54) Present at an operation--A person is present at an operation if the person has or may have contact with children in care. This includes:

(A) the person is physically present at an operation while any child is in care, unless the person is present for the sole purpose of attending orientation or pre-service training or is briefly present for business unrelated to child care and does not have contact with children in care;

(B) the person has responsibilities that may require the person to be present at an operation while any child is in care;

(C) the person resides at an operation or is present at an operation on a regular or frequent basis; or

(D) the person has direct access to any child in care, including supervised or unsupervised direct access to any child.

(55) [~~(36)~~] Program--Activities and services provided by an operation.

(56) Regularly or frequently present at an operation--Visiting the operation often, at regular times, or consistently over time.

(A) A person is regularly or frequently present at an operation if the person:

(i) is present at the operation on a scheduled basis;

(ii) visits the operation three or more times in a 30-day period, with each visit being less than 24 hours, and with multiple or repeated visits to an operation within the same day counting as one visit;

(iii) stays or lives at the operation for more than seven days in a row; or

(iv) stays or lives at the operation three or more times per year, with each stay being more than 48 hours.

(B) For foster homes, the following persons are not considered to be regularly or frequently present at a foster home:

(i) a child unrelated to a foster parent who visits the foster home, unless:

(I) the child is responsible for the care of a foster child; or

(II) there is a reason to believe that the child has a criminal history or previously abused or neglected another child; and

(ii) an adult unrelated to a foster parent who visits the foster home, unless:

(I) the adult has unsupervised access to children in care; or

(II) there is a reason to believe that the adult has a criminal history or previously abused or neglected a child.

(C) For a child day care operation, a parent is not considered regularly or frequently present at the operation only because the parent is visiting his or her child. A parent is considered regularly or frequently present at the operation if the parent volunteers at the operation.

(57) [~~(37)~~] Regulation--Includes the following:

(A) the [~~The~~] development of administrative rules, including minimum standards, as provided by statutory authority; and

(B) the [~~The~~] enforcement of requirements that are minimum standards, administrative rules, statutes, or any condition or restriction HHSC has [~~we have~~] placed on a permit. Anyone providing or seeking to provide care or a service that is subject to regulation must comply with all [~~the~~] applicable requirements. This includes a permit holder, an applicant for a permit, and anyone providing care or a service without the appropriate permit.

(58) Renewal background check--A background check that an operation requests for a person who has already had an initial background check at the operation.

(59) [~~(38)~~] Report--Any [~~A~~] communication to CCR [~~Licensing~~] or DFPS [~~the Department of Family and Protective Services (DFPS)~~], including the Statewide Intake division of DFPS, of:

(A) an [~~An~~] allegation of a violation of [~~deficiency in~~] a minimum standard, rule, or statute; or

(B) any [~~Any~~] other possible risk to a child in the care of an operation that is subject to CCR's regulation [~~by Licensing~~].

(60) [~~(39)~~] Residential child care--The care, custody, supervision, assessment, training, education, or treatment of a child who is not related by blood, marriage, or adoption to the owner or operator of the operation, for all of the 24-hour day, regardless of whether the operation is operated for profit or charges for the services it offers. [~~As defined in §745.35 of this chapter (relating to What is residential child care?).~~]

(61) Risk evaluation--A CBCU process to determine if a person's background check results will allow the person to be present at an operation.

(62) SEMARC--Search Engine for Multi-Agency Reportable Conduct as established by Texas Health and Safety Code Chapter 810. For CCR background check processes, a DFPS central registry check is separate from a SEMARC check.

(63) SEMARC finding--Result of a SEMARC check that shows the determination by a participating state agency that a person engaged in reportable conduct as defined in Texas Health and Safety Code §810.001(6), and any information about the determination recorded in SEMARC.

(64) [~~(40)~~] School-age child--A child who is five years of age or older and is enrolled in or has completed kindergarten.

(65) [~~(41)~~] State Office of Administrative Hearings (SOAH)--The state agency responsible for conducting certain administrative hearings for other state agencies, including HHSC. [~~See §745.8831 of this chapter (relating to What is a due process hearing?).~~]

(66) Subject of a background check--A person for whom the operation submits a request for a background check.

(67) Substitute--A person who fills in for an absent employee or caregiver at an operation.

(68) Sustained finding--A finding in the DFPS central registry against a person (also known as a sustained perpetrator) who has been offered due process, and:

(A) the person has waived the person's due process rights by not requesting an administrative review and a due process hearing timely or by waiving those rights in writing; or

(B) the child abuse, neglect, or exploitation finding was upheld in the due process hearing and any subsequent appeals.

(69) [~~(42)~~] Sustained perpetrator--A person listed in the DFPS central registry who has a sustained finding of abuse, neglect, or exploitation of a child. [~~See §745.731 of this chapter (relating to~~

~~Who are designated perpetrators and sustained perpetrators of child abuse or neglect?).~~]

(70) TEA--Texas Education Agency.

(71) Texas sex offender registry--A registry maintained by DPS that contains records on persons who are required to register as sex offenders in Texas.

(72) TJJD--Texas Juvenile Justice Department.

(73) Unsupervised access--Access to a child in care without the presence of another person who is a qualified caregiver.

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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For further information, please call: (512) 438-3269

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SUBCHAPTER F. BACKGROUND CHECKS
DIVISION 1. DEFINITIONS

26 TAC §745.601

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.601. What words must I know to understand this subchapter?

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

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DIVISION 1. REQUESTING BACKGROUND CHECKS

26 TAC §745.609, §745.615

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.609. Background Check Requirements. [~~What types of background checks are required for persons at my operation?~~]

[~~(a)~~] Except for listed family homes that only care for children related to the caregiver, a person [~~as described in subsection (b) of this section, persons~~] required to have a background check [~~under §745.605 of this division (relating to For whom must I submit requests for background checks?)~~] must have the following types of background checks:

(1) either a: [~~As further described in §745.611 of this division (relating to Which persons at my operation require either a fingerprint-based criminal history check or a name-based Texas criminal history check?), either a:~~]

(A) fingerprint-based [~~Fingerprint-based~~] criminal history check; or

(B) name-based [~~Name-based~~] Texas criminal history check;

(2) a central registry [~~A Central Registry~~] check;

(3) a SEMARC check;

(4) [~~(3)~~] if the [~~If your~~] operation is a child day care [~~day-care~~] operation that is not an employer-based child care operation or a shelter care operation, a National Sex Offender Registry check for persons who require a fingerprint-based criminal history check [~~under §745.611(a)(1) of this division~~]; and

(5) [~~(4)~~] for certain persons identified in this division who have lived outside of Texas, an: [~~As further described in §745.613 of this division (relating to Which persons at my operation must have an out-of-state criminal history check, an out-of-state child abuse and neglect registry check, and an out-of-state sex offender registry check?), for certain persons, an:~~]

(A) out-of-state [~~Out-of-state~~] criminal history check;

(B) out-of-state [~~Out-of-state~~] child abuse and neglect registry check; and

(C) out-of-state [~~Out-of-state~~] sex offender registry check.

[~~(b) This rule does not apply to listed family homes that only provide care to related children. See §745.615 of this division (relating~~

~~to What types of background checks are required for persons at listed family homes that only provide care to related children?).]~~

§745.615. Background Check Requirements for Certain Listed Family Homes. ~~[What types of background checks are required for persons at listed family homes that only provide care to related children?]~~

For listed family homes that only care for [~~provide care to related~~] children related to the caregiver, a person [~~persons~~] required to have a background check [under §745.605 of this division (relating to For whom must I submit requests for background checks?)] must have the following types of background checks:

(1) a [~~A~~] name-based Texas criminal history check [~~with a Texas sex offender registry check~~], unless [~~except~~] the person must have a fingerprint-based criminal history check and National Sex Offender Registry check because [~~if~~]:

(A) the [~~The~~] person has lived in another state or territory [~~resided outside of Texas~~] any time during the five years before [~~five-year period prior to~~] the date [~~you submit~~] a background check request is submitted [~~for a background check~~]; or

(B) there [~~There~~] is reason to believe the person has criminal history in another state; [~~and~~]

(2) a central registry [~~A Central Registry~~] check; and[~~.~~]

(3) a SEMARC check.

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

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DIVISION 2. REQUESTING BACKGROUND CHECKS

26 TAC §745.607

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.607. What are the different types of background checks?

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

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DIVISION 2. DETERMINATIONS REGARDING BACKGROUND CHECKS

26 TAC §745.631, §745.643

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.631. Conditions on a Subject's Presence. ~~[In what situations may the CBCU place conditions or restrictions on a subject's presence at an operation?]~~

The CBCU may place conditions [~~or restrictions~~] on a person's [~~subject's~~] presence at an operation if [~~that~~] the CBCU determines the conditions to be necessary to protect the health or safety of children. [~~, including in the following situations:~~]

~~[(1) While the subject's out-of-state criminal history check or out-of-state child abuse or neglect registry check is pending, if applicable, and the CBCU has not received information that renders the subject ineligible to be present at an operation;]~~

~~[(2) Pending the outcome of a risk evaluation for an eligible criminal conviction, child abuse and neglect finding, or crime for which the subject has been arrested or charged;]~~

~~[(3) For an approved risk evaluation; or]~~

~~[(4) For a minimum standard violation that is relevant to a condition or restriction already placed on a subject's presence at an operation.]~~

§745.643. Challenging the Accuracy or Completeness of Background Check Results. ~~[How can the subject of a background check challenge the accuracy or completeness of the information contained in the results of the background check?]~~

To challenge the accuracy or completeness of [~~the information contained in~~] the background check results [~~of the background check~~]:

(1) the person [~~The subject~~] should first talk to [~~work with~~] the CBCU representative who [~~that~~] made the background check determination and [~~to~~] provide updated disposition information or additional documentation; and

(2) if [~~If~~] the person [~~subject~~] cannot resolve the problem this way [~~is unable to resolve the issue in this manner~~], then the person may seek help [~~subject may seek resolution of the issue~~] from the agency that gave [~~provided~~] the results to [~~upon which~~] the CBCU [~~background check determination was made~~].

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

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DIVISION 3. CRIMINAL HISTORY, SEX OFFENDER REGISTRY, CHILD ABUSE OR NEGLECT, AND SEMARC FINDINGS

26 TAC §745.675

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.675. SEMARC Findings.

(a) SEMARC findings from HHSC EMR, TEA, and TJJD that involve reportable conduct such as abuse, neglect, exploitation, and inappropriate relationships may affect a person's ability to be present at an operation.

(b) Except as addressed in subsection (c) of this section, the following SEMARC findings result in an absolute bar to a person's presence at an operation:

(1) physical or sexual abuse;

(2) inappropriate sexual conduct or communication with a student or child; and

(3) unprofessional conduct demonstrating an inappropriate sexual, romantic, or interpersonal relationship with or interest in a child.

(c) A SEMARC finding regarding physical abuse results in an absolute bar except for a kinship caregiver, who is eligible for a risk evaluation if the finding is more than five years old.

(d) In addition to the exception noted in subsection (c) of this section, the following SEMARC findings are eligible for a risk evaluation:

(1) neglect;

(2) emotional, verbal, or psychological abuse;

(3) financial exploitation or misappropriated funds or property; and

(4) any other finding not noted in this section.

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
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For further information, please call: (512) 438-3269

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DIVISION 4. EVALUATION OF RISK BECAUSE OF A FINDING

26 TAC §745.683, §745.695

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.683. Risk Evaluation Request. [~~When may the subject of a background check request a risk evaluation?~~]

After a person or a child-placing agency (CPA) receives a written notification regarding background check results with eligibility to request a risk evaluation [~~an operation has submitted a request for a background check~~], the person or CPA [~~subject of a background check~~] may request a risk evaluation as described in the written notice [~~when the CBCU has provided the subject with written notice that the subject is eligible for~~

~~a risk evaluation for a criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged~~].

§745.695. Risk Evaluation Determination. ~~[What factors does the CBCU use when deciding whether the subject of a background check poses a risk to the health or safety of children in a particular operation?]~~

When making a risk evaluation determination [~~decision~~], the CBCU reviews [~~will review~~] all of the information submitted by the requestor [~~submitted under §745.689 or §745.691 of this division (relating to What must a request for a risk evaluation based on criminal history include? and What must a request for a risk evaluation based on a child abuse or neglect finding include?, respectively)~~], checks if [~~consider whether the requestor failed to submit~~] any information is missing, and reviews [~~review~~] any other relevant information. The CBCU considers [~~will consider~~] the following factors when deciding if [~~assessing whether~~] the person is [~~subject poses~~] a risk to the health or safety of children:

(1) the [~~The~~] compliance history and regulatory status of the operation;

(2) the person's [~~The subject of a background check's~~] intended or current role and responsibility at the operation;

(3) how much time has passed since the finding or criminal history occurred [~~The length of time that has elapsed since the criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged~~];

(4) the [~~The~~] nature and severity of the finding or criminal history [~~criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged~~];

(5) the person's [~~The subject's~~] role in the finding or criminal history [~~criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged~~], including the person's age [~~of the subject~~] at the time of the finding [~~crime or abuse or neglect~~];

(6) whether [~~Whether~~] there is a pattern of criminal activity [~~any type of crime~~] or abusive, neglectful, or exploitative conduct related to the person's interactions with vulnerable populations [~~abuse or neglect~~];

(7) work [~~Work~~] history, references, and any evidence of rehabilitative effort over the past 10 years [~~, such as a copy of a certificate indicating completion of classes, treatment, or support groups (either mandatory or voluntary) that the subject has taken~~];

(8) any [~~Any~~] federal requirements regarding criminal history and child abuse and neglect findings; and

(9) any [~~Any~~] other relevant factor that enhances or mitigates the risk to the health or safety of children in a particular operation.

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
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DIVISION 6. IMMEDIATE THREAT OR DANGER TO THE HEALTH OR SAFETY OF CHILDREN

26 TAC §745.751

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.751. Determination of an Immediate Threat. ~~[What factors does Licensing consider when determining if a person or an operation is an immediate threat to the health or safety of children?]~~

CCR [~~Licensing~~] considers the following factors when determining if a person [~~, including the subject of a background check,~~] or an operation is an immediate threat to the health or safety of children:

(1) the severity and circumstances of any deficiencies, findings, or criminal history, including any relation to abuse or neglect [~~The severity of the deficiency, including abuse or neglect~~];

~~[(2) The circumstances surrounding the deficiency, including abuse or neglect;]~~

(2) [~~(3)~~] the [~~The~~] seriousness of any injuries to children;

(3) [~~(4)~~] how much time has passed since any deficiencies, findings, or criminal history finding [~~The length of time since the deficiency, including abuse or neglect, occurred~~];

(4) [~~(5)~~] if any deficiencies have [~~Whether the deficiency has~~] been repeated, if any corrections have been made, and how quickly corrections can be made;

(5) [~~(6)~~] the [~~The~~] compliance history and current regulatory status of the operation;

~~[(7) The current regulatory status of the operation;]~~

~~[(8) How quickly corrections to the deficiency can be made;]~~

~~[(9) If any corrections have already been made;]~~

(6) [~~(10)~~] the person's role [~~The role of the person~~] in the deficiency, finding, or criminal history [~~abuse or neglect~~];

(7) [~~(11)~~] the [~~The~~] current or prospective position, role, and responsibilities of the person at the operation; and

(8) [~~(12)~~] the [~~The~~] degree and immediacy of the threat or danger.

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
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DIVISION 7. ADMINISTRATOR'S LICENSING

26 TAC §745.775

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.775. Licensed Administrator Background Checks. [~~How may a criminal conviction or a child abuse or neglect finding affect my ability to receive or maintain an administrator's license?~~]

(a) In addition to the background check process for administrator's licensing, the operation where a person serves as an administrator must also request a background check, as specified in §745.605(a)(2)(A) of this subchapter (relating to For whom must I submit requests for background checks?). The person must meet the background check requirements in this chapter to be present at the operation. This process is separate from the administrator's licensing background check process. [~~You must meet the background check requirements that are part of the administrator's licensing process in Subchapter N of this chapter (relating to Administrator's Licensing).~~]

(b) A person may receive and maintain an administrator's license if the person's background check results allow for a risk evaluation. However, CCR may place restrictions on the license, and an approved risk evaluation must be obtained before the person can be present at an operation. [~~In addition to complying with the criminal conviction requirements specified in §745.661(a)(1) of this subchapter (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?), you are also monitored for offenses related to financial crimes, including all Title 7 Offenses Against Property, Title 8 Offenses Against Administration, and Title 11 Organized Crime offenses in the Penal Code. financial crimes, including all Title 7 Offenses Against Property, Title 8 Offenses Against Administration, and Title 11 Organized Crime offenses in the Penal Code.~~]

~~[(c) You may not receive or maintain an administrator's license if you:]~~

~~[(1) Have a criminal conviction, as specified in §745.661(a)(1) of this subchapter or a child abuse or neglect finding as specified in §745.671 of this subchapter (relating to What types of findings from the Central Registry or out-of-state child abuse and neglect registries may affect a subject's ability to be present at an operation?) that would bar you from being present at an operation;]~~

~~[(2) Are on a sex offender registry; or]~~

~~[(3) Have a felony conviction of a financial crime, as specified in subsection (b) of this section, within the past 10 years.]~~

~~[(d) You may receive and maintain an administrator's license if you have a felony conviction of a financial crime older than 10 years or a misdemeanor conviction of a financial crime. However, these crimes do require a risk evaluation and Licensing may place restrictions on your license. You must have an approved risk evaluation before you may be present at an operation.]~~

~~[(e) You may receive and maintain an administrator's license if you have a criminal conviction or a child abuse or neglect finding that only requires a risk evaluation. However, Licensing may place restrictions on your license. You must have an approved risk evaluation before you may be present at an operation.]~~

~~[(f) In addition to the Administrator's Licensing background check process, the operation where you serve as an administrator must also request a background check on you, as specified in §745.605(a)(2)(A). This process is separate and apart from the Administrator's Licensing background check process.]~~

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
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SUBCHAPTER K. INSPECTIONS, INVESTIGATIONS, AND CONFIDENTIALITY
DIVISION 3. CONFIDENTIAL RECORDS

26 TAC §745.8483

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, 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, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.8483. Portions of a Child Care Record that Are Confidential. [What portions of a child care record are confidential?]

The following parts [We can provide most portions of a child care record to the public. However, the following lists the portions] of a child care record [that] are confidential and will not be shared with [released to] the public in any manner, unless there is [noted as] an exception elsewhere in statute or rule [in §745.8487 of this division (relating to Are there any exceptions that allow the portions of a child care record that are confidential to be released to the public or certain persons?)]:

(1) information [Information] concerning an open investigation, including:

(A) interviews [Interviews] with operation staff, foster parents or other caregivers, children, or any other person; and

(B) internal [Internal] discussions by or among CCR [Licensing] staff;

(2) the [The] name of the reporter and any information identifying the reporter [that identifies the reporter];

(3) information [Information] received or obtained from another agency, entity, or person, if that information is confidential under law, including information related to background check findings [checks as explained further in Subchapter F of this title (relating to Background Checks)];

(4) any [Any] private information that is confidential under state or federal law, including:

(A) a [A] person's social security number;

(B) a [A] foster home screening, adoptive home screening, and post-placement adoptive report; and

(C) any [Any] information pertaining to pending court cases where the state is a party;

(5) any [Any] information that would interfere with:

(A) an [An] ongoing law enforcement investigation or prosecution;

(B) a DFPS [A Texas Department of Family and Protective Services] child abuse, neglect, or exploitation investigation; or

(C) an HHSC [A Texas Health and Human Services Commission] Long-Term Care Regulation adult abuse, neglect, or exploitation investigation;

(6) the [The] location of a family violence shelter or a victims of trafficking shelter center as defined by Texas Government Code §552.138;

(7) information about a person [Information pertaining to an individual] who received services at a family violence shelter or a victims of trafficking shelter center;

(8) any [Any] photograph, audio or visual recording, or documentation of a child; and

(9) any other information that is confidential by statute or rule. [Information that is confidential as described in §745.8497 of this division (relating to What confidentiality requirements apply to a person who is an applicant for a permit, a permit holder, or a former permit holder?); and]

[(10) Any other information that is confidential under state or federal law.]

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

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Karen Ray
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE
SUBCHAPTER X. MOUNTAIN LIONS

31 TAC §65.950

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §65.950, concerning Mountain Lions. The proposed amendment would create a mandatory harvest reporting system for mountain lions in Texas, which is a critical component of the department's ongoing attempts to better monitor mountain lion populations.

In 2022, the Chairman of the Commission directed the formation of a Mountain Lion Stakeholder Working Group consisting of landowners, livestock producers, private land managers, trappers, and natural resource professionals. The group was charged with making recommendations for the development of a mountain lion management plan. There was broad consensus that the current approach to data collection (voluntary reporting) is inadequate, because voluntary reports represent an unknown proportion of the total harvest, and that better data on mountain lion populations and demographics is necessary to make meaningful population assessments, guide research efforts, and inform agency actions, if any are necessary. Staff has continued dialogue with stakeholders over the last three years while canvassing management and regulatory strategies in other states, and has developed an integrated population model (IPM) that utilizes various population parameters (births, deaths, and movements in and out of local populations) to assess populations and develop more accurate estimates. Effective population monitoring requires data from multiple population parameters to allow a larger picture to coalesce. Birth rates and movements in and out of a population typically vary within limited and predictable ranges which can be quantified. The variation is primarily due to environmental conditions such as drought or food availability. Death rates from human causes, however, tend to fluctuate unpredictably and therefore should regularly be assessed for population estimates to be accurate. Because the primary source of mountain lion mortality in Texas, on the basis of all past studies in Texas and data from other states where hunting is permitted, appears to be people, a reliable annual estimate of total harvest is one of if not the most important pieces of information needed for the model to function optimally.

Because the functionality and utility of the IPM depend upon accurate, timely data, particularly with respect to mountain lion mortality and mortality rates, staff have concluded that the best avenue to acquiring meaningful scientific data on mountain lion populations is to require some sort of mandatory harvest reporting program, which would provide the department with accurate, highly useful data collected at county-level scale (because the population inferences for mountain lions must be made at broad spatial extents due to the species' large home ranges).

The proposed amendment would create new subsection (e) to require a person who takes a mountain lion to report the take within 24 hours via the department's website or mobile application. The report would provide basic information necessary for the department to supply data for the IPM, such as the date, county of harvest, and method of take, and do so in very close to real time (the more closely the data tracks actual events, the finer the resolution of the model). The department hastens to note that the automated report neither requests nor records location data at any level more precise than county level, nor does it request property names or other identifying information. The department notes that the functionality of the mobile application does not require network connectivity at the time a reporting requirement is executed; a person complies with reporting requirements by entering required data on a device, which records the date and time of the report. The information is then transmitted to the department when connectivity is established. The proposed new subsection also would require the submission of a biological sample from each mountain lion harvested, to consist of a premolar and a small patch of dry tissue, which allows the department to conduct definitive laboratory analysis unique to the harvested animal. For that reason, the rule also stipulates that biological samples be segregated on a per-animal basis, to avoid data corruption. Finally, the proposed amendment would provide an option for the department to conduct sample collection rather than the person who killed the mountain lion. The department notes that in either case, there is no cost to the person who killed the mountain lion.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be fiscal implications to the department as a result of administering or enforcing the rule as proposed of approximately $26,000, consisting of the cost of pre-paid mailers and the laboratory analysis of biological samples. The department generously estimates that no more than 250 mountain lions are killed each year; thus, at $4 per mailer, the cost of pre-paid mailers should be approximately $1,000 per year. The cost of laboratory analysis (tooth age analysis, genetic analysis) is estimated to be less than $100 per sample; thus, the department estimates the cost to the department to be approximately $25,000 per year.

There will be no fiscal implications to other units of state or local government.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be a better understanding of nongame species, the management of which is crucial to healthy, balanced, and functional wildlife systems.

The rule as proposed will not result in adverse economic impacts to persons required to comply.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the proposed rule will not result in a direct economic costs to small businesses and micro-businesses.

The department has determined that the rule as proposed will not affect rural communities, as it does not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will not create a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; create a new regulation (to require reporting of mountain lion harvest); expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Jonah Evans, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (830) 431-1491; email: jonah.evans@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendment is proposed under the authority of Parks and Wildlife Code, §67.004, which requires the commission by regulation to establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish or wildlife that the department considers necessary to manage the species.

The proposed amendment affects Parks and Wildlife Code, Chapter 67.

§65.950. Mountain Lions (Puma concolor).

(a) - (d) (No change.)

(e) A person who takes a mountain lion in this state must report the take via the department's website or mobile application within 24 hours.

(1) A report is not valid unless it contains, at a minimum, the following:

(A) species of harvest;

(B) date of harvest, if known;

(C) county of harvest;

(D) method of take; and

(E) measure of effort (the amount of time devoted to the take activity resulting in harvest).

(2) Within 60 days of reporting take as required by this subsection, the person who harvested the mountain lion shall submit a biological sample to the department, using a pre-paid mailer provided by the department, consisting of the identification number for the mountain lion assigned by the department's app or website, accompanied by:

(A) at least one complete, unbroken premolar (a permanent tooth located between the canines and the molars); and

(B) a patch of dry tissue of at least 5mm by 5mm in size.

(C) A separate mailer must be used for each mountain lion (i.e., one mailer shall not be used to submit biological samples from more than one mountain lion).

(3) In lieu of compliance with the provisions of paragraph (2) of this subsection, a person who kills a mountain lion may contact the department upon harvest and schedule a sample collection by department personnel. The provisions of this paragraph cease to apply seven days from the time the harvest has been reported as required by this subsection.

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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James Murphy
General Counsel
Texas Parks and Wildlife Department
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CHAPTER 69. RESOURCE PROTECTION

The Texas Parks and Wildlife Department (the department) proposes the repeal of 31 TAC §69.47 and amendments to §§69.43 - 69.46, 69.48, 69.49, and 69.52, concerning Wildlife Rehabilitation Permits.

In 2021, the department conducted an extensive revision of wildlife rehabilitation rules to address longstanding concerns regarding programmatic inefficiency, noncompliance, and abuse (such as the persistent problem of permits being used to keep wildlife as pets or curiosities, which is not only undesirable, but unlawful). Because those revisions were quite significant, the department anticipated that additional revisions in the near term would be necessary in order to address unforeseen issues, eliminate conflicts, and make improvements. The proposed amendments would function, collectively, to reorganize the subchapter, address problematic processes, and improve administrative efficiencies with the goal of strengthening and improving the delivery of wildlife rehabilitation activities in Texas.

The proposed amendment to §69.43, concerning Definitions, would add definitions for "animal control authority," "large wildlife rehabilitation center," "licensed veterinarian," "reportable disease," and "wildlife health crisis." The proposed amendment would define "animal control authority" as "the local governmental entity responsible for regulating and/or enforcing laws applicable to the possession, control, welfare, and disposition of animals." The department has received numerous requests from various law enforcement and first-responder entities for assistance in identifying places and locations where persons may be holding wildlife, because first-responders find it helpful to know about the possibility of encountering captive wildlife in the course of their duties, and because there may be local ordinances and laws that apply to such situations. Therefore, the rules as proposed would require permittees to notify the local animal control authority of the existence and location of facilities and an unambiguous definition of that term is necessary to facilitate compliance and enforcement.

The rules as proposed would make regulatory distinctions based on the intensity and magnitude of rehabilitation efforts. Wildlife rehabilitation activities can vary greatly in scale and pace; some rehabilitators have very narrow areas of specialization and others operate what amount to trauma centers that can have significant staff and treat many animals per day or year. The proposed amendment to §69.45, concerning Permit Required, would acknowledge these scales by creating rule specific for the largest types of facilities. "Large Wildlife Rehabilitation Center" would define "Large Wildlife Rehabilitation Center" as "a registered facility that has received at least 3,000 animals in each of the preceding three years and employs the permittee on a full or part-time basis to conduct activities for which a permit under this subchapter is required," which is necessary to provide a standard for compliance, administration, and enforcement.

The department has determined that it is necessary to define "licensed veterinarian" as "a person licensed by the Texas Board of Veterinary Medical Examiners to practice veterinary medicine in Texas," which is necessary to ensure that all persons providing veterinary medical services to wildlife rehabilitators are lawfully able to do so by the state of Texas and are professionally accountable in the state of Texas.

The proposed amendment would define "reportable disease" as "a disease identified as reportable on the National List of Reportable Animal Diseases maintained by the Animal and Plant Health Inspection Service under the United States Department of Agriculture, or that meets criteria listed in 4 TAC §45.2(a) in the rules of the Texas Animal Health Commission." The definition is intended to acknowledge other state and federal rules that require certain persons to notify appropriate health authorities upon discovery of certain contagious diseases.

The proposed amendment also would define "wildlife health crisis" as "a circumstance or set of circumstances that threaten wildlife populations, biodiversity, ecosystem stability, or animal or human health, including through zoonotic pathogen spillover." The definition is necessary because the term is employed in current rule and the standard applied by the department to such situations should be clear with respect to the threshold for department responses to disease emergence, such as that posed by New World Screwworm, that threatens public wildlife resources and potentially, livestock, pets, and humans.

Finally, the proposed amendment would clarify that "supervisory permittee" and "permittee" are synonymous with respect to references in the rule, and would correct and relocate current paragraph (12) to preserve meaning and alphabetical order.

The proposed amendment to §69.44, concerning General Provisions, would consist of several actions. The department has determined that the section is unwieldy and thematically inconsistent; therefore, the proposed amendment would rearrange existing provisions according to shared applicability and relocate some provisions to other sections as noted.

The proposed amendment would relocate current subsections (e) - (l), (n), (q), and (r) to subsection (a) and redesignate those provisions as paragraphs, which is intended to group generally applicable provisions in one place. Current subsections (e) and (f) would become new paragraph (3)(A) and (B) under subsection (a); the contents of current subsection (c) would be retained but become new subsection(a)(4); current subsection (g) would become new paragraph (5); current subsection (j) would become new subsection (a)(6); current subsection (n) would become new subsection (a)(7); current subsection (q) would become new subsection (a)(8); and current subsection (r) would become new subsection (a)(9). The changes are purely organizational and nonsubstantive.

The proposed amendment to §69.44 would retain the provisions of current subsection (d) as new subsection (b)(2) and add new paragraph (1), which would require subpermittees to be at least 18 years of age and to have passed a department-administered examination with a score of 100 percent. The department has encountered situations in which persons listed as subpermittees are clearly too young and/or unqualified to be conducting or assisting in permitted activities; therefore, the department believes a standard is appropriate. The department believes it is reasonable to require that all subpermittees be at least 18 years of age and to have demonstrated a basic understanding of wildlife rehabilitation.

The proposed amendment would combine the provisions of current subsections (h) and (i) and place them in proposed new subsection (c) concerning Display to the Public.

The proposed amendment to §69.44 would also create new subsection (d) to address the possession of non-releasable wildlife. Wildlife is by definition animal life that is meant to live in a state of nature and not in a state of domestication. In the natural world, animals that cannot survive don't. In many cases, wildlife brought to wildlife rehabilitators cannot be restored to a state of health that would allow survival in the wild and thus cannot be returned to the wild ("non-releasable"), which dictates euthanasia unless there is a compelling argument for allowing the animal to be kept for use for education, socializing other wildlife of the same species, or some other specialized use that benefits the species or human understanding of wildlife. Current rule requires non-releasable wildlife to be euthanized except as provided for approved educational, fostering, or socialization purposes, or transfer to zoological, scientific, or educational permit holders; however, the department continues to be concerned about situations in which wildlife is being retained in contravention of these understandings, in effect, becoming pets or curiosities, and in some cases the department has reason to suspect that persons have obtained wildlife rehabilitation permits solely for such purposes, which defeats the entire purpose of the concept of wildlife rehabilitation. The department believes that the highest and best reality for wildlife is to live in the wild as part of and contributors to native ecosystems and that wildlife incapable of survival in the wild should be euthanized unless it can be used to benefit the species or human understanding of biology because the animal cannot live as nature intended. The department also wishes to avoid any possibility of inadvertently creating a legal pathway for the intentional acquisition of wildlife for personal use or enjoyment. For these reasons, the department proposes new provisions, in addition to the current provisions, that would require non-releasable wildlife to be kept at the permittee's registered facility and explicitly prohibit public display except as provided for educational purposes. The proposed amendment also would require non-releasable wildlife approved for educational display to be restrained at all times and would prohibit any touching or handling by the public at any time. The department reasons that explicit provisions carrying criminal penalties for violation are useful to emphasize that wildlife resources are owned by the people of the state and are not to be treated as pets, curiosity pieces, or commodities. For similar reasons, the current requirement restricting the possession of non-releasables to persons with at least three years as a permitted rehabilitator would be altered to increase the period of experience to five years. The proposed amendment would also relocate current §69.45(b) in new subsection (g).

The proposed amendment to §69.45, concerning Permit Required, would retitle the section to acknowledge the addition of new provisions to create four categories of wildlife rehabilitation permit, based on level of complexity, and to enhance quality control measures for satellite facilities.

The department has long experienced administrative difficulties associated with the various and disparate levels of operational complexity within the regulated community. As noted previously in this preamble, the universe of wildlife rehabilitation in Texas is very diverse, ranging from permittees who are highly specialized and work with a very small number of animals at a single facility to permittees who supervise large numbers of subpermittees and volunteers that treat a wide variety of animals at numerous satellite facilities. The one-size-fits-all nature of the current regulatory structure is problematic, particularly from the perspective of disease management, reporting and recordkeeping, and effective monitoring and tracking of the activities of subpermittees and volunteers. The department acknowledges the legitimate usefulness of satellite facilities, subpermittees, and volunteers, but is also concerned about both the abuse of those privileges (intentional and accidental) and the unwieldiness introduced by its complexity. There is an ongoing problem with the proliferation of subpermittees and volunteers under multiple permittees, permittees being listed as subpermittees under other permittees, geographical dispersion of satellite facilities, phantom facilities, and other, similar types of problems. Therefore, the department proposes to eliminate the current one-size-fits-all approach and replace it with a system of graduated permit types stratified by magnitude of subpermittee/volunteer/satellite facility activities.

The proposed amendment would create the Type A permit to address those rehabilitation activities that do not involve subpermittees or satellite facilities. This permit level would be the entry or default level of permit issuance but could also be utilized by permittees with very narrow and/or high specialized practices (for example, a rehabilitator that specializes only in rabbits). The Type B permit would address moderately more complex rehabilitation activities and would authorize up to five subpermittees, whose activities would be confined to the supervisory permittee's registered facility (i.e., no satellite facilities). To qualify for issuance of a Type B permit, the applicant would be required to document a minimum of two years' experience as a permit-

ted wildlife rehabilitator in Texas. The department believes that two years of experience as a wildlife rehabilitator should be the minimum standard for supervision of other persons conducting wildlife rehabilitation activities as authorized under the subchapter. The Type C permit would address complex rehabilitation activities, authorize the permittee to supervise up to 10 subpermittees at up to five satellite facilities, and require the permittee to document at least five years of experience as a permitted wildlife rehabilitator in Texas as a condition of issuance. The department has determined that it is reasonable and logical to allow expansion of permit privileges in proportion to demonstrated responsible experience. Finally, the Type D permit would address very large wildlife rehabilitation activities conducted by permittees who are paid employees of an organization. A Type D permit would authorize any number of subpermittees at any number of satellite facilities, but would be conditioned on the permittee having at least five years documented experience as a permitted wildlife rehabilitator (in any state or states) and being a paid employee of a large wildlife rehabilitation center, as defined in the rules. The department reasons that very large wildlife rehabilitation operations operated or sanctioned by bona fide conservation/conservation-oriented organizations that employ experienced, demonstrably responsible permittees can be entrusted with significant latitude in conducting permitted activities.

The proposed amendment also would alter current subsection (c) to strengthen oversight provisions applicable to satellite facilities. The current rule requires supervisory permittees to visit satellite facilities no less frequently than once every 120 days to verify compliance with applicable provisions of the subchapter. The department has determined, on the basis of encountering several failures with respect to permittees ensuring that satellite facilities are compliant, that it is necessary to prohibit wildlife rehabilitation at any satellite facility unless the supervisory permittee has personally inspected the facility within the previous 120 days and documented in writing that the facility is being operated in compliance with the applicable provisions of the subchapter. In this way, the department intends to ensure that public resources are receiving appropriate care.

The proposed amendment would move current subsection (b) to §69.44 as noted previously in this preamble. Additionally, the proposed amendment would create new subsection (c) to prohibit any permittee from being listed as a subpermittee by another permittee. The department has encountered significant issues untangling webs of interconnected persons performing wildlife rehabilitation under multiple authorizations, which confounds department processes, most notably, the ability of the department to conduct epidemiological investigations in the event of a wildlife health crisis.

The proposed amendment also would relocate the provisions of current §69.44(q) as new subsection (f), reworded to acknowledge that amendment of permit provisions in the event of a declared wildlife health crisis would be effected by emergency rulemaking. Although other provisions of the rules allow the department to waive provisions of the subchapter in response to wildlife health crises, the department wishes to avoid any suggestion of engaging in ad hoc rulemaking in such situations and therefore seeks to make it abundantly clear that any amendments of permits in response to a health crisis will be done under the provisions of the Administrative Procedure Act and the Parks and Wildlife Code.

Finally, the proposed amendment would prohibit the possession of any animal under a wildlife rehabilitation permit for longer than 365 days unless recommended in writing by a licensed veterinarian and the department. As mentioned previously in this preamble, the intent of wildlife rehabilitation is the return of wildlife to native systems, with exceptions for certain non-releasables. The wildlife rehabilitation permit is not a pet permit, nor is it companion-animal permit. The department reasons that a year is sufficient time to restore most injured or sick wildlife to a state of health that would permit re-introduction to the wild, with the proviso that there could be legitimate reasons for additional time in extenuating circumstances.

The proposed amendment to §69.46, concerning Application for Permit, would impose specific experiential requirements for permit issuance. Current rules require only completion of a training course offered by a professional wildlife rehabilitation organization within three years of the application for a permit. The department has determined that this is inadequate and has resulted in issuance of permits to persons who seek a wildlife rehabilitation permit for purposes unrelated to bona fide wildlife rehabilitation (such as keeping wildlife as pets or conversation pieces, practices that historically have plagued the program), in addition to enabling permit issuance to persons who are not serious or are otherwise insufficiently committed to or experienced enough to ably practice wildlife rehabilitation. To remedy this situation, the proposed amendment would require applicants to document a minimum of 800 hours of wildlife rehabilitation experience at any level and to have been either a subpermittee in Texas or a permitted wildlife rehabilitator in any state for a minimum of two years. The department believes that persons meeting these requirements have demonstrated genuine commitment to the practice of wildlife rehabilitation. Proposed new subsection (b) would exempt current permittees from the proposed new requirements, but would stipulate that any person who allows a permit to lapse and subsequently seeks a permit would have to meet the proposed new requirements. Additionally, new applicants would be required to provide evidence of at least 20 hours of training or coursework provided by an accredited professional organization or an entity approved by the department, which is intended to replace the current educational requirement of any training within the previous three years, which is vague. The department believes it is appropriate to quantify the amount of professional training and establish a credible standard in order to ensure that applicants have made a credible and efficacious investment in continuing education and training.

The proposed amendment to §69.46 also would eliminate the current requirement for a letter from a licensed veterinarian known to the applicant and replace that standard with the requirement of a letter from a licensed veterinarian affirming that the veterinarian will provide veterinary consultation services to the applicant if a permit is issued. The department reasons that the current standard is little more than proof that two people are acquainted, whereas the proposed amendment would require an affirmation of willingness to provide professional advice and/or services, which the department believes is a higher standard that will improve the quality of wildlife rehabilitation in the state. Finally, the proposed amendment would reduce the minimum required score on a department-administered wildlife rehabilitation test, from 100% to 80% on a more comprehensive exam. The department assesses that persons who are capable of meeting the enhanced standards of the proposed new provisions need not be held to the 100% standard.

The amendment to §69.48, concerning Permit Renewals, would comport the provisions of subsection (a) to accommodate the changes made elsewhere to replace quarterly reporting with an-

nual reporting for certain permittees, and would amend subsection (b) to require at least eight hours of training annually, as well as a letter from licensed veterinarian attesting to the willingness to provide consulting services to the permittee. The department believes it is important for permitted wildlife rehabilitators to participate in continuing education furnished by recognized professional organizations and associations so as to be aware of and familiar with current developments and trends that improve the quality and efficacy of wildlife rehabilitation delivery. Similarly, as discussed earlier in this preamble, the department believes it is important to document access to veterinary professionals for specialized expertise necessary to inform successful outcomes. The proposed amendment also would alter subsection (c) to cite the department's rules governing the process for denial of permit issuance or permit renewal.

The proposed amendment to §69.49, concerning General Facility Standards, would insert new subsection (b) to prohibit the registration of any facility located in a domestic residence that shares air handling equipment or access to water, housing or exercise space, or food in common with another domestic residence. The department seeks to eliminate wildlife rehabilitation activities in environments where the facilitation of disease propagation and spread is possible via cross-contamination or physical contact with sick wildlife, and to prevent wildlife rehabilitation activities in environments that are inappropriate in terms of noise and other disruptions that could interfere with or confound effective rehabilitation efforts (e.g., apartments, duplexes, townhomes, etc.).

The proposed amendment to §69.52, concerning Reports and Recordkeeping, would alter the title of the section to reflect notification requirements created by the proposed amendment in the form of possession of documentation of inspections of satellite facilities required under the proposed amendment to §69.45. The proposed amendment would also relax reporting requirements for all permittees that do not rehabilitate deer. In a previous rulemaking in response to the emergence of chronic wasting disease (CWD), the department imposed quarterly reporting requirements on all wildlife rehabilitators. The department has been persuaded that the quarterly reporting requirements can safely be restricted only to those permittees authorized to rehabilitate deer, and that there is negligible threat of CWD being spread from facilities not authorized to receive deer.

The proposed amendment would also require permittees to notify the appropriate local animal control authority, for reasons mentioned earlier in this preamble in the discussion of the proposed amendment to §69.43, concerning Definitions.

Finally, the proposed amendment would create new subsection (j) to require notification of the department upon learning of, discovering, or being informed that a reportable disease has been confirmed to exist in an animal or facility for which the permittee is responsible. The department believes it is axiomatic that the presence or detection of disease is something that should be reported immediately, so as to allow the department and any other involved entities the greatest amount of time to respond effectively.

The repeal of §69.47, concerning Refusal of Permit Issuance of Renewal; Review, is necessary because the department was directed by the Sunset Commission in 2022 to implement a uniform process governing department decisions to refuse issuance or renewal of non-recreational licenses and permits for which such processes are not prescribed by statute and prescribe a similar process regarding agency decisions to suspend or revoke a license or permit affected by the proposed new subchapter. Those rules are located at 31 TAC Chapter 56 and include the license affected by this rulemaking; thus, the section is no longer necessary.

Richard Heilbrun, Wildlife Division Deputy Director, has determined that for each of the first five years that the rules are in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rules, because the rules will be administered and enforced by existing personnel using existing systems, equipment, and budget.

Mr. Heilbrun also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the implementation of rules that will increase the effectiveness and efficiency of wildlife rehabilitation in the state and enhance measures to ensure the biosecurity of wildlife rehabilitation activities in the state, thereby protecting native wildlife populations and natural systems, as well as having the benefit of protecting human and livestock health and safety.

There will be no direct adverse economic effects on persons required to comply with the rules as proposed. Although the rules as proposed would create additional requirements for permit issuance in the form of minimum standards of training and experience, the department reasons that those provisions do not affect current permittees except with respect to the requirement of eight hours of annual training in lieu of the non-specific standard in the current rules, which is "the completion of a training course." The department has determined that virtually any approved training course will satisfy the eight-hour requirement imposed by the rules as proposed. Additionally, the department notes that because the proposed provision prohibiting the registration of facilities with certain shared physical residential infrastructure, if adopted, would apply only to facilities registered after the effective date of the rules (i.e., not retroactively), there is no cost of compliance associated with the provision.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that no small businesses, microbusinesses, or rural communities will be affected by the proposed rules, because it is unlawful to conduct wildlife rehabilitation on a for-profit or commercial basis in this state. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022,

as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will not create a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; create a new regulation (requirement for permittee presence at registered facilities); expand existing regulations (stratification of permit privileges, quantification of experience requirements for permit issuance and renewal); limit an existing regulation (by prohibiting rehabilitation activities in shared residential environments); will repeal an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Lindsay Garza (830) 261-2716, e-mail: Lindsay.garza@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/.

SUBCHAPTER C. WILDLIFE REHABILITATION PERMITS

31 TAC §§69.43 - 69.46, 69.48, 69.49, 69.52

The amendments are proposed under Parks and Wildlife Code, §43.022, 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 and authorizes the department to issue a permit to a qualified person to collect, hold, possess, display, transport, release, or propagate protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapter C.

§69.43. Definitions.

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

(1) Animal control authority--The local governmental entity responsible for regulating and/or enforcing laws applicable to the possession, control, welfare, and disposition of animals.

(2) [~~(1)~~] Education--Activities that encourage management and conservation of wildlife resources or that are intended to increase the public's awareness and understanding of aspects of wildlife biology.

(3) [~~(2)~~] Final disposition--The terminal status of wildlife rehabilitation efforts due to transfer, retention, mortality, or euthanasia.

(4) [~~(3)~~] Fostering--Using a captive animal to rear young animals of the same species.

(5) [~~(4)~~] Holding--Retaining in captivity.

(6) [~~(5)~~] Human imprinting or human bonding--A dependency or fixation upon humans as parent substitutes or companions.

(7) Large Wildlife Rehabilitation Center--A registered facility that:

(A) has received at least 3,000 animals in each of the preceding three years; and

(B) employs the permittee on a full or part-time basis to conduct activities for which a permit under this subchapter is required.

(8) Licensed veterinarian--A person licensed by the Texas Board of Veterinary Medical Examiners to practice veterinary medicine in Texas.

(9) [~~(6)~~] Non-releasable animal--An animal which, after rehabilitation, is determined by the department to be unlikely to survive in the wild if released.

(10) [~~(7)~~] Propagate--To allow animals to produce offspring.

(11) Protected wildlife--As defined by Parks and Wildlife Code, Chapter 43, Subchapter C.

(12) [~~(8)~~] Rehabilitation--The temporary caring for injured, orphaned, or sick wildlife until such animals can be released to the wild.

(13) Reportable Disease--A disease identified as reportable on the National List of Reportable Animal Diseases maintained by the Animal and Plant Health Inspection Service under the United States Department of Agriculture, or that meets criteria listed under 4 TAC §45.2(a) (relating to Duty to Report).

(14) [~~(9)~~] Satellite rehabilitation facility (satellite facility)--A facility registered with the department and operated by a subpermittee under the supervision of a permittee.

(15) [~~(10)~~] Socialize--Using a captive animal to teach wild behaviors to juvenile animals of the same species.

(16) [~~(11)~~] Subpermittee--A person authorized by a permittee to conduct activities governed by this subchapter.

(17) Wildlife health crisis--A circumstance or set of circumstances that threaten wildlife populations, biodiversity, ecosystem stability, or animal or human health, including through zoonotic pathogen spillover.

[~~(12) "Wildlife Protected" wildlife--as defined by Parks and Wildlife Code, Chapter 43, Subchapter C.~~]

(18) [~~(13)~~] Supervisory permittee--A permittee who is responsible for the activities of subpermittees listed on the permittee's permit and volunteers at the permittee's or subpermittee's facility or satellite facility, as applicable. Unless otherwise indicated, a reference to a permittee is a reference to the supervisory permittee.

(19) [~~(14)~~] Volunteer--An individual who is not a permittee or subpermittee and works with permitted wildlife in the presence of the permittee or subpermittee.

§69.44. General Provisions.

(a) General.

(1) Activities authorized by a permit issued under this subchapter shall be conducted only by the permittee and/or subpermittees named on the permit or volunteers in compliance with the requirements of this subchapter.

(2) [~~(b)~~] Except as provided in paragraph (4) of this subsection [~~subsection (c) of this section~~], activities authorized by a permit

issued under this subchapter shall be conducted only at a rehabilitation facility or satellite facility registered with the department via an electronic application designated by the department for that purpose.

(3) Wildlife held under the authority of a permit issued under this subchapter:

(A) shall not be commingled with domestic pets, livestock, exotic livestock, exotic fowl, or non-indigenous wildlife; and

(B) may not be sold, bartered, or exchanged for any consideration. A permit issued under this subchapter shall not authorize a person, firm, or corporation to engage in the propagation or commercial sale of wildlife.

(4) [~~(c)~~] A permittee or subpermittee may possess sick or injured wildlife while not at a registered facility or satellite facility only for the amount of time necessary to stabilize and transport the wildlife to a registered facility or satellite facility.

(5) A permittee shall conduct rehabilitation in an environment which minimizes human contact and prevents human and domestic animal imprinting or bonding.

(6) A permittee shall not conduct activities governed under this subchapter on the same property as a fur-bearing animal propagation facility or deer breeding facility unless specifically authorized in writing by the department.

(7) All medical treatment, including vaccinations, shall be performed in consultation with a licensed veterinarian and in accordance with all applicable laws regarding extra-label use of medications and biologicals.

(8) The department may temporarily waive any provision of this subchapter during a wildlife health crisis.

(9) The department may designate a manual process in lieu of any electronic application requirement of this subchapter if for whatever reason the electronic application is unavailable.

(b) [~~(d)~~] Subpermittees and Volunteers.

(1) A subpermittee must:

(A) be at least 18 years of age; and

(B) have scored 100 percent on a department-administered wildlife rehabilitation examination within the previous five years.

(2) A volunteer may engage in permitted activities if:

(A) [~~(1)~~] the volunteer is identified on the daily volunteer log as required under §69.52 of this title (relating to Reports and Recordkeeping); and

(B) [~~(2)~~] the supervisory permittee or a subpermittee is present. At any time that the supervisory permittee or a subpermittee is not present, volunteer activity must be limited to feeding, watering, cleaning of cages and enclosures, and other custodial activities that involve only incidental contact with wildlife.

(c) Display to the Public.

(1) Except for permitted educational purposes, wildlife possessed under a rehabilitation permit shall not come in contact with anyone other than the permittee and/or subpermittees, volunteers, licensed veterinarians, or the staff of licensed veterinarians.

(2) A permittee shall not allow the viewing, exhibit, or display to the public of animals possessed under a rehabilitation permit unless specifically authorized by permit provision.

(d) Non-releasable wildlife.

(1) No person may conduct educational display activities involving non-releasable wildlife under Type A, B, or C permits unless the supervisory permittee is present during the activity. Non-releasable wildlife:

(A) must be housed at the supervisory permittee's registered facility;

(B) shall not be displayed to the public except as provided in this subchapter for educational activities;

(C) shall not be touched or handled by the public at any time; and

(D) shall be restrained at all times during educational events in such a fashion as to prevent physical contact with the public; and

(E) shall be euthanized except as provided by this paragraph.

(2) Permission to retain non-releasable wildlife may be granted only to permittees who have at least five years' experience as a permitted wildlife rehabilitator.

(3) The department may permit the retention of non-releasable wildlife for approved educational, fostering, or socialization purposes, or for transfer to zoological, scientific, or educational permittees. Requests must be made in writing to the department, and no transfer shall take place until the department has approved the request. A request to retain non-releasable wildlife under this subsection shall include a statement from a licensed veterinarian that the animal is non-releasable and the reasons why the animal is non-releasable. The department will not authorize the retention of an animal that because of a disease or condition poses a danger to humans, other animals, or itself.

(4) Permittees possessing non-releasable raptors shall band the raptors with markers supplied by the department.

[~~(e) Wildlife held under the authority of a permit issued under this subchapter may not be sold, bartered, or exchanged for any consideration. A permit issued under this subchapter shall not authorize a person, firm, or corporation to engage in the propagation or commercial sale of wildlife.~~]

[~~(f) Wildlife held under the authority of a permit issued under this subchapter shall not be commingled with domestic pets, livestock, exotic livestock, exotic fowl, or non-indigenous wildlife.~~]

[~~(g) A permittee shall conduct rehabilitation in an environment which minimizes human contact and prevents human and domestic animal imprinting or bonding.~~]

[~~(h) Except for permitted educational purposes, wildlife possessed under a rehabilitation permit shall not come in contact with anyone other than the permittee and/or subpermittees, volunteers, licensed veterinarians, or the staff of licensed veterinarians.~~]

[~~(i) A permittee shall not allow the viewing, exhibit, or display to the public of animals possessed under a rehabilitation permit unless specifically authorized by permit provision.~~]

[~~(j) A permittee shall not conduct activities governed under this subchapter on the same property as a fur-bearing animal propagation facility or deer breeding facility unless specifically authorized in writing by the department.~~]

[~~(k) Non-releasable wildlife shall be euthanized except as provided by this subsection.~~]

[(1) Permission to retain non-releasable wildlife may be granted only to permittees who have at least three years' experience as a permitted wildlife rehabilitator.]

[(2) The department may permit the retention of non-releasable wildlife for approved educational, fostering, or socialization purposes, or for transfer to zoological, scientific, or educational permittees. Requests must be made in writing to the department and no transfer shall take place until the department has approved the request. A request to retain non-releasable wildlife under this subsection shall include a statement from a licensed veterinarian that the animal is non-releasable and the reasons why the animal is non-releasable. The department will not authorize the retention of an animal that because of a disease or condition poses a danger to humans, other animals, or itself.]

[(l) Permittees possessing non-releasable raptors shall band the raptors with markers supplied by the department.]

(e) [(m)] Deer. Wildlife rehabilitation of white-tailed deer and mule deer is restricted to fawns only. No permittee or subpermittee may accept or possess a white-tailed or mule deer that is in adult pelage (no spots). All white-tailed or mule deer received by a permittee shall immediately be identified by the attachment to the pinna of either ear of:

(1) a Radio Frequency Identification Device (RFID) button tag approved by the department; and

(2) a "dangle" type tag bearing the unique identifier assigned to the deer by the department.

(3) The RFID tag required by this subsection must have an associated 15-digit animal identification number conforming to the 840 standards of the United States Department of Agriculture, which number shall be reported to the department in accordance with the applicable provisions of §65.92 of this title (relating to Reports and Recordkeeping).

(4) It is an offense for any person to remove or allow the removal of a tag required by this subsection from a living white-tailed or mule deer.

(5) A permittee or subpermittee who transfers a white-tailed or mule deer shall notify the administrator of the wildlife rehabilitation program at least 24 hours but not more than 48 hours prior to and following the completion of the transfer.

(6) Deer must be released, transferred, or euthanized by the end of the calendar year in which they were born or at the time they grow adult pelage, whichever occurs first.

(7) The department may require any deer held under a permit issued under this subchapter to be tested for chronic wasting disease.

[(n) All medical treatment, including vaccinations, shall be performed in consultation with a licensed veterinarian and in accordance with all applicable laws regarding extra-label use of medications and biologicals.]

(f) [(o)] Disposition of Euthanized Wildlife. Euthanized wildlife and wildlife that has died while under the care of a permittee shall be:

(1) transferred to a person authorized by law to receive such wildlife;

(2) disposed of in a Type 1 landfill; or

(3) interred or incinerated onsite in compliance with any applicable local, state, or federal law regarding animal carcass burial or disposal.

(4) Open-pit disposal and burn-pile incineration are prohibited.

(g) [(p)] Exceptions.

(1) Except as otherwise provided under Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response), licensed veterinarians may hold, possess, and transport wildlife to provide emergency medical care or stabilization care until they are stabilized and able to be transferred, at which time the wildlife must be transferred to a permitted rehabilitator.

(2) This subchapter does not apply to department personnel, or transport by animal control officers or peace officers in the performance of official duties.

[(q) The department may temporarily waive any provision of this subchapter during a wildlife health crisis.]

[(r) The department may designate a manual process in lieu of any electronic application requirement of this subchapter if for whatever reason the electronic application is unavailable.]

§69.45. Permit Required; Permit Privileges.

(a) Except as may be otherwise provided by this subchapter, no person may possess wildlife for purposes of rehabilitation unless the person possesses a valid permit issued under the provisions of this subchapter, as follows.

(1) A Type A permit authorizes the permittee to supervise volunteers, but does not authorize a permittee to supervise subpermittees or conduct activities at satellite facilities.

(2) A Type B permit authorizes the permittee to supervise volunteers and no more than five subpermittees, but does not authorize the permittee to conduct permitted activities at any satellite facility. The department will not issue a Type B permit to any person unless that person is able to document a minimum of two years of experience as a permitted wildlife rehabilitator in Texas.

(3) A Type C permit authorizes the permittee to:

(A) supervise volunteers;

(B) supervise no more than 10 subpermittees: and

(C) conduct permitted activities at no more than five satellite facilities. The department will not issue a Type C permit to any person unless that person is able to document a minimum of five years of experience as a permitted wildlife rehabilitator in Texas.

(4) A Type D permit authorizes a permittee to:

(A) supervise volunteers;

(B) supervise any number of subpermittees; and

(C) conduct activities authorized under this subchapter at registered satellite facilities. The department will not issue a Type D permit to any person unless that person:

(i) is able to document a minimum of five years of experience as a permitted wildlife rehabilitator; and

(ii) is an employee of a Large Wildlife Rehabilitation Center.

[(b) Except as otherwise provided under Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response), licensed veterinarians may hold, possess, and transport wildlife to provide emer-

~~gency medical care or stabilization care until they are stabilized and able to be transferred, at which time the wildlife must be transferred to a permitted rehabilitator.~~]

(b) [~~(c)~~] A person may possess protected wildlife for rehabilitation purposes at a satellite facility, provided:

(1) the person is listed as a subpermittee on the valid permit of a supervisory permittee and possesses a copy of the valid permit at the satellite facility;

(A) the supervisory permittee has registered the facility with the department;

(B) the facility is in compliance with the facility standards set forth in §69.49 of this title (relating to General Facilities Standards) and any additional standards or requirements set forth in the permit provisions of the supervisory permittee; and

(C) the subpermittee engages only in the rehabilitation activities authorized by the department to be undertaken at the satellite facility, including but not limited to restrictions on numbers and kinds of animals, life stages, and any other restrictions deemed necessary by the department.

(2) A permittee who registers a satellite facility with the department shall be responsible for the conduct of the subpermittee at the satellite facility with respect to all activities governed under this subchapter and applicable permit provisions.

(3) No activities regulated under this subchapter shall take place at a registered satellite facility unless the supervisory permittee has personally inspected the satellite facility within the previous 120 days and documented in writing that [~~and shall visit each satellite facility no less frequently than once per 120 days to verify that~~] the satellite facility is compliant with the provisions of this subchapter and applicable permit provisions. The department may prescribe alternatives to physical visitation for permittees with a demonstrated history of compliance.

(4) [~~(3)~~] The department will not authorize the registration of more than one satellite facility per subpermittee.

(5) [~~(4)~~] No person may be a subpermittee for more than one permittee.

(c) A permittee may not be a subpermittee on another individual's permit.

(d) No permittee shall change facility location or receive unauthorized species, or conduct unauthorized activities unless the permittee possesses an amended permit authorizing such activity.

(e) Permits issued under this section may be issued for any period of time not exceeding three years from the date of issuance.

(f) The department may declare a wildlife health crisis in response to a disease outbreak or other conditions or circumstances that threatens wildlife species in the state. During a wildlife health crisis, the department may amend any permit provision (to include prohibition of the movement or transfer of wildlife into or from any facility) by emergency rule.

(g) No permittee shall possess an animal for longer than 365 days unless recommended in writing by a licensed veterinarian and specifically authorized in writing by the department.

§69.46. Application for Permit.

(a) An applicant for a permit under this subchapter must:

(1) be at least 18 years of age;[.]

(2) have at least 800 hours of documented wildlife rehabilitation experience at any level; and

(3) have been either:

(A) a subpermittee in Texas for at least two years; or

(B) a permitted wildlife rehabilitator in another state for at least two years.

(4) The department will consider wildlife rehabilitation experience lawfully obtained under an equivalent permit issued by another state.

(b) The requirements of subsection (a) of this section do not apply to any person who, as of the effective date of this subsection, holds a valid wildlife rehabilitation permit issued by the department; however, a permittee who allows a permit to expire without renewal after the effective date of this subsection must comply with the provisions of subsection (a) of this section if that person seeks to obtain a permit again.

(c) [~~(b)~~] Applications shall be made on forms supplied or approved by the department. Incomplete applications will not be processed.

(d) [~~(c)~~] Applications must be accompanied by:

(1) a copy of the certificate of completion or similar documentation provided by the course provider, of at least 20 hours of training/coursework provided by or under the auspices of[~~, within the preceding three years, of a training course offered by~~] the International Wildlife Rehabilitation Coalition, the National Wildlife Rehabilitator's Association, or other organization or entity approved by the department;

(2) a letter of recommendation from a [~~licensed veterinarian and/or~~] permitted wildlife rehabilitator with at least three years' experience as a permitted wildlife rehabilitator attesting to personal knowledge of the applicant's experience and competence at wildlife rehabilitation [~~who has known the applicant for at least two years~~]; and

(3) a test score of at least 80 percent [~~100~~] on a department-administered wildlife rehabilitation examination.

(4) a letter from a licensed veterinarian attesting willingness to provide, if the department issues a permit to the applicant, wildlife veterinary consultation services to the permittee.

(e) [~~(d)~~] Permits for the taking or holding of federally protected species shall not be valid unless the permittee also possesses a valid federal permit authorizing possession of those species.

(f) [~~(e)~~] Except for persons authorized to do so under the terms of zoological permits, no person holding a permit authorizing the propagation for sale of wildlife shall be authorized to rehabilitate those species.

§69.48. Permit Renewals.

(a) Renewal applications shall be made on a form provided by the department and shall be submitted with the annual or final quarterly report required by §69.52 of this title (relating to Notifications, Reports, and Recordkeeping) by no later than January 15 of each year.

(b) Renewal applications shall not be processed until the department has received all reports required by §69.52 of this title accompanied by evidence of at least one of the following:

(1) completion of at least eight hours per permit year of training or coursework provided by or under the auspices of [~~a training course offered by~~] the International Wildlife Rehabilitation Coalition,

the National Wildlife Rehabilitator's Association, or other department-approved organization or entity [~~within the preceding three years~~];

(2) a current Wildlife Rehabilitator Certification provided by the International Wildlife Rehabilitation Coalition; or

(3) attendance at a national wildlife rehabilitators conference within the preceding three years; and

(4) a letter from a licensed veterinarian attesting willingness to provide wildlife veterinary consultation services to the permittee.

(c) The department may deny a renewal as provided in Chapter 56[~~§69.47~~] of this title (relating to Agency Decision to Refuse License or Permit Issuance or Renewal and Agency Decision to Suspend or Revoke Affected License or Permit [~~Refusal of Permit Issuance or Renewal; Review~~]).

§69.49. General Facilities Standards.

(a) All facilities shall be subject to inspections by the department. A first-time applicant's facilities shall be inspected by the department and no permit shall be issued until the facilities are determined to satisfy all of the applicable facilities standards of this subchapter.

(1) The department may specify individual caging requirements on a case-by-case basis.

(2) Clean water shall be available at all times except where medical circumstances require the temporary denial of water.

(3) Feces and waste materials shall be removed on a daily basis except for species which normally re-ingest fecal material.

(4) Cages shall be cleaned and disinfected using non-irritating methods.

(5) A person authorized by permit shall observe and provide care for wildlife at least once daily unless otherwise specified by the permit.

(b) The department will not allow the registration of any facility located in a domestic residence that shares air handling equipment or access to water, housing or exercise space, or food in common with another domestic residence (e.g., apartments, duplexes, townhomes, etc.).

(c) [~~(b)~~] White-tailed deer and mule deer held under a permit issued under this subchapter shall be confined at all times within a department-approved enclosure (indoor, outdoor, or both) that is constructed in such a fashion as to prevent both escape and contact with other deer or susceptible species as defined in Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response). The department will not authorize the rehabilitation of deer by a permittee if the permittee's facility is not in compliance with this subsection.

§69.52. Notifications, Reports, and Recordkeeping.

(a) At each registered facility for which a permittee is responsible, the [~~Each~~] permittee [~~and each subpermittee who operates a satellite facility~~] shall maintain, on a form provided or approved by the department:

(1) a daily log of all animals acquired or received for rehabilitation. The daily log shall, at a minimum, consist of the following:

(A) the species and sex (if possible) of each animal acquired or received;

(B) the date and time that each animal was acquired or received;

(C) the name, address, phone number, and, if possible, an email address for each person from whom an animal is acquired or received;

(D) the approximate or exact geographical location where each animal was found before being acquired or obtained;

(E) a reference identifier assigned to the wildlife;

(F) the RFID tag number assigned to a white-tailed or mule deer; and

(G) final disposition data for each animal, including:

(i) the cause of final disposition;

(ii) the date and time of final disposition; and

(iii) the method and location of disposition, including but not limited to:

(I) GPS coordinates for any release location;

(II) the name, address, phone number, and email address of the landowner of a property where wildlife is released; and

(III) the name, address, phone number, email address, and permit number (if applicable) of any person to whom wildlife is transferred, if wildlife is transferred; and

(2) a daily log of all volunteers who engage in permitted activities at the permittee's facility. The daily volunteer log shall record:

(A) the first and last name of each volunteer;

(B) a valid phone number and email address for each volunteer;

(C) the date the volunteer arrived at the facility;

(D) the time the volunteer arrived at the facility; and

(E) the time the volunteer departed the facility; and [~~.~~]

(3) if authorized to conduct activities at a satellite facility, documentation of facility inspections required by §69.45(b)(2) of this title.

(b) Except as specified in subsection (c) of this section for permittees authorized to possess deer, a [~~Each~~] permittee [~~and each subpermittee who operates a satellite facility~~] shall complete and submit [~~quarterly reports~~] to the administrator of the department's rehabilitation program an annual report documenting all permitted activities conducted by all individuals listed on the permit, including activities conducted by subpermittees at satellite facilities. The report shall be submitted by January 15 of each year. [~~until the department designates an electronic application for that purpose, at which time the quarterly reports required by this section shall be filed via electronic application. The reports required by this section must be received by the department by January 15, April 15, July 15, and October 15 of each year.~~]

[~~(1) For permittees, the reports shall include the activities conducted at the permittee's registered facility] by all individuals listed on the permit, not to include activities conducted by subpermittees at satellite facilities.]~~

[~~(2) For subpermittees who operate a satellite facility, the report shall include the activities conducted at the satellite facility.]~~

(c) Permittees authorized to possess deer are not required to submit an annual report but instead shall complete and submit quarterly reports to the administrator of the department's rehabilitation program documenting all permitted activities conducted by all individuals listed on the permit, including activities conducted by subpermittees at satellite facilities. The reports required by this subsection must be received

by the department by no later than January 15, April 15, July 15, and October 15 of each year.

(d) A separate report is required for each facility registered under the permittee's name.

(e) The reports required by this subsection shall be submitted to the department via an electronic application designated by the department for that purpose.

(f) [~~(3)~~] The [~~quarterly~~] reports required by this section must be filed even if no permitted activities took place during the reporting [~~quarterly~~] period.

(g) [~~(e)~~] The following shall be retained at the permitted facility and kept available for inspection by the department for a period of two years from generation:

(1) copies of all reports required by this section;

(2) the daily logs required by this section; and

(3) the written landowner permission to release wildlife required under the provisions of 69.51(g) of this title (relating to Release of Rehabilitated Wildlife).

(h) Within 10 days of the effective date of this subsection or the issuance of a permit under this subchapter, as applicable, a permittee shall notify the appropriate local animal control authority of the existence and location of each registered facility that is operated by the permittee within the jurisdiction of the local animal control authority. Upon the notification required by this subsection, the appropriate local animal control authority shall provide written acknowledgment of the notification, which shall be maintained at each registered facility for inspection by department personnel.

(i) [~~(d)~~] The registrations, reports, and notifications required by this subchapter shall be submitted via email to the administrator of the department's wildlife rehabilitation program until the department designates an electronic application for that purpose, at which time all reports and notifications shall be filed via the electronic application.

(j) A permittee shall notify the department within 24 hours of learning, discovering, or being informed that a reportable disease is confirmed to exist in an animal or within a facility for which the permittee is responsible.

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 April 13, 2026.

TRD-202601599
James Murphy
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 389-4775

♦ ♦ ♦

31 TAC §69.47

The repeal is proposed under Parks and Wildlife Code, §43.022, 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 and authorizes the department to issue a permit to a qualified person to collect, hold, possess, display, transport, release, or propagate protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

The proposed repeal affects Parks and Wildlife Code, Chapter 43, Subchapter C.

§69.47. Refusal of Permit Issuance or Renewal; Review.

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 April 13, 2026.

TRD-202601600
James Murphy
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 389-4775

♦ ♦ ♦

PART 18. TEXAS GROUNDWATER PROTECTION COMMITTEE

CHAPTER 601. GROUNDWATER CONTAMINATION REPORT

The Texas Groundwater Protection Committee (TGPC or committee) proposes amendments to 31 Texas Administrative Code (TAC) §§601.1 - 601.3, 601.5 and 601.10.

Background and Summary of the Factual Basis for the Proposed Rules

The purpose of this rule proposal is to implement the provisions of Senate Bill (SB) 2124 and to address provisions of SB 1663, both passed during the 89th Legislature Regular Session (2025).

SB 2124 amended the publication deadline for the committee's annual Joint Groundwater Monitoring and Contamination Report (Joint Report). SB 1663 amended the list of entities to receive notice of groundwater contamination to include the residents of each residential address within one mile of the contamination site and allowed alternative delivery methods.

The rule proposal amends the publication deadline for the Joint Report to align with the date referenced in Texas Water Code (TWC), §26.406(c) and updates the form and content for a notice of groundwater contamination to more closely align with the new requirements in TWC, §26.408(b). The rule proposal also makes clarifying language updates to one sub-section of 31 TAC Chapter 601, along with additional non-substantive grammatical and formatting changes for improved clarity and consistency.

The rules in 31 TAC Chapter 601 define the conditions that constitute groundwater contamination for the purpose of inclusion of cases in the public files for each state agency having responsibilities related to the protection of groundwater. The rules also describe the contents of the committee's Joint Report required under TWC, §26.406. The Joint Report describes the current status of groundwater monitoring activities conducted by or required by each agency at regulated facilities or associated with regulated activities; contains a description of each case of groundwater contamination documented during the previous calendar year; contains a description of each case of contamination documented during the previous year for which enforcement action was incomplete at the time of issuance of the preceding report;

and, indicates the status of enforcement action for each case of contamination which is listed.

The rules also specify the form and content of a notice of groundwater contamination as directed by TWC, §26.408(c). The charge to the committee under TWC, §26.408(c) is limited to adopting rules that prescribe the form and content of the notice required under §26.408(b). Currently, 31 TAC §601.10 references who receives notice: specifically, the owner of a private drinking water well that may be affected by the contamination and each applicable Groundwater Conservation District (GCD). SB 1663 added that notice must be provided to all residents at each residential address within one mile of the contamination, which is not included in the rule. Since applicability is addressed by TWC, §26.408(c) and the committee is not charged by statute with further defining applicability, the proposed rulemaking removes applicability provisions in the first paragraph of 31 TAC §601.10. The proposed rulemaking also updates the content of the notification.

Section by Section Discussion

The proposed amendment to §601.1, Purposes of Rules, adds a comma at the end of sub-section (2) and clarifies that the form and content of the notice of groundwater contamination is required under TWC, §26.408(c).

The proposed amendment to §601.2, Applicability, adds a comma at the end of sub-section (9).

The proposed amendment to §601.3, Definitions, in sub-section (8), removes a comma after "Texas Water Code, §26.403(c)" and updates the names of two member agencies to match those listed in §601.2, Applicability.

The proposed amendment to §601.5, Joint Groundwater Monitoring and Contamination Report, aligns the Joint Report's publication deadline with the date referenced in TWC, §26.406(c), clarifies that the Joint Report is an annual report, and adds a comma at the end of sub-section (2).

The proposed amendment to §601.10, Form and Content of Groundwater Contamination Notice, clarifies that the form and content of the notice of groundwater contamination is required under TWC, §26.408(c); references TWC, §26.408(b) instead of listing those that receive the notification; adds a comma at the end of sub-section (1); and, updates the content of the notice of groundwater contamination required under TWC, §26.408(c) to include a website or other resource with the name of the contaminant(s), the general location of the known groundwater contamination, and contact options for further information.

Fiscal Note: Costs to State and Local Government

Mr. James-Eric Simon, for the chairman of the committee acting on behalf of the committee, determined that during the first five-year period the proposed amendments are in effect, no significant fiscal implications are anticipated to state and local government as a result of the administration of the proposed amendments to the rule. This includes governmental entities that are members of the committee as well as local governmental entities providing information for the Joint Report.

Public Benefits and Costs

Mr. Simon determined that for the first five years the proposed amendments are in effect, the public benefit will be compliance with state law, specifically SB 2124 from the 89th Legislature Regular Session (2025). The proposed rulemaking will not result in fiscal implications for individuals or businesses during the first five-year period the proposed rules are in effect.

Local Employment Impact Statement

The committee reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed amendments do not adversely affect a local economy in a material way for the first five years that the proposed amendments are in effect.

Rural Communities Impact Assessment

The committee reviewed this proposed rulemaking and determined that it does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect because the proposed amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

The committee reviewed this proposed rulemaking and determined that no adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The committee reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The committee reviewed this proposed rulemaking and determined that it does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the committee. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the committee. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Draft Regulatory Impact Analysis Determination

The committee reviewed the proposed amendments in consideration of the regulatory analysis of major environmental rules required by the Texas Government Code (TGC). The following is a summary of that review.

The committee determined that the rulemaking is not subject to TGC, §2001.0225(a) because it does not meet the definition of a "Major environmental rule" as that term is defined in TGC, §2001.0225(g)(3).

Section 2001.0225 applies to a "Major environmental rule" adopted by a state agency, the result of which is to exceed standards set by federal law, exceed express requirements of state law, exceed requirements of delegation agreements

between the state and the federal government to implement a state and federal program, or adopt a rule solely under the general powers of the agency instead of under a specific state law. A "Major environmental rule" is a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector or the state.

The 89th Legislature Regular Session (2025) enacted SB 2124, which amended TWC, Chapter 26, Subchapter J (Groundwater Protection) by changing the date referenced in TWC, §26.406(c), which is also the date the committee, in conjunction with the commission, must publish not later than June 1, rather than April 1, of each year a "Joint Groundwater Monitoring and Contamination Report" (Joint Report) covering the activities and findings of the committee made during the previous calendar year as part of its continuing duty to coordinate state agency actions to protect groundwater quality and terrestrial and aquatic life.

The committee's rules require that in cases of groundwater contamination, all state agencies having responsibilities related to protecting groundwater must document each case in the public files of that state agency. The Joint Report requires these applicable state agencies' programs to close out calendar year activities and gather and analyze significant volumes of data. The committee must then combine all the agencies' programs' data and conduct further analysis. Because quality assurance and control are integral components of the process to prepare the Joint Report, changing the date that the Joint Report must be published to June 1, rather than April 1, of each year the Joint Report is required, allows the committee two more months to finish the time-intensive analysis required to prepare the Joint Report.

Therefore, the specific intent of the proposed rule amendments is related to maximizing the quality assurance and control integral to the committee's implementation of state law. SB 2124 amends Chapter 26 of the TWC by changing the date referenced in TWC, §26.406(c), and the proposed rulemaking amends the committee rules found at Title 31 of the Texas Administrative Code, Chapter 601 (Groundwater Contamination Report), which implements TWC, Subchapter J (Groundwater Protection). The proposed rule amendments align the Joint Report's publication deadline with the date referenced in TWC, §26.406(c).

Certain aspects of the committee's Joint Report rules are intended to protect the environment or reduce risks to human health from environmental exposure. However, the proposed rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs; nor would the proposed rulemaking adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state. Therefore, the proposed rulemaking does not fit the TGC, §2001.0225 definition of "Major environmental rule."

Even if this rulemaking was a "Major environmental rule," this rulemaking meets none of the criteria in TGC, §2001.0225 for the requirement to prepare a full Regulatory Impact Analysis. First, this rulemaking is not governed by federal law. Second, it does not exceed state law but rather amends an applicable date within state law and committee rules. Third, it does not come under a delegation agreement or contract with a federal program, and finally, it is not being proposed under the committee's general rulemaking authority. This rulemaking is being proposed under a specific state statute amended in SB 2124 of the 89th Legislature Regular Session (2025) and implements existing state law found at TWC, §26.406 that mandates that the committee publish a Joint Report. Because this proposal does not constitute a major environmental rule, a regulatory impact analysis is not required.

Therefore, the committee does not adopt the rules solely under the committee's general powers. The committee invites public comment on the draft regulatory impact analysis determination. Written comments may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The committee evaluated the proposed rulemaking and performed an analysis of whether it constitutes a taking under TGC, Chapter 2007. The following is a summary of that analysis.

Under TGC, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the proposed rulemaking is to implement the legislative amendments to the TWC in SB 2124 by amending committee's Joint Report rules. The committee's Joint Report rules do not regulate property but instead regulate the documentation of groundwater contamination. The proposed rulemaking will substantially advance the stated purpose by amending rule language that requires that the committee publish the Joint Report on April 1 of a calendar year that a Joint Report is required, to June 1 of that calendar year.

Promulgation and enforcement of the proposed rules will not be a statutory or constitutional taking of private real property because, as the committee's analysis indicates that Chapter 2007 of the TGC does not apply to these proposed rules because these rules do not impact private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. Specifically, the proposed rulemaking does not apply to or affect any landowner's rights in any private real property because it does not burden (constitutionally), restrict, or limit any landowner's right to real property and reduce any property's value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The primary purpose of the proposed rules is to implement SB 2124 by changing the date referenced in TWC, §26.406(c). The proposed rulemaking is reasonably taken to fulfill requirements of state law. Therefore, the proposed rulemaking will not cause a taking under TGC, Chapter 2007. The committee invites public comment on the Takings Impact Assessment. Written comments may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble

Consistency with the Coastal Management Program

The committee reviewed the proposed rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11, nor will it affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11. Therefore, the proposed rules are not subject to the Texas Coastal Management Program. The committee invites public comment on the Consistency with the Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: https://tceq.commentinput.com/comment/search. File size restrictions may apply to comments being submitted via the Texas Commission on Environmental Quality (TCEQ) Public Comments system. All comments should reference Rule Project Number TGPC-2026-1. The comment period closes on May 26, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the committee's website at *https://www.tgpc.texas.gov*. For further information, please contact Michael Parr, TCEQ Environmental Law Division, (512) 239-0611, or Kathy McCormack, TCEQ Water Availability Division, (512) 239-3975.

SUBCHAPTER A. GENERAL PROVISIONS RELATING TO PUBLIC FILES AND JOINT REPORT

31 TAC §§601.1 - 601.3, 601.5

Statutory Authority

The Texas Groundwater Protection Committee (TGPC or committee) proposes these amendments to the committee's rules under the Texas Water Code (TWC). TWC, §26.403 establishes the committee and its members, while TWC, §26.401 identifies the committee's purpose, and TWC, §26.405 provides the committee with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §26.405(1). TWC, §§26.404(e) and 26.406(d) require the committee to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. Lastly, TWC, §26.406(c) requires the committee, in conjunction with the commission, to publish the annual Joint Groundwater Monitoring and Contamination Report (Joint Report).

These amendments implement Senate Bill 2124, 89th Legislature Regular Session (2025), TWC, §§26.401, 26.403 - 26.406.

§601.1. Purposes of Rules.

The purposes of this chapter are:

(1) to implement duties and responsibilities assigned to the committee under Texas Water Code, §26.406, concerning the maintenance by member agencies of public files containing documented cases of groundwater contamination and the publication by the committee, in conjunction with the commission, of annual groundwater monitoring and contamination reports;

(2) to establish general policies of the committee to guide that implementation; and,

(3) to specify the form and content of the notice of groundwater contamination required under Texas Water Code, §26.408(c) [~~§26.408~~].

§601.2. Applicability.

This chapter specifically applies to each state agency or organization having membership on the committee. The committee is composed of:

(1) the Texas Commission on Environmental Quality;

(2) the Texas Department of State Health Services;

(3) the Texas Department of Agriculture;

(4) the Railroad Commission of Texas;

(5) the Texas Water Development Board;

(6) the Texas Alliance of Groundwater Districts;

(7) the Texas A&M AgriLife Research;

(8) the Bureau of Economic Geology of the University of Texas at Austin;

(9) the Texas State Soil and Water Conservation Board; and,

(10) the Water Well Drillers and Pump Installers Program of the Texas Department of Licensing and Regulation.

§601.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings.

(1) Act--House Bill 1458 (71st Legislature, 1989) codified, with amendments, as Texas Water Code, §§26.401 - 26.408.

(2) Commission--Texas Commission on Environmental Quality.

(3) Committee--Texas Groundwater Protection Committee.

(4) Documented groundwater contamination--A case of groundwater contamination in which a member agency has an established procedure for making a determination based on the quality of groundwater and the information pertinent to making the determination is maintained by that member agency under §601.4(b) of this title (relating to Public Files).

(5) Enforcement action--Any action of the member agencies, identified in §601.2 of this title (relating to Applicability), that accomplishes or requires the identification, documentation, monitoring, assessing, or remediation of groundwater contamination.

(6) Groundwater--Water below the land surface in a zone of saturation.

(7) Groundwater contamination--The detrimental alteration of the naturally occurring physical, thermal, chemical, or biological quality of groundwater. Except for an underground source of drinking water granted an aquifer exemption by the commission with concurrence from the United States Environmental Protection Agency in accordance with 40 Code of Federal Regulations Parts 144 - 146, and 30 TAC Chapter 331 (relating to Underground Injection Control), groundwater contamination, for purposes of inclusion of cases in the public files and the joint groundwater monitoring and contamination report, is limited to contamination reasonably suspected of having been caused by activities or by entities under the jurisdiction of the member agencies identified in §601.2 of this title (relating to

Applicability) and affecting groundwater that contains a concentration of:

(A) less than or equal to 10,000 milligrams per liter (mg/liter) of dissolved solids; or

(B) greater than 10,000 mg/liter of dissolved solids if it is:

(i) currently extracted for beneficial use such as domestic, industrial, or agricultural purposes; or

(ii) hydrologically connected with, and with the potential for contaminant movement to, a surface water body or another zone of groundwater that has a concentration of less than or equal to 10,000 mg/liter of dissolved solids.

(8) Member agency--A state agency or organization designated by law under Texas Water Code, §26.403(c)[,] to serve on the committee and be subject to its rules. Member agencies are listed in §601.2 of this title (relating to Applicability). Member agencies having responsibilities related to protection of groundwater include the commission, the Texas Department of Agriculture, the Railroad Commission of Texas, and the Texas State Soil and Water Conservation Board.

§601.5. Joint Groundwater Monitoring and Contamination Report.

Joint Groundwater Monitoring and Contamination Report. In conjunction with the commission, the committee shall publish not later than the date referenced in Texas Water Code, §26.406(c) the annual [~~April 1 of each year a~~] joint groundwater monitoring and contamination report covering the activities and findings of the committee made during the previous calendar year. The report must:

(1) describe the current status of groundwater monitoring programs conducted by or required by each member agency at regulated facilities or in connection with regulated facilities;

(2) contain a description of each case of groundwater contamination documented during the previous calendar year and of each case of groundwater contamination documented during previous years for which enforcement action was incomplete at the time of issuance of the preceding report; and,

(3) indicate the status of enforcement action for each case of groundwater contamination that is included in 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 April 13, 2026.

TRD-202601601
Kathy Mccormack
Project Manager, Water Availability Division
Texas Groundwater Protection Committee
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 239-2678

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SUBCHAPTER B. NOTICE OF GROUNDWATER CONTAMINATION

31 TAC §601.10

Statutory Authority

The Texas Groundwater Protection Committee (TGPC or committee) proposes these amendments to the committee's rules under the Texas Water Code (TWC). TWC, §26.403 establishes the committee and its members, while TWC, §26.401 identifies the committee's purpose, and TWC, §26.405 provides the committee with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §26.405(1). TWC, §§26.404(e) and 26.406(d) require the committee to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. Lastly, TWC, §26.408(c) requires the committee, by rule, to prescribe the form and content of the groundwater contamination notice required under TWC, §26.408(b).

These amendments address provisions of Senate Bill 1663, 89th Legislature Regular Session (2025), TWC, §26.408(b).

§601.10. Form and Content of Groundwater Contamination Notice.

Form and Content of Groundwater Contamination Notice. This section establishes the form and content of the notice required under Texas Water Code, §26.408(c). When notice of groundwater contamination, as defined in §601.3(7) of this title (relating to Definitions), is provided under Texas Water Code, §26.408(b) [~~§26.408 to the owner of a private drinking water well that may be affected by the contamination and to each applicable groundwater conservation district~~], the notice shall:

(1) be in writing; and,

(2) [~~contain,~~] at a minimum, contain or direct the recipient to a website or other resource with the following information:

(A) the name of the contaminant(s) [~~contaminant or contaminants~~];

(B) the general location of the known groundwater contamination; and,

[~~(B) the range of analytical results for the contaminant or contaminants measured in the area or well to date;~~]

[~~(C) possible health effects of the contaminant or contaminants;~~]

[~~(D) possible source or sources for this type of contamination;~~]

[~~(E) suggested actions and precautions potentially impacted well owners could take; and~~]

(C) [~~(F) who to~~] contact options for further [~~more~~] information.

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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Kathy Mccormack
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Texas Groundwater Protection Committee
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY HANDGUNS

SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

37 TAC §6.11, §6.16

The Texas Department of Public Safety (the department) proposes amendments to §6.11 and §6.16, concerning Eligibility and Application Procedures for a License To Carry a Handgun. The proposed amendments provide that an applicant for a new or renewal license to carry a handgun must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with eh sections as proposed.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.197, which authorizes the director of the department to adopt rules to administer Subchapter H, License to Carry a Handgun.

Texas Government Code, §411.197 and 8 U.S.C. §1621, are affected by this proposal.

§6.11. Application Review and Background Investigation.

(a) The statutory time periods for the department to conduct application reviews and background investigations shall be measured from the date a complete application is received by the department.

(b) For an application to be considered complete, the department must receive all information required by the Act and this chapter, including additional requests for information, and all nonrefundable fees must be paid.

(c) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551); or

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp.

(d) [~~(c)~~] If an application is not legible or complete, the department will notify the applicant of the deficiency. The applicant will have 90 days from the date of the deficiency notification letter to amend the application. Upon written request, the department may extend the period to amend the application for one additional 90 day period. After the period to amend expires, the application process is terminated.

(e) [~~(d)~~] An individual whose application is terminated under this subsection will be required to submit new application materials and fees to apply for a license in the future.

§6.16. Renewal of License.

(a) An expired license may be renewed for up to one year after the expiration date. If the license has been expired for more than one year, the former license holder must submit an original license application to receive a license in the future.

(b) Renewal notices will be provided to a license holder no more than six months before the expiration date to the mailing address currently reported to the department by the license holder.

(c) An applicant for a license renewal must submit proof that the applicant is eligible for a license as required in §6.11(c) of this title (relating to Application Review and Background Investigation).

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 April 10, 2026.

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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 424-5848

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SUBCHAPTER C. QUALIFIED HANDGUN INSTRUCTOR LICENSE

37 TAC §6.46

The Texas Department of Public Safety (the department) proposes amendments to §6.46, concerning Renewal of Qualified Handgun Instructor Certification. The proposed amendment provides that an applicant for a renewal qualified handgun instructor certification must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submis-

sion only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.197, which authorizes the director of the department to adopt rules to administer Subchapter H, License to Carry a Handgun.

Texas Government Code, §411.197 and 8 U.S.C. §1621, are affected by this proposal.

§6.46. Renewal of Qualified Handgun Instructor Certification.

(a) The certificate of a qualified handgun instructor expires on December 31 following the second anniversary after the date the certificate was issued.

(b) To renew certification, an instructor must pay a fee of $100 and successfully complete the retraining courses required by the department. An instructor whose certificate has expired may renew the certificate up to one year after its expiration. After one year, the instructor must reapply as a new qualified handgun instructor applicant.

(c) An applicant for certificate renewal must submit proof that the applicant is eligible for a license as required in §6.11(c) of this title (relating to Application Review and Background Investigation).

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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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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CHAPTER 10. IGNITION INTERLOCK DEVICE

SUBCHAPTER B. VENDOR AUTHORIZATION

37 TAC §10.11

The Texas Department of Public Safety (the department) proposes amendments to §10.11, concerning Application; Renewal. The proposed amendments provide that an applicant for a new or renewal ignition interlock device vendor authorization must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and vendor authorization process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and vendor authorization process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and vendor authorization process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and vendor authorization process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of indi-

viduals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §521.2476, which authorizes the department to establish by rule the minimum standards for vendors of ignition interlock devices who conduct business in this state.

Texas Government Code, §411.004(3); Texas Transportation Code §521.2476; and 8 U.S.C. §1621, are affected by this proposal.

§10.11. Application; Renewal.

(a) Application for vendor authorization must be made in the manner required by the department. The application must contain all materials or information required by this chapter, and the initial inspection fee must be paid as provided in §10.15 of this title (relating to Inspections and Fees).

(b) If the applicant is an entity other than an individual, the applicant must identify each partner or shareholder who owns a 25% or greater interest in the entity, the director of the entity, and each officer of the entity who oversees the entity's regulated functions.

(c) In order to obtain an authorization, the vendor must have:

(1) All necessary equipment and tools for the proper installation, removal, inspection, calibration, repair, and maintenance, of the type of IID(s) to be installed or serviced by the vendor, as determined by the device manufacturer and standard industry protocols;

(2) A designated waiting area separate from the installation area, to ensure customers do not observe the installation of the IID; [~~and~~]

(3) Proof of liability insurance providing coverage for damages arising out of the operation or use of IIDs with a minimum policy limit of $1,000,000 per occurrence and $3,000,000 aggregate total; and[~~.~~]

(4) Proof that the applicant, or if the applicant is an entity other than an individual, each partner, shareholder, director, or officer as described in subsection (b) of this section, is eligible for vendor authorization under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete application is received, notice will be sent to the applicant stating that the application is incomplete and specifying the information required for acceptance. The applicant has 90 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the documentation, the application will be considered withdrawn.

(e) An application is complete when:

(1) It contains all of the items required pursuant to this section;

(2) All required fees have been paid; and

(3) All requests for additional information have been satisfied.

(f) The vendor authorization expires on the second anniversary of the date of original issuance. Application for renewal must be made in the manner required by the department, and must meet all requirements for an original application. The renewal application must be submitted prior to expiration.

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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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 424-5848

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CHAPTER 12. COMPASSIONATE-USE/LOW-THC CANNABIS PROGRAM
SUBCHAPTER B. APPLICATION AND RENEWAL

37 TAC §§12.12, 12.13, 12.16

The Texas Department of Public Safety (the department) proposes amendments to §§12.12, 12.13, and 12.16, concerning Application and Renewal. The proposed amendments provide that an applicant for a new or renewal registration under the Compassionate-Use/Low-THC Cannabis Program must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and registration process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and registration process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and registration process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and registration process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Health and Safety Code, §487.052, which authorizes the director of the department to adopt any rules necessary for the administration and enforcement of Chapter 487.

Texas Health and Safety Code §487.052 and 8 U.S.C. §1621, are affected by this proposal.

§12.12. Application for Registration.

(a) In conjunction with the dispensing organization's application for license, or prior to employment with a currently licensed dispensing organization, directors, owners, managers, members, and employees must submit:

(1) Identifiers, including the individual's full name, date of birth, telephone number, electronic mail address, residential address, and driver license or state-issued identification number; [~~and~~]

(2) Fingerprints submitted in the manner approved by the department; and[.]

(3) Proof that the applicant is eligible for registration under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(b) If the applicant does not have a digital photograph on file with the department or the department is unable to access the photograph on file, the registration card will be issued without a photograph. When presenting such a card to a peace officer or to a representative of the department, the registrant shall also present a valid government issued identification card or driver license.

(c) Failure of an applicant to comply with the requirements of this section will result in notification of the deficiency. Applicant will have ninety (90) days from the date of notice to address the deficiency. Upon request of the applicant, the department may extend the period to address the deficiency for one additional ninety (90) day period. If an applicant fails to provide all required application materials, or fails to respond to a request by the department for additional information necessary to process the application, the application will be terminated. Following the termination of an application, a new application, including a new application fee, must be submitted.

§12.13. Renewal.

(a) A license or registration may be renewed at any time during the six (6) months prior to expiration.

(b) A renewal applicant must pass department inspection prior to approval of the application. This requirement is satisfied by an inspection within ninety (90) days prior to the submission of the renewal application.

(c) An expired license or registration may be renewed for up to six (6) months after the expiration date. If the license has been expired for more than six (6) months, the former license holder must submit an original license application to receive a license in the future.

(d) An applicant for registration renewal must submit proof that the applicant is eligible for registration as required in §12.12(a)(3) of this title (relating to Application for Registration).

§12.16. Denial of Application for Registration.

The department may deny the application for registration of a director, owner, manager, member, or employee of a dispensing organization if the applicant is disqualified pursuant to §12.3 of this title (relating to Criminal History Disqualifiers) or the applicant is found to have violated any provision of the Act or this chapter. The applicant may request a hearing by submitting a request through the department's website within thirty (30) days of the date of the denial notice.

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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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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CHAPTER 15. DRIVER LICENSE RULES
SUBCHAPTER B. APPLICATION REQUIREMENTS--ORIGINAL, RENEWAL, DUPLICATE, IDENTIFICATION CERTIFICATES

37 TAC §15.25

The Texas Department of Public Safety (the department) proposes amendments to §15.25, concerning Address. The proposed rule amendments implement Senate Bill 523, 89th Leg., R.S. (2025) and House Bill 16, 89th Leg., 2d C.S. (2025) by modifying the list of persons eligible to apply for a driver license with an alternative address and updates the list of requirements for application.

Christopher Major, Management Analyst IV, Driver License Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Mr. Major has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Mr. Major has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be improved public safety for law enforcement and judicial personnel.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does expand an existing regulation. The proposed rulemaking does increase the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Christopher Major, Driver License Division, Texas Department of Public Safety, P.O. Box 4087 (MSC 0300), Austin, Texas 78773; by fax to (512) 424-5233; or by email to DLDrulecomments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521; and Senate Bill 523, 89th Leg., R.S. (2025) and House Bill 16, 89th Leg., 2d C.S. (2025).

Texas Government Code, §411.004(3) and Texas Transportation Code, §521.005, §521.121, and §521.1211, are affected by this proposal.

§15.25. Address.

The address requirement for a driver license and identification certificate is:

(1) The applicant's Texas residence address must be given. A business address is not acceptable. Applicants may be required by the department to provide proof satisfactory to the department to establish the Texas residence address provided. All documents must be verifiable.

(2) The complete street address including apartment numbers and such terms as street, circle, drive, or court should be used whenever possible. The city, state, zip code, and type of residence must be shown as part of the address on all applications for driver licenses and identification certificates. The zip code may be a five or nine digit number until such time as the nine digit number is required by the department or postal authorities. In rural areas, route number and box number should be given.

(3) The application form also provides space for a mailing address. If there is no mail delivery at the address shown, then a post office box number or other mailing address must be shown in conjunction with the Texas residence address provided. If an applicant has a mailing address in addition to the Texas residence address, which may include post office boxes or other mailing locations, it may be provided in this space.

(4) A general delivery address must not be used except in very small communities when no street or route addresses are available.

(5) A post office box number is not acceptable if a better address can be obtained. The post office box number may only be listed in addition to a Texas residence address.

(6) Military personnel and the spouse or dependent of a member of the armed forces should give a complete address such as: John Henry Smith, Co. B, 25th Inf., Camp Barkeley, Abilene, Texas. If a member of the armed forces or the spouse or dependent of a member of the armed forces has a residence address in Texas, it should be provided and used. A member of the armed forces and the spouse or dependent of a member of the armed forces may provide a residence address outside of Texas.

(7) The department has incorporated an address validation program that presents addresses using United States Postal Service (USPS) standards.

(A) Standardized addresses will be displayed on licenses and identification certificates and used for mailing purposes.

(B) Addresses that do not conform to USPS standards or do not validate may be used if the customer can verify that he/she receives mail at that address.

(8) The department shall conduct an audit of driver license and identification certificate address information provided by driver license customers. This audit shall:

(A) validate that the addresses being reviewed are residential addresses; and/or

(B) determine if the same address has been provided by ten (10) or more driver license or identification certificate holders.

(9) The department may require each driver license or identification certificate holder whose address of record is being audited to present documentation required by §15.49 of this title (relating to Proof of Domicile) and §16.7 of this title (relating to Proof of Domicile) to demonstrate the holder resides at the address of record. An acceptable list of documentation may be found in §15.49 and §16.7.

(10) The department shall cancel any driver license or identification certificate issued to a person who does not prove that he/she resides at the address on record.

(11) An alternate address may be used on a driver license per Texas Transportation Code, §521.121 and §521.1211. An applicant who is eligible to use an alternate address must apply in person for an original, renewal, or duplicate driver license and surrender any other driver license issued to the applicant by the department or another state. No online transactions will be allowed for issuance of duplicate or renewed licenses issued under this paragraph.

(A) A peace officer or special investigator, as defined in the Code of Criminal Procedure, Article 2.12 and Article 2.122 respectively, may use the address of the county courthouse in their county of residence or their business address as the alternate address on their driver license.

(i) Peace officers must present a license issued by the Texas Commission on Law Enforcement (TCOLE) and a Peace Officer Identification Card and Badge issued by the officer's employing agency to establish eligibility.

(ii) Special investigators must present a federal ID and badge issued by the officer's employing agency.

(B) A parole officer or probation officer, as defined in Government Code, §508.001 and Texas Transportation Code,

§521.1211, respectively, may use the official's office address as the alternate address on the official's driver license. These applicants must present an employment verification letter on agency letterhead or an official identification card or badge.

(C) [~~(B)~~] A county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney may use their business address as the alternate address on their driver license. These applicants must present either their oath of office documentation or a letter from the elected prosecutor for their office affirming employment.

(D) [~~(C)~~] A federal or state judge, as defined by Texas Election Code, §1.005, a United States Marshall, or a United States Attorney may use the address of the courthouse or office building where they work as the alternate address on their driver license.

(i) A federal judge must present an official identification card issued by the Administrative Office of the United States courts.

(ii) A state judge must present an official identification card issued by the office of the Texas Secretary of State.

(iii) A municipal court judge or justices of the peace must present their business card along with additional documentation identifying the judge issued by a state agency affiliated with the judiciary, including the Office of Court Administration, Office of the Attorney General, Secretary of State, and Texas courts.

(iv) A U.S. Marshal must present a federal identification card or badge issued by the officer's employing agency or a letter with required information if a federal ID card cannot be copied or scanned.

(v) A U.S. Attorney or an assistant U.S. attorney must present a letter from the elected prosecutor for their office affirming employment or an Oath of Office documentation.

(E) [~~(D)~~] A spouse or a child of a federal judge, state judge, U.S. Marshall, or U.S. Attorney, who reside at the same residence, may also use the address of the courthouse or office building where the eligible official works as the alternate address on their driver license.

(F) A court clerk, court coordinator, court administrator, juvenile case manager, law clerk, or staff attorney who performs duties related to court administration may use the address of the courthouse or office building where the eligible official or employee works as the alternate address on the official or employee's driver license. Applicants must provide an employment verification letter on agency letterhead and one of the following: an official identification card or badge; a payroll record; or a human resource record.

(G) A spouse or child of a court clerk, court coordinator, court administrator, juvenile case manager, law clerk, or staff attorney, who reside at the same residence, may also use the address of the courthouse or office building where the eligible official or employee works as the alternate address on the spouse or child's driver license. Applicants must provide proof of relationship (marriage license, birth certificate, or adoption papers) and proof of employment as described in subparagraph (F) of this section for the eligible official or employee.

(H) An employee of the office of county clerk, district clerk, or county and district clerk, or of the Office of Court Administration of the Texas Judicial System and entities administratively attached to the office, or an employee or commissioner of the State Commission of Judicial Conduct may use the office address where the eligible employee or official works as the alternate address on the employee or official's driver license. Applicants must provide an employment verification letter on agency letterhead and one of the following: an official identification card or badge; a payroll record; or a human resource record.

(I) A spouse or child of an employee of the office of county clerk, district clerk, or county and district clerk, or of the Office of Court Administration of the Texas Judicial System and entities administratively attached to the office, or an employee or commissioner of the State Commission of Judicial Conduct, who reside at the same residence, may also use the office address where the eligible employee or official works as the alternate address on the spouse or child's driver license. Applicants must provide proof of relationship (marriage license, birth certificate, or adoption papers) and proof of employment as described in subparagraph (H) of this section for the eligible employee or official.

(J) [~~(E)~~] An applicant who is eligible to use an alternate address must provide the actual current residence address for department records and mailing purposes.

(K) [~~(F)~~] A person who has been issued a driver license with an alternate address must apply to the department for issuance of a duplicate driver license that displays the person's actual current residence address not later than 30 days after the license holder ceases to be eligible to use an alternate address.

(L) [~~(G)~~] A person who has been issued a driver license or identification card with an alternate address must notify the department of the change and obtain a duplicate driver license not later than 30 days after a name change and/or residence address change.

(M) [~~(H)~~] An applicant who is eligible to use an alternate address must pay the required fee for changes to the driver license.

(12) All documents submitted by the applicant must be acceptable to the department. The department has the discretion to reject or require additional evidence for alternate address eligibility.

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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D. Phillip Adkins
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CHAPTER 23. VEHICLE INSPECTION
SUBCHAPTER A. VEHICLE INSPECTION STATION AND VEHICLE INSPECTOR CERTIFICATION

37 TAC §23.1, §23.3

The Texas Department of Public Safety (the department) proposes amendments to §23.1 and §23.3, concerning Vehicle Inspection Station and Vehicle Inspector Certification. The proposed amendments provide that an applicant for a new or renewal vehicle inspection station certification or a vehicle inspector certificate must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local

public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce Chapter 548.

Texas Government Code, §411.004(3); Texas Transportation Code, §548.002; and 8 U.S.C. §1621, are affected by this proposal.

§23.1. New or Renewal Vehicle Inspection Station Applications.

(a) Applicants for new or renewal vehicle inspection station certification must apply in a manner prescribed by the department.

(b) By submitting a new or renewal vehicle inspection station application form, the applicant agrees to allow the department to conduct background checks as authorized by law.

(c) A new or renewal vehicle inspection station application must include, but is not limited to, the items listed in paragraphs (1) - (4) [~~(3)~~] of this subsection:

(1) Criminal history disclosure of all convictions for the applicant or, if the applicant is an entity other than an individual, for the executive officer or other individual specifically authorized by the entity to sign the application;

(2) Proof of ownership and current status as required by the department. Such proof includes, but is not limited to, a current Certificate of Fact from the Texas Secretary of State and a Certificate of Account Status from the Texas Comptroller of Public Accounts; [~~and~~]

(3) Payment of the vehicle inspection station nonrefundable new and renewal application fee of $100; and[.]

(4) Proof that the applicant is eligible for certification under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete new or renewal vehicle inspection station application is received, notice will be sent to the applicant stating the application is incomplete and specifying the information required for completion.

(e) The new or renewal vehicle inspection station applicant has 60 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the information, the application will be considered withdrawn and a new application must be submitted.

(f) A new or renewal vehicle inspection station application is complete when:

(1) It contains all items, including proof of identification, as required by the department.

(2) It conforms to Texas Transportation Code, Chapter 548, this chapter, and the Texas vehicle inspection program's instructions.

(3) All fees are paid pursuant to Texas Transportation Code, Chapter 548 and this chapter.

(4) All requests for additional information are satisfied.

(g) The vehicle inspection station certificate will expire on December 31 of the odd numbered year following the date of issuance and is renewable every two years thereafter.

(h) A renewal of the vehicle inspection station certification issued by the department is conditional upon the receipt of criminal history record information.

(i) For a new or renewal vehicle inspection station application to be approved, the owner must:

(1) be at least 18 years of age;

(2) not be currently suspended or revoked in the Texas vehicle inspection program;

(3) have a facility that meets the standards for the appropriate class set forth in this chapter;

(4) have equipment that meets the standards set forth in §23.13 of this title (relating to Equipment Requirements for Commercial Safety Inspection Stations); and

(5) meet all other eligibility criteria under Texas Transportation Code, Chapter 548 or this chapter.

(j) Certificate holders of vehicle inspection stations must submit a new application, including applicable fees, to change a location or make a change of ownership.

(k) Applicants for new or renewal vehicle inspection station certification must apply for one of the classes defined in paragraphs (1) - (3) of this subsection:

(1) Public--A station open to the public performing inspections on vehicles presented by the public. Stations open to the public will not be issued a fleet vehicle inspection station license unless such stations are currently certified as a public vehicle inspection station;

(2) Fleet--A station not providing vehicle inspection services to the public; or

(3) Government--A station operated by a political subdivision or agency of this state.

(l) Failure to meet the requirements of subsection (i) of this section will result in the denial of the application.

§23.3. New or Renewal Vehicle Inspector Applications.

(a) Applicants for a new or renewal vehicle inspector certificate must apply in a manner prescribed by the department.

(b) By submitting a new or renewal vehicle inspector application, the applicant agrees to allow the department to conduct background checks as authorized by law.

(c) A new or renewal vehicle inspector application must include, but is not limited to, the items listed in paragraphs (1) - (3) [~~and (2)~~] of this subsection:

(1) Criminal history disclosure of all convictions of the vehicle inspector applicant; [~~and~~]

(2) Payment of the new or renewal vehicle inspector nonrefundable application fee of $25; and[.]

(3) Proof that the applicant, or if the applicant is an entity other than an individual, the executive officer or other individual as described in paragraph (1) of this subsection, is eligible for a certificate under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete new or renewal vehicle inspector application is received, notice will be sent to the applicant stating that the application is incomplete and specifying the information required for completion.

(e) The new or renewal vehicle inspector applicant has 60 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the information, the application will be considered withdrawn.

(f) A new or renewal vehicle inspector application is complete when:

(1) It contains all items required by the department.

(2) It conforms to Texas Transportation Code, Chapter 548, this chapter, and the Texas vehicle inspection program's instructions.

(3) All fees are paid pursuant to Texas Transportation Code, Chapter 548 and this chapter.

(4) All requests for additional information are satisfied.

(5) The applicant has completed department provided training as outlined in this chapter.

(6) The applicant has passed an examination with a grade of not less than 80 on Texas Transportation Code, Chapter 548, this chapter, and regulations of the department pertinent to the Texas vehicle inspection program.

(7) The applicant has successfully demonstrated the ability to correctly operate the required testing devices (commercial inspectors only).

(g) The new or renewal vehicle inspector certificate will expire on December 31 of the even numbered year following the date of issuance and is renewable every two years thereafter.

(h) A renewal of the vehicle inspector certification issued by the department is conditional upon the receipt of criminal history record information.

(i) For a new or renewal vehicle inspector application to be approved the applicant must:

(1) be at least 18 years of age;

(2) provide the applicant's driver license number;

(3) not be currently suspended or revoked in the Texas vehicle inspection program; and

(4) meet all other eligibility criteria under Texas Transportation Code, Chapter 548 or this chapter.

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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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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CHAPTER 35. PRIVATE SECURITY
SUBCHAPTER B. LICENSING

37 TAC §§35.21, 35.22, 35.30

The Texas Department of Public Safety (the department) proposes amendments to §§35.21, 35.22, and 35.30, concerning Licensing. The proposed amendments provide that an applicant for a new or renewal private security license must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event

there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

§35.21. Individual License Applications.

(a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section is submitted to the department by or on behalf of any employee who is required to be licensed under the Act. An application must include all items required under subsection (b) of this section in order to comply with the requirements of §1702.230(c) of the Act.

(b) The items detailed in this subsection must be submitted in the manner prescribed by the department:

(1) The required fee;

(2) A copy of the applicant's Level II certificate of completion when applicable;

(3) Fingerprints in the form and manner approved by the department; [~~and~~]

(4) The criminal history check fee as provided in this chapter; and [~~.~~]

(5) Proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

§35.22. Renewal Individual License Applications.

(a) An application for renewal must be submitted in the manner prescribed by the department. The application must include:

(1) The required fee;

(2) If the fingerprints on file do not meet current Federal Bureau of Investigation or the department's quality standards, applicants will be required to submit a new set of electronic fingerprints to complete the renewal application process; [~~and~~]

(3) The criminal history check fee as provided in this chapter; and [~~.~~]

(4) Proof that the applicant is eligible for a license as required in §35.21(b)(5) of this title (relating to Individual License Applications).

(b) A complete renewal application must be submitted prior to expiration for the current license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

§35.30. Company License Application Requirements.

As provided in §1702.110(a)(6), as part of the company application an applicant for a company license that is an entity other than individual must submit fingerprints of each officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. All such individuals must satisfy the eligibility criteria provided in the Act, [~~and~~] in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses), in §35.21(b)(5) of this title (relating to Individual License Applications), and in §35.22(a)(4) of this title (relating to Renewal Individual License Applications). Should an individual fail to meet these requirements, the company application will be denied, or, if the license has been issued, the license will be subject to suspension or revocation, as applicable.

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 April 10, 2026.

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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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For further information, please call: (512) 424-5848

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SUBCHAPTER F. COMMISSIONED SECURITY OFFICERS

37 TAC §35.81, §35.83

The Texas Department of Public Safety (the department) proposes amendments to §35.81 and §35.83, concerning Commissioned Security Officers. The proposed amendments provide that an applicant for a new or renewal security officer commission must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The

proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

§35.81. Application for a Security Officer Commission.

(a) A complete security officer commission application must be submitted on the most current version of the form provided by the department. The application must include:

(1) The required application fee;

(2) Fingerprints in form and manner approved by the department;

(3) The required criminal history check fee;

(4) A copy of the applicant's Level II certificate of completion;

(5) A copy of the applicant's Level III certificate of completion;

(6) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;

(7) Non United States citizens must submit a copy of their current alien registration card. Non-resident aliens must also submit documents establishing the right to possess firearms under federal law; [~~and~~]

(8) Proof of completion of the Minnesota Multiphasic Personality Inventory on the department-prescribed form. The form must be signed by the administering psychologist or psychiatrist and must reflect the psychologist's or psychiatrist's interpretation of the results and the determination that the applicant is not disqualified from the license by reason of a mental health condition; and [~~.~~]

(9) Proof that the applicant is eligible for a security officer commission under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States

(b) Incomplete applications will not be processed and will be returned for clarification or missing information.

§35.83. Renewal of Security Officer Commission.

(a) An application for renewal of a security officer commission may not be submitted more than ninety (90) days prior to expiration. A completed renewal application must be submitted on the most current version of the form provided by the department. The application must include:

(1) The required renewal application fee;

(2) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;

(3) Non United States citizens must submit a copy of their current alien registration card. Non resident aliens must also submit a copy of a current work authorization card and documents establishing the right to possess firearms under federal law;

(4) A valid firearms proficiency certificate issued no more than ninety (90) days prior to date of the renewal application;

(5) Unless usable prints are on file with the department, fingerprints in a manner approved by the department; [~~and~~]

(6) The required criminal history check fee; and[~~.~~]

(7) Proof that the applicant is eligible for a security officer commission as required in §35.81(a)(9) of this title (relating to Application for a Security Officer Commissioner).

(b) Incomplete applications will not be processed and will be returned for clarification or missing information.

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 April 10, 2026.

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Texas Department of Public Safety
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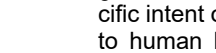

SUBCHAPTER J. SPECIAL COMPANY LICENSE QUALIFICATIONS

37 TAC §§35.121 - 35.124

The Texas Department of Public Safety (the department) proposes amendments to §§35.121 - 35.124, concerning Special Company License Qualifications. The proposed amendments provide that an applicant for an investigations company license, a guard company license, a locksmith company license, or an alarm company and alarm training school license must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

§35.121. Investigations Company License.

(a) Pursuant to the Act, the department has determined an applicant for licensure as a private investigations company or the prospective company representative of the applicant company, must meet one of the qualifications detailed in this section:

(1) Three (3) consecutive years of investigation related experience;

(2) A bachelor's degree in criminal justice or related course of study;

(3) A bachelor's degree with twelve (12) months of investigation related experience;

(4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;

(5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or

(6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.

(b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

(c) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

§35.122. Guard Company License.

Pursuant to the Act, the department has determined an applicant for licensure as a guard company or the prospective company representative of the applicant company must meet the qualifications detailed in this section:

(1) Must be at least twenty one (21) years of age at the time of application;

(2) Must have at least three (3) years accumulated employment experience in the field in which the company is licensed; [~~and~~]

(3) Must have at least one (1) year of experience in a managerial or supervisory position; and [~~.~~]

(4) Must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

§35.123. Locksmith Company License.

(a) Pursuant to the Act, the department has determined that an applicant for licensure as a locksmith company, or the prospective company representative of the applicant company, must meet one of the qualifications detailed in this section:

(1) Qualification option one. Two (2) consecutive years of full-time locksmith-related experience; or

(2) Qualification option two.

(A) Successful completion of a department approved forty-eight (48) hour basic locksmith course and a six hundred (600) hour fundamentals of locksmith course, with the curriculum content detailed in this subparagraph:

(i) Introduction to locksmithing.

(ii) The Act and this chapter.

(iii) State of Texas and United States Government business requirements.

(iv) Key blank identification.

(v) Key machine and key duplication.

(vi) Codes and code cutting.

(vii) Basic lock types.

(viii) Basic picking.

(ix) Rim and mortise cylinders.

(x) Key in knob/key in lever locks.

(xi) Deadbolts and mortise locks.

(xii) Installations.

(xiii) Impressioning.

(xiv) Basic master-keying.

(xv) Basic safe servicing.

(xvi) Small format interchangeable core.

(xvii) High security and key control cylinders.

(xviii) Automotive opening.

(xix) Automotive key generation and programming.

(xx) Exit/panic device servicing, replacement, and installation.

(xxi) Door closer servicing, replacement, and installation.

(xxii) Cabinet and drawer lock servicing, replacement, and installation.

(xxiii) Safe installation, moving, and anchoring.

(xxiv) Single door access control service and installation.

(B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and

(C) One (1) year of full-time locksmith related experience.

(b) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

§35.124. Alarm Company and Alarm Training School Licenses.

(a) Pursuant to the Act, the department has determined an applicant for licensure as an alarm company, alarm training school, or the prospective company representative of the applicant company must have two (2) consecutive years of alarm related experience, including installation, monitoring, sales, or related supervision.

(b) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

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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CHAPTER 36. METALS RECYCLING ENTITIES

SUBCHAPTER B. CERTIFICATE OF REGISTRATION

37 TAC §36.11, §36.16

The Texas Department of Public Safety (the department) proposes amendments to §36.11 and §36.16, concerning Certificate of Registration. The proposed amendments provide that an applicant for a new or renewal metals recycling entity certificate of registration must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer Chapter 1956, including rules establishing minimum requirements for registration.

Texas Government Code, §411.004(3); Texas Occupations Code, §1956.013; and 8 U.S.C. §1621, are affected by this proposal.

§36.11. Application for Certificate of Registration.

(a) A certificate of registration may only be obtained through the department's online application process.

(b) The application for certificate of registration must include, but is not limited to:

(1) Criminal history disclosure of all convictions for the owner with a controlling interest in the business, or if no owner has a controlling interest in the business, for the entity's on-site representative;

(2) Proof of ownership and current status as required by the department, including but not limited to, a current Certificate of Existence or Certificate of Authority from the Texas Office of the Secretary of State and a Certificate of Good Standing from the Texas Comptroller of Public Accounts;

(3) All fees required pursuant to §36.17 of this title (relating to Fees);

(4) Proof of training pursuant to §36.34 of this title (relating to Texas Metals Program Recycler Training);

(5) A statutory agent disclosure pursuant to §36.12 of this title (relating to Statutory Agent Disclosure);

(6) The physical address of the fixed location at which the applicant will conduct regulated metal recycling activities; [~~and~~]

(7) If the applicant's business activity involves catalytic converters removed from motor vehicles, a declaration on the approved department form stating:

(A) whether the applicant will engage in a business activity that involves the conversion of catalytic converters removed from motor vehicles into raw material products by a method that in part requires the use of powered tools and equipment or the use of such raw material products in the manufacture of producer or consumer goods;

(B) whether the applicant will purchase or otherwise acquire catalytic converters removed from motor vehicles for the eventual use of the metal for purposes of the aforementioned business activities but will not actually engage in those activities; or

(C) that the applicant will deal only incidentally with catalytic converters removed from motor vehicles; and[~~.~~]

(8) Proof that the applicant, or if the applicant is an entity other than an individual, the owner with a controlling interest or on-site representative as described in subsection (b)(1) of this section, is eligible for a certificate of registration under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(c) Applicants proposing to conduct business at more than one (1) location must complete an application for each location and obtain a certificate of registration for each location. An applicant proposing to conduct business at more than one (1) location is only required to comply with the requirement of subsection (b)(4) of this section for the initial location at which the applicant is seeking to conduct business.

(d) A new certificate of registration for a metals recycling entity may not be issued if the applicant's immediate family member's registration as a metals recycling entity, at that same location, is currently suspended or revoked, or is subject to a pending administrative action, unless the applicant submits an affidavit stating the family member who is the subject of the suspension, revocation or pending action, has no, nor will have any, direct involvement or influence in the business of the metals recycling entity.

(e) A new certificate of registration may be issued at the same location where a previous owner's registration as a metals recycling entity is currently suspended, is subject to a pending administrative action, or was previously revoked, if the applicant submits an affidavit stating the previous owner who is the subject of the suspension, revocation, or other pending administrative action, will have no direct

involvement or influence in the business of the metals recycling entity. The affidavit must contain the statement that the affiant understands and agrees that in the event the department discovers the previous registration holder is involved in the business of metals recycling entity at that location, the certificate of registration will be revoked pursuant to §36.53 of this title (relating to Revocation of a Certificate of Registration). In addition to the affidavit, when the change of ownership of the metals recycling entity is by lease of the location, the applicant seeking a certificate of registration must provide a copy of the lease agreement included with the application for certificate of registration.

(f) The failure of an applicant to meet any of the conditions of subsections (a) - (e) of this section will result in rejection of the application as incomplete.

(g) An applicant for a certificate of registration is not authorized to engage in any activity for which a certificate of registration is required prior to being issued a certificate of registration by the department.

(h) A metal recycling entity whose business activity substantially changes in the extent to which the entity engages in transactions involving catalytic converters removed from motor vehicles must update the entity's declaration at the time of or prior to the change.

§36.16. Renewal of Certificate of Registration.

(a) To renew a certificate of registration, an application for renewal and the appropriate renewal fee must be submitted prior to the certificate's expiration date but not more than forty-five (45) days before the expiration date of the current certificate of registration.

(b) A certificate of registration that has been expired less than one (1) year may be renewed by submitting an application for renewal and the appropriate renewal fee pursuant to §36.17 of this title (relating to Fees).

(c) A certificate of registration that has expired for one (1) year or more may not be renewed. An application for a new certificate of registration must be submitted according to the procedures pursuant to §36.11 of this title (relating to Application for Certificate of Registration) and by paying the appropriate fees pursuant to §36.17 of this title.

(d) To renew a certificate of registration, registrants must submit proof of training pursuant to §36.34 of this title (relating to Texas Metals Program Recycler Training). The department may waive this requirement if there have been no significant updates since the previous training.

(e) Except as authorized pursuant to §36.42 of this title (relating to Extension of Registration Renewal Deadlines for Military Service Members) no extension for registration renewal is authorized.

(f) An applicant for a renewal of certificate of registration that is expired is not authorized to engage in any activity for which a registration is required prior to being issued a renewal certificate of registration by the department. Violation of this subsection may result in the denial of the renewal application.

(g) An applicant for certificate of registration renewal must submit proof that the applicant is eligible for certificate of registration as required in §36.11(b)(8) of this title (relating to Application for Certificate of Registration).

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 April 10, 2026.

TRD-202601575

D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 424-5848

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SUBCHAPTER E. DISCIPLINARY PROCEDURES AND ADMINISTRATIVE PROCEDURES

37 TAC §36.51

The Texas Department of Public Safety (the department) proposes amendments to §36.51 concerning Denial of Application for Certificate of Registration. The amendments update this section to include rule text noting the department may deny an application for a certificate of registration if any applicant is found to have violated any provision of the Act or this chapter. This amendment provides conformity with other sections in this chapter and incorporates the most recent revisions found in §36.11 and §36.16 as a reason for denial.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is $22, a REAL ID-compliant driver license or identification certificate in Texas is $33, and a United States passport is $165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and

protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer Chapter 1956, including rules establishing minimum requirements for registration.

Texas Government Code, §411.004(3); Texas Occupations Code, §1956.013; and 8 U.S.C. §1621, are affected by this proposal.

§36.51. Denial of Application for Certificate of Registration.

(a) The department may deny an application for a certificate of registration if:

(1) The applicant attempts to obtain a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) The applicant has sold, bartered, or offered to sell or barter a certificate of registration;

(3) The applicant or, if applicable, the applicant's on-site representative, is ineligible pursuant to §36.55 of this title (relating to Disqualifying Offenses);

(4) The applicant's certificate of registration was revoked within two (2) years prior to the date of application; [~~or~~]

(5) The applicant operated a metal recycling entity in violation of §1956.021 of the Act and, after notice of the violation, failed to obtain a registration required by the Act; or [~~.~~]

(6) The applicant is found to have violated any provision of the Act or this chapter.

(b) Upon the denial of an application under this section, an applicant may request a hearing before the department pursuant to §36.56 of this title (relating to Informal Hearings).

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 April 10, 2026.

TRD-202601576
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 424-5848

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 702. GENERAL ADMINISTRATION
SUBCHAPTER F. ADVISORY COMMITTEES

40 TAC §702.513, §702.515

The Department of Family and Protective Services (DFPS) proposes to amend rules in Title 40, Texas Administrative Code (TAC), Part 19, Chapter 702, Subchapter F, relating to the Parent Collaboration Group (PCG) and the Youth Leadership Council (YLC) advisory committees.

BACKGROUND AND PURPOSE

In 2016, DFPS adopted rules establishing the Youth Leadership Council and the Parent Collaboration Group advisory committees which had already existed, although not uniformly established in rule. Since adoption in 2016, the needs of the agency have evolved with the expansion of community-based care and amendments are needed to ensure the committees continue to serve their intended purpose. Additionally, the committees are set to expire in 2026 and amendments are needed to extend their duration so these committees can continue to provide input to DFPS.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §702.513 increase the maximum membership of the Parent Collaboration Group (PCG) from 22 to 24 members; removes the provision requiring two members per department region to serve on the group; incorporates com-

munity-based care regions; and extends the expiration date of the committee to 2036.

The proposed amendments to §702.515 regarding the Youth Leadership Council (YLC) clarifies the purpose and tasks of the YLC to include "young adults" currently or formerly in foster care; expands membership eligibility to include "young adults" who are or were involved in the child welfare system; revises rule language to incorporate community-based care; removes the requirement that two members per region be appointed; amends the meeting requirement to require a joint meeting; and extends the expiration date of the committee to 2036.

FISCAL NOTE

Lea Ann Biggar, Chief Financial Officer, has determined that for each year of the first five years that the section(s) will be in effect, there will not be any fiscal implications to state government as a result of enforcing and administering the section(s) as amended. There will be no effect on local government.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the section(s) will be in effect:

(1) the amended rule(s) will not create or eliminate a government program;

(2) implementation of the amended rule(s) will not affect the number of employee positions;

(3) implementation of the amended rule(s) will not require an increase in future legislative appropriations;

(4) the amended rule(s) will not affect fees paid to the agency;

(5) the amended rule(s) will not create a new rule;

(6) the amended rule(s) will not expand, limit, or repeal an existing rule

(7) the amended rule will increase the number of individuals subject to the rule; and

(8) the amended 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(s) as proposed.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these rule amendments because DFPS is exempt per subsection (c) of §2001.0045.

PUBLIC BENEFIT

Ms. Biggar has also determined that for each year of the first five years the section(s) are in effect, the public benefit anticipated as a result of enforcing the sections will be continued operation of the advisory committees which would otherwise expire in 2026. This ensures DFPS can continue to receive input from parents, youth, and young adults through the advisory committees. The amendments also expand eligibility and clarify and incorporate community-based care regions.

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

DFPS invites comments on the amended rule proposals. DFPS requests information related to the cost, benefit, or effect of the proposed new, amended, and repealed rules, including any applicable data, research, or analysis. To be considered, comments, questions, and information must be submitted no later than 30 days after the date of this issue to the *Texas Register*.

Electronic comments and questions may be submitted to Lauren Villa, Policy Attorney at lauren.villa@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 amendments are proposed under Texas Human Resources Code §40.030 which permits the DFPS Commissioner or designee to appoint advisory committees in accordance with Texas Government Code Chapter 2110. Chapter 2110 requires state agency advisory committees to be established by rule and to include provisions on the purpose, tasks, reporting requirements, and duration of each committee. Chapter 2110 also addresses committee composition, presiding officer selection, evaluation, and reporting requirements. Human Resources Code §40.030 permits DFPS to adopt rules governing advisory committee size, membership, appointments, and compliance with Open Meetings.

The amendments are also proposed under Human Resources Code §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matter within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

§702.513. Parent Collaboration Group.

(a) Establishment. The Parent Collaboration Group ("PCG") is established.

(b) Purpose. The purpose of the PCG is to provide a forum for individuals who have had involvement with the child welfare system as parents to discuss their experiences and make recommendations to the Department for improving the system.

(c) Tasks. The PCG performs the following tasks:

(1) Makes recommendations to the Department through regularly scheduled meetings and Department staff assigned to the committee; and

(2) Performs other tasks consistent with its purpose and bylaws.

(d) Reporting requirements and Department action.

(1) The Department will gather information on the PCG activities to compile an annual report.

(2) The annual report may guide Department policy or practice.

(e) Membership.

(1) The PCG consists of no more than 24 [~~22~~] members.

(2) Members are appointed by the Regional Directors who may consult with the Single Source Continuum Contractor when making appointments in a Community Based Care catchment area.

(3) Membership requirements:

(A) All members must have previously been involved in the child welfare system as parents.

(B) In general, the member's Child Protective Services case must have been closed for one year; the Regional Director or Single Source Continuum Contractor in a Community Based Care catchment area may make exceptions to this rule if the parent is otherwise qualified.

[~~(C) Two members per Department region will serve on the PCG if possible.~~]

(4) Except as may be necessary to stagger terms, a PCG member serves for a two-year term and may be appointed for additional terms, not to exceed three terms.

(f) Meetings. The PCG will meet a minimum of three times per year.

(g) Decision-making. The committee will make decisions by consensus.

(h) Abolition. The PCG is abolished, and this section expires, August 31, 2036 [~~2026~~].

(i) The PCG is not a "governmental body" for purposes of the Open Meetings Act, Texas Government Code Chapter 551.

§702.515. State Youth Leadership Council.

(a) Establishment. The State Youth Leadership Council is established.

(b) Purpose. The State Youth Leadership Council provides a forum for youth and young adults who are currently or were formerly in foster care to discuss their experiences with the Texas foster care system and make recommendations to the Department for improving the system.

(c) Tasks. The State Youth Leadership Council performs the following tasks:

(1) Makes recommendations to the Department through scheduled meetings based on the availability of the youth or young adults currently [~~current~~] or formerly [~~former~~] in foster care [~~youth~~]; and

(2) Performs other tasks consistent with its purpose.

(d) Reporting requirements and Department action.

(1) The Department will gather information on the State Youth Leadership Council's activities to compile an annual report.

(2) The annual report may guide Department policy and practice.

(e) Membership.

(1) The State Youth Leadership Council consists of no more than 24 members.

(2) Members for the State Youth Leadership Council are comprised of [~~recommended by~~] regional youth leadership group members from both Department regions and Single Source Continuum Contractor catchment areas [~~councils~~] , Regional Youth Specialists, Preparation for Adult Living staff, or other individuals familiar with the youth or young adults currently [~~current~~] or formerly [~~former~~] in foster care [~~youth~~].

(3) Membership requirements:

(A) Members should be chosen so that the statewide council represents all regions of the state including Community Based Care catchment areas. [~~Two members will be appointed per region if possible~~].

(B) Members must be youth or young adults who are currently or were formerly in foster care and who are at least age 16 but under the age of 21 when appointed.

(f) Meetings. The State Youth Leadership Council shall convene at a minimum annually. [~~will meet a minimum of two times per year.~~] At least one statewide meeting shall include regional youth leadership group representatives from both Department regions and Single Source Continuum Contractor catchment areas.

(g) Decision-making. The State Youth Leadership Council will make decisions by consensus.

(h) Abolition. The State Youth Leadership Council is abolished, and this section expires, on August 31, 2036 [~~2026~~].

(i) The State Youth Leadership Council is not a "governmental body" for purposes of the Open Meetings Act, Texas Government Code Chapter 551.

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 April 9, 2026.

TRD-202601534
Sanjuanita Maltos
Rules Coordinator
Department of Family and Protective Services
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 945-5978

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §215.2 and repeal of §215.1; proposes amendments to Subchapter B, Licenses Generally, §§215.82 - 215.85, 215.89 and 215.91 and repeal of §215.81; proposes amendments to Subchapter C, Franchised Dealers, Manufacturers, Distributors, and Converters, §§215.104, 215.105, 215.108, 215.110, 215.113 - 215.115, 215.120, and 215.121, proposes new §215.107, and repeal of §215.101; proposes amendments to Subchapter D, General Distinguishing Numbers and In-transit Licenses, §§215.132 - 215.134, 215.137, 215.140, 215.141, 215.144, 215.145,

215.152, 215.154, 215.155, 215.157, and 215.158, proposes new §215.153 and §215.159, and repeal of §215.131; proposes amendments to Subchapter E, Lessors and Lease Facilitators, §§215.175, 215.177, and 215.181, and repeal of §215.171; proposes amendments to Subchapter F, Advertising, §§215.242, 215.244, 215.246, 215.264, and 215.270, and repeals of §§215.241, 215.243, and 215.269; and proposes amendments to Subchapter G, Administrative Sanctions, §215.500.

The proposed amendments are necessary to enhance the enforceability of the Motor Vehicle Records Disclosure Act in Transportation Code, Chapter 730; to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to modify language to be consistent with current practice; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, references or other language; to establish or clarify existing requirements for license plate use, management, and storage; and to streamline and modernize language.

Three new sections are also being proposed. Proposed new §215.107 would document licensing requirements when a manufacturer or distributor sells or transfers a line-make; proposed new §215.153, would clarify a dealer's use of buyer's provisional license plates, and proposed new §215.159 would establish when a dealer with multiple locations may store or manage license plates from a location other than the licensed location.

On December 8, 2025, the department provided an early draft of the proposed new rules and other rules with substantive changes to the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC). Committee members then voted on formal motions and provided informal comments on other provisions. The department has incorporated input from this committee in proposed §§215.104, 215.145, 215.153, 215.159, and 215.244.

Redundant or unnecessary rules identified in the course of the department's work with the Texas Regulatory Efficiency Office are proposed for repeal, including §§215.1, 215.81, 215.101, 215.131, 215.171, 215.241, 215.243, and 215.269.

EXPLANATION.

The department is conducting a review of Chapter 215 rules in compliance with Government Code, §2001.039. Notice of the department's plan to review is also published in this issue of the *Texas Register*. As a part of the review, the department is proposing necessary amendments, new sections, and repeals as detailed in the following paragraphs.

Subchapter A. General Provisions

§215.1

This section describing the purpose and scope of the chapter is proposed for repeal because the section is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.2

Proposed amendments to §215.2(a) would add a reference to Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, to clarify that the definitions in Chapter 730 would apply to Chapter 215 because the rules in this proposal would enforce that act. The proposed amendments would also amend related punctuation. A proposed amendment to §215.2(b)(7) would clarify that the definition of standard license plate does not include a dealer's temporary license plate issued under Transportation Code, §503.062. A dealer's temporary license plate may only be used for the purposes authorized in Transportation Code, §503.062, whereas a dealer's standard license plate, authorized under Transportation Code, §503.061, may be used for a broader set of purposes.

Subchapter B. Licenses, Generally

§215.81

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.82

Proposed amendments to §215.82 would add "and Dealer's Temporary" to the title of the section and would add a dealer's temporary license plate to the rule text to include this license plate type as an additional type for which a dealer could get a replacement license plate or sticker at no charge if the dealer did not receive the original license plate the dealer ordered and the dealer made a request for a replacement within 45 days of the department mailing the license plate in the license plate system designated by the department. Proposed amendments would also delete unnecessary references to the specific types of license holders eligible to receive a standard license plate because the phrase "standard license plate" is already defined in §215.2(b)(7) of this title (relating to Definitions; Conformity and Statutory Requirements) as a license plate issued to a license holder. Additional proposed amendments would delete "standard" from the description of the license plate in §215.82(1) and §215.82(2) because these provisions would apply to both standard license plates and dealer's temporary license plates. These proposed amendments would allow a dealer to receive a replacement at no charge if a dealer's temporary license plate is lost in the mail and a dealer promptly requests a replacement.

§215.83

Proposed amendments to §215.83 would create new paragraph §215.83(a) to document existing requirements for a new applicant to register for an account in the department-designated licensing system by accessing the licensing system through the department's website. These proposed amendments would require an applicant to designate an account administrator, provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable, and would specify that the applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee. These proposed amendments reflect existing requirements for setting up an account that an applicant may then use to submit a license application. The remaining paragraphs of §215.83 would be renumbered to accommodate new §215.83(a).

§215.84

Proposed amendments to §215.84 would delete subsection (a) and reletter the remaining subsections because the text in this subsection unnecessarily duplicates language in Occupations Code, §2301.002(3) and §2301.006.

§215.85

Proposed amendments to §215.85 would streamline the language throughout the section to improve readability without changing meaning, delete language found in statute, and clarify the requirements for buyer referrals. Proposed amendments to §215.85(a) would streamline this subsection by moving a descriptive phrase to eliminate unnecessary words and punctuation, and would delete an unnecessary phrase and an

unnecessary sentence because that language is included in statute. Proposed amendments to §215.85(b) would substitute a phrase to clarify that a referral service, program, plan, or club must meet each of the criteria listed for the referral service to be considered compliant. Proposed amendments to §215.85(b)(1) through §215.85(b)(7) would streamline these paragraphs by deleting unnecessary words without changing meaning. Proposed amendments to §215.85(c) would substitute "under" for "pursuant to" to streamline and modernize the phrase and would add "motor" to more accurately describe the type of vehicles that a GDN holder under Transportation Code, §503.029(a)(6)(B) is authorized to sell.

§215.89

Proposed amendments to §215.89(a) would delete an unnecessary phrase to streamline the subsection language. A proposed amendment to §215.89(b)(2) would update for ease of reference a citation to the criminal offense guidelines for the motor vehicle industry in 43 TAC Chapter 211, which was renumbered on November 1, 2025. A proposed amendment to §215.89(b)(5) would add a modifying phrase to identify a specific factor--consumer harm--which the department may consider when evaluating if a license holder or applicant is unfit to hold a license due to insolvency or failure to obtain or maintain financial resources sufficient to meet financial obligations. Consideration of this factor is important as a license holder may need to reorganize finances due to a business setback but may not be considered unfit if no consumer harm resulted. A proposed amendment to §215.89(b)(8) would delete an unnecessary introductory verb and connector as a previous license is referenced later in the paragraph, and would update a citation to the section referring to the criminal offense guidelines because this section is proposed for renumbering to §211.9 in a rule proposal which the Board approved for publication on December 11, 2025, and will consider adopting at the same board meeting in which this proposal is being considered.

§215.91

Occupations Code, §55.004(b-1), as amended by Senate Bill 1818, 89th Texas Legislature, Regular Session, requires all state licensing agencies including the department to issue a provisional license to military service members, veterans and military spouses while the agency processes the application for licensure. Proposed amendments to §215.91(b) would clarify the license application process for a military service member, military spouse, or military veteran to obtain a provisional license. These clarifications are necessary for the department to be able to identify and process these applications on an expedited basis as required by Occupations Code, §55.0041, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session. Proposed amendments to §215.91(b)(1) would align the rule with Occupations Code, §55.004, as amended by Senate Bill (SB) 1818, 89th Legislature, Regular Session, to require licensing agencies to issue a provisional license while the agency reviews the application of military service members, spouses and veterans who are currently licensed and in good standing in another state or have been licensed in Texas within the past five years. The proposed amendments to §215.91(b)(1) would establish less onerous application requirements for a provisional license, as specified by Occupations Code, §55.004 and §55.0041, and would clarify that a military service member, military spouse, or military veteran may apply for a provisional license by downloading and completing the application form from the department website or contacting the department. Proposed amendments to §215.91(b)(1) would also require the applicant to submit the completed provisional license application to the department at the email address designated in the application form, delete a requirement to submit the more comprehensive online application specified in §215.83, and would reletter the required attachments that must be submitted with the provisional license application. The proposed amendments would also add a new §215.91(b)(1)(C) and amend relettered §215.91(b)(1)(A) to clarify and separate the documentation requirements for military veterans from the documents that active-duty military and spouses need to submit to prove their military service status. Proposed amendments to §215.91(b)(1)(D) would clarify that the affidavit requirement of Occupations Code, §55.0041(b)(3) for applicants who have previously been licensed by another state applies to not only military active duty and spouses but also veterans seeking provisional licensure, as a standard method for the department to get the information it needs to determine eligibility for a provisional license. Proposed amendments to §215.91(b)(2) would add the phrase "provisional license" to describe the application type, to align with Occupations Code, §55.004 as amended by SB 1818. Proposed amendments in §215.91(b)(2)(A) would add a reference to military veteran to align with Occupations Code, §55.004 as amended by HB 5629, and update related punctuation and a conjunction. Proposed amendments in §215.91(b)(2)(B) would change a verb to "confirm" for consistency with proposed language in §215.91(b)(2)(C). Proposed amendments in §215.91(b)(2)(C) would add that if the department confirms the information in subparagraphs (A) and (B), that the department will notify the applicant to submit a sufficient application as described in §215.83 at the time the department issues the provisional license, to align with Occupations Code, §55.0041(b-1) as amended by HB 5629. Proposed amendments to §215.91(b)(3) would clarify that the department will issue a license within 10 days of receiving a sufficient application--or notify the applicant why a license cannot currently be issued--as required under Occupations Code, §55.0041(b-1) as amended by HB 5629, when an applicant holds a provisional license, was licensed in good standing in another state with similar licensing requirements, or was licensed in good standing in Texas in the last five years. Another proposed amendment to §215.91(b)(3) would move the last sentence to a new §215.91(c) to improve readability and would reletter current §215.91(c) to §215.91(d). These proposed amendments would streamline the process for military members, military spouses, and military veterans to apply for and obtain a provisional license consistent with the requirements of Occupations Code, Chapter 55 as amended by HB 5629 and SB 1818, without requiring substantial licensing system changes that would impact implementation.

Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters

§215.101

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.104

Proposed amendments to §215.104(a) and §215.104(b) would modernize and simplify text to improve readability without changing meaning. Proposed amendment to §215.104(a)(2) would remove a typographical error. Proposed amendments to §215.104(c) would add a requirement for a franchised dealer to file a license amendment application within ten days if the

person responsible for a franchised dealer's business activities changes due to the appointment of a receiver or filing for bankruptcy, and would make related changes in punctuation and placement of a conjunction. These proposed amendments would help ensure that the proper representative receives department licensing and enforcement notices and can act within the time limits established by statute and rule. Proposed amendments to §215.104(d) would modernize and simplify text to improve readability without changing meaning.

§215.105

Proposed amendments throughout §215.105 would modernize and simplify text to improve readability without changing meaning.

§215.107

Proposed new §215.107 would describe the licensing requirements when a manufacturer or distributor purchases, licenses, or otherwise accepts the transfer of an existing line-make from another manufacturer or distributor. Proposed new §215.107(a) would require the manufacturer or distributor acquiring the line-make to either apply for a manufacturer or distributor license or submit a license amendment to add the transferred line-make. Proposed new §215.107(b) would require the acquiring manufacturer or distributor to identify the effective date of the transfer, identify the franchised dealers authorized to sell and service the line-make, identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer, and certify compliance with Occupations Code, Chapter 2301, Subchapter J. This proposed new section would enable the department to more efficiently transition a line-make and clarify the manufacturer or distributor responsible for statutory warranty and dealer obligations under Occupations Code, Chapter 2301.

§215.108

Proposed amendments to §215.108 would modernize and simplify text to improve readability without changing meaning and would add "or relocated" for consistency.

§215.110

A proposed amendment to §215.110(b) would clarify that the information described is in subsection (a) of the section, and not in other subsections, to prevent any reader confusion.

§215.113

Proposed amendments to §215.113(c) would update the Subchapter designation in 43 TAC, Chapter 224, and delete "License" in a referenced section title to correct the name and subchapter reference.

§215.114

Proposed amendments to §215.114 would modernize and simplify text to improve readability without changing meaning.

§215.115

Proposed amendments to §215.115(e) would add "if applicable" and related punctuation because certain records listed may not be relevant to an individual license holder's business.

§215.120

Proposed amendments to §215.120(a) and (b) would remove the phrases "manufacturer's" and "manufacturer or converter" from modifying "standard license plate" because they are unnecessary since the definition of "standard license plate" in §215.2(b)(7) includes plates issued to these types of license holders. A proposed amendment to §215.120(d) would substitute "license holder" for "manufacturer, distributor, or converter" to simplify rule text without changing meaning. A proposed amendment to §215.120(d)(2) would substitute "secured" for "affixed" for consistency in terminology. A proposed amendment to §215.120(g) would delete the phrase referencing a franchised or other GDN dealer because this phrase is unnecessary as §215.139 addresses the process for license holders to request and receive additional standard license plates. A proposed amendment to §215.120(g)(1) would clarify that a business justification that a license holder could provide to receive additional standard license plates would include the number of vehicles assembled or modified only in the prior twelve months and only at facilities located in Texas or serving the Texas market. The proposed language would clarify the relevant information that the department would consider and address a common question posed by manufacturers when requesting additional standard license plates. A proposed amendment to §215.120(h) would correct a capitalization error.

§215.121

Proposed amendments to §215.121(a) would delete that subsection as unnecessary because the sanction actions the board or department may take are included in statute, and would delete the orphaned remaining subsection designation. Further proposed amendments to §215.121 would substitute "sanction" for a reference to deleted subsection (a) and would add "if the person:" before listing common violations in the succeeding paragraphs to improve readability. Proposed amendments to unlettered §215.121(10) would update references to relevant Transportation Code chapters that may result in a license holder receiving a sanction if a provision is violated. A proposed amendment to unlettered §215.121(11) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.10 on November 1, 2025.

Proposed amendments would add new §215.121(19) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a manufacturer, distributor, converter, or franchised dealer, or employee or agent violates the Act, and would make related changes in punctuation and placement of a conjunction. These license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act and disclosure in violation of the Act may cause significant consumer harm.

Subchapter D. General Distinguishing Numbers and In-Transit Licenses

§215.131

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.132

Proposed amendments would update definitions consistent with other proposed rule changes in Subchapter D. Proposed amendments would delete the definition of "barrier" in §215.132(1) because a proposed amendment in §215.140 would delete that term, and would renumber the following definitions accordingly. A proposed amendment to renumbered §215.132(1) would delete the last sentence that references a "buyer's provisional license plate" to align with the proposal of a new definition for a

"buyer's provisional license plate" in renumbered §215.132(2). Proposed amendments to renumbered §215.132(2) would define a "buyer's provisional license plate" as a license plate a dealer uses when the general issue license plate for that vehicle or motor vehicle type is not in a dealer's license plate inventory, a dealer has submitted an application for an exempt license plate for the vehicle and that application is pending department approval, or a retail buyer requires a commercial fleet specific-use license plate and will obtain that license plate through the Motor Carrier division or other department system. This proposed definition would clarify the uses of a buyer's provisional license plate and would allow a dealer to more efficiently process retail sales for various types of vehicles.

§215.133

Proposed amendments to §215.133 would delete subsections (a) and (b) and reletter subsequent subsections because the deleted subsections unnecessarily repeat statutory requirements. Proposed amendments to relettered §215.133(a) would add "license" to clarify the application type referenced. The proposed amendments to relettered §215.133(a) would also would clarify that a dealer or wholesale motor vehicle auction reapplying for a GDN after the GDN expires or is closed must enter or verify information in the application, provide related information and documents for any new requirements, and pay required fees including any outstanding civil penalties owed the department under a final order. A proposed amendment to relettered §215.133(b) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.13 on November 1, 2025. Proposed amendments would delete §215.133(i) because that language unnecessarily duplicates statutory language, and would reletter the remaining subsections accordingly. Proposed amendments would also delete an unnecessary reference to subsection §215.133(i) in relettered §215.133(g).

§215.134

Proposed amendments to §215.134 would delete subsection (a) and reletter subsequent subsections because the deleted subsection unnecessarily repeats statutory requirements. A proposed amendment to relettered §215.134(e) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.13 on November 1, 2025.

§215.137

Proposed amendments would delete §215.137(f) because Transportation Code, §503.033 describes the GDN holders to whom the security requirement applies, so describing the GDN holders to which the surety bond does not apply is unnecessary.

§215.140

Proposed amendments to §215.140(a)(3)(A), §215.140(a)(4)(A)(i), and §215.140(b)(3)(A) would add "legible" to describe the requirements for letters on a sign to ensure that the public and the department can read the sign and identify the GDN holder. Proposed amendments to §215.140(a)(3)(B), §215.140(a)(4)(A)(ii), and §215.140(b)(3)(B) would add flexibility to dealer and auction signage requirements by adding a sign "permanently affixed or etched on an exterior window, wall, or door" to the definition of a permanently mounted sign as an alternative to a sign "permanently installed in the ground." Proposed amendments to §215.140(a)(5)(F) would add "licensed" to describe a dealer's physical location and add language that would allow the department to mail or deliver license plates to another physical location included in the dealer's license record and approved by the department. This amendment was requested by dealers to allow a dealer with multiple locations to centralize inventory and management of license plates, if desired, in accordance with proposed new §215.159. Proposed amendments to §215.140(a)(6)(E) would delete unnecessary license plate descriptors to improve readability of the text without changing meaning. Proposed amendments to §215.140(a)(11)(B)(iv) and §215.140(a)(11)(B)(vii) would remove the requirement that a dealer install and maintain a material object or barrier that cannot be readily removed and that must be in place on all sides except for the space necessary to allow vehicle entry and exit. The department received feedback that the current barrier requirement was difficult for dealers in shared spaces to implement and manage on an ongoing basis. In response, the department is proposing a simpler requirement: the proposed amendments to §215.140(a)(11)(B)(iv) and §215.140(a)(11)(B)(vii) would require a dealer to have permanent signage identifying the dealer's reserved display space if sharing a location with another business, including another dealer. Dealers should find it easier and cheaper to comply with the proposed new requirement, while the department and the public will still be able to identify which portions of a shared location belong to a specific dealer.

§215.141

Proposed amendments to §215.141(a) would delete that subsection because the actions the board or department may take are stated in statute, and would delete the orphaned remaining subsection designation. Further proposed amendments to §215.141 would substitute "sanction" for a reference to subsection (a) and add "if the person:" before listing common violations in the succeeding paragraphs for readability. Proposed amendments to unlettered §215.141(16) would add references to relevant Transportation Code Chapters and delete references to irrelevant Transportation Code Chapters because a license holder could not violate a provision in those chapters. A proposed amendment to unlettered §215.141(17) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.10 on November 1, 2025. Proposed amendments to unlettered §215.141(26), §215.141(28), and §215.141(34) would delete archaic references in the text that are no longer necessary due to the passage of time or changes in the law. Proposed amendments would add new §215.141(36) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a general distinguishing number (GDN) holder, or employee or agent violates the Act, and would make related changes in punctuation and placement of a conjunction. These license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act and disclosure in violation of the Act may cause significant consumer harm. Proposed amendments would add new §§215.141(37) - (39) to specify that the following actions by a dealer would be a violation: issuing the wrong type of license plate for a vehicle transaction; securing a license plate to a sold vehicle but failing to assign the license plate in the system designated by the department; and voiding and reissuing the same license plate to a buyer to extend a title or registration filing deadline. While investigating consumer complaints received after July 1, 2025, when temporary tags were eliminated, department investigators have discovered evidence of dealers taking these actions, which may cause law enforcement to make unnecessary vehicle stops and cause consumer harm by delaying proper titling and registration.

§215.144

Proposed amendments to §215.144(e)(8)(L) would add a phrase to clarify that a dealer is not required to copy a purchaser's photo identification document if doing so would violate federal law, to address dealers' concerns about a potential conflict between state and federal requirements. Proposed amendments to §215.144(e)(8)(M) would add a requirement that the odometer disclosure agreement be properly executed by the seller of the motor vehicle and acknowledged by the purchaser, and would delete the phrase "signed by the buyer" for consistency with 43 TAC §217.4(d)(2), relating to Initial Application for Title. Proposed amendments to §215.144(e)(8)(M) and §215.144(e)(8)(N) would move a conjunction and add punctuation to accommodate proposed new §215.144(e)(8)(O), which would require that a dealer retain the dealer's copy of the buyer's license plate receipt in the dealer's record. Adding this requirement will ensure a complete record is available to a department investigator should a complaint be filed about the transaction. A proposed amendment to §215.144(l)(1) would remove redundant language. A proposed amendment to §215.144(l)(2) would change "Buyer's License Plates" to "License Plate" in the reference to §215.151 to correct the title of that section.

§215.145

Proposed amendments to §215.145(d)(1) and §214.145(e)(1) would simplify the wording to "amendment application" to improve readability without changing meaning. A proposed amendment to §215.145 would add new subsection (h), which would require a dealer to file a license amendment application with the department within ten days if the dealer has a change in the person responsible for overseeing the business due to a receiver being appointed or after filing for bankruptcy. These proposed amendments would help ensure that the proper representative receives department licensing and enforcement notices and can act on behalf of the license holder within the time limits established by statute and rule.

§215.152

A proposed amendment to §215.152(e) would revise wording to increase readability without changing meaning. A proposed amendment to §215.152(h) would delete an extraneous word to improve readability without changing meaning. Proposed amendments to §215.152(i)(6) would add a requirement that the delivery service notify the department that a license plate shipment is undeliverable before a dealer is considered ineligible for a quarterly allocation delivered to the dealer's licensed location. Proposed amendments would add new §215.152(i)(8), which would make an applicant or dealer ineligible for a quarterly allocation delivered to the licensed location if the person has filed a change of address with the department and the department has not yet approved the new location. The proposed amendments would change punctuation and conjunctions as necessary to accommodate new §215.152(i)(8). Proposed amendments to §215.152(l) and §215.152(m) would replace the term "general issue plates" with "buyer's license plates" because buyer's license plates include more than just general issue license plates, and would substitute the possessive term "buyer's" for the singular term "buyer" for consistency in terminology. An amendment to §217.152(n) would replace "receive" with "request" for consistency in terminology. A proposed amendment to §215.152(o)(1) would substitute "dealer's" for "requestor's" for clarity and specificity, and because a dealer's license plate activity is a relevant factor the department may consider in evaluating a request to change the number of license plates allocated to a dealer. A proposed amendment to §215.152(p) would correct a cross-reference to a subsection.

§215.153

Proposed new §215.153 would describe a dealer's responsibilities when issuing a buyer's provisional license plate, which is a type of buyer's license plate that a dealer may assign to a sold vehicle if the dealer does not have an appropriate license plate in inventory. This license plate type was largely implemented after the initial House Bill 718 rules were published on November 8, 2024. The purposes for this license plate type are to facilitate retail sales for dealers who have depleted their inventory of general issue license plates and not yet received a shipment of these license plates, to facilitate retail sales for vehicles that are eligible for an exempt license plate, and to facilitate retail sales of commercial fleet vehicles.

Proposed new §215.153(a) would specify that a dealer is responsible for managing the dealer's inventory of buyer's provisional license plates within the buyer's license plate allocation provided in §215.152, and that a dealer may order buyer's provisional license plates for any class of vehicle for which the dealer holds a GDN by submitting a request in the license plate system designated by the department. Proposed new §215.153(a) would also specify that a dealer may be required to submit information to explain a request for buyer's provisional license plates such as fleet sales orders or fleet sales history, to allow the department to identify unnecessary requests that would create additional license plate manufacturing and delivery costs for the department and would increase the risk of license plate fraud by allowing an excess supply of unassigned license plates.

Proposed new §215.153(b) would require a dealer to issue a buyer's provisional license plate when the dealer does not have a general issue license plate in inventory and the retail purchaser does not have a license plate eligible to be assigned to the vehicle at the time of a retail sale. Proposed new §215.153(b) would also require the dealer to secure the license plate and enter the license plate information into the system designated by the department, consistent with 43 TAC §215.151, relating to License Plate General Use Requirements, and §215.155, relating to Buyer's License Plates.

Proposed new §215.153(c) would authorize a dealer to issue a buyer's provisional license plate for use on a vehicle eligible for an exempt license plate until the department processes the exempt license plate application submitted by the dealer. If the department does not approve the application for an exempt license plate, this proposed new subsection would require a dealer to issue a general issue license plate and charge the retail buyer a registration fee.

Proposed new §215.153(d) would allow a dealer to issue a buyer's provisional license plate when a purchased vehicle is eligible for a commercial fleet license plate, which is a license plate that a retail purchaser is responsible for ordering in the department's designated system known as TxFLEET. For all vehicles that are not part of a commercial fleet, proposed new §215.153(e) would ensure that the dealer fulfills the requirements of Transportation Code, §503.063 by requiring the selling dealer to promptly obtain a general issue license plate to assign to the vehicle, remove the provisional license plate if secured to the vehicle, and secure a license plate provided by the retail purchaser or the tax assessor-collector. Proposed new §215.153(f) would specify that a buyer's provisional license plate is for temporary use only and expires fourteen days after

a general issue, exempt, or a commercial fleet license plate, or other eligible license plate is assigned to the vehicle, to prevent unexpired plates from creating an opportunity for fraud. Proposed new §215.153(g) would require a dealer to mark and destroy the expired buyer's provisional license plate as provided in 43 TAC §215.158, relating to General Requirements for Buyer's License Plates, to further deter fraud.

§215.154

Proposed amendments to the attached graphic in §215.154(b) would increase the initial allocation of dealer's temporary license plates for GDN dealers that sell trailers and semi-trailers and for wholesale motor vehicle dealers who also hold a wholesale auction GDN. The department received a substantial number of requests for additional dealer's temporary license plates from these two types of license holders during the initial license plate implementation, suggesting that a higher initial allocation is necessary for these two groups. Proposed amendments to the attached graphic in §215.154(b) would increase the allocation of dealer's temporary license plates for GDN holders that sell trailers and semi-trailers from 5 to 15, add a category for wholesale motor vehicle dealers who also hold a wholesale motor vehicle auction, and establish an allocation of 40 dealer's temporary license plates for this new category.

Proposed amendments would delete §215.154(c) and reletter subsequent subsections because a dealer licensed on July 1, 2025, has already received an initial allocation, so that subsection is no longer necessary. Proposed amendments to relettered §215.154(f) would add a requirement for a dealer to include proof of the number of vehicles transported within the last 12-month period, if applicable, so the Motor Vehicle Division director may consider that information when evaluating a dealer's waiver request to receive additional dealer's temporary license plates. This requirement would apply to a wholesale motor vehicle dealer who also holds a wholesale motor vehicle auction general distinguishing number. The number of vehicles transported is an important consideration for the department in evaluating a waiver request for this type of license holder, to help the department determine whether a request is necessary and avoid an excess of unassigned plates that create an avenue for fraud.

§215.155

Proposed amendments to §215.155(b) would delete the term "general issue" to describe buyer's license plates because buyer's license plates may include provisional license plates. Proposed amendments to §215.155(e) would delete the requirement for a dealer to remit the registration fee with the title transfer application because each transaction is handled separately.

§215.157

Proposed amendments to §215.157 would streamline the text by deleting language that restates statute, and refer instead to Transportation Code, §503.0631(d) and §215.156, relating to Buyer's License Plate Receipt, to improve readability.

§215.158

Proposed amendments to §215.158 would delete the unnecessary phrase "buyer's license plate or buyer's temporary" to describe license plates to clarify that the loss, theft, or destruction of any license plate must be reported to the department to deter fraud.

§215.159

Proposed new §215.159 would set out the options and requirements for a dealer with two or more licensed locations to store and manage license plate inventory away from the licensed location. This new proposed rule would provide operational flexibility while ensuring security of license plates and access by delivery services and department staff. Proposed new §215.159(a) would require such a dealer to disclose the physical address of the license plate storage location in a license application, which could be a new, renewal, or amendment application, and certify that the license plate storage location satisfies all location requirements in new proposed subsection (b). Proposed new §215.159(b)(1) confirms that if a dealer chooses to manage license plate inventory for a licensed location at another licensed location, then that location must comply with the requirements of §215.140, regarding Established and Permanent Place of Business Premises Requirements.

Proposed new §215.159(b)(2) contains the requirements for a license plate storage location that is not located at another licensed location. Proposed new §215.159(b)(2)(A) would require the license plate storage location to be in Texas, at an address recognized by the U.S. Postal Service that is capable of receiving U.S. mail, and has an assigned emergency services property address. These requirements would ensure that the department has jurisdiction over the location, that a dealer can receive mailed department notices, and that the location is not a post office box. These requirements are important to deter fraud and ensure department access to the location so the department may monitor compliance under Transportation Code, §503.063(d). Proposed new §215.159(b)(2)(B) would require the storage location to be in a building with a permanent roof and connecting exterior walls on all sides. These requirements are consistent with the requirements for a licensed location and deter fraud by requiring a location that can be secured. Proposed new §215.159(b)(2)(C) would require that the licensed location be equipped with a computer, internet access, a working telephone number listed in the business name or assumed name, and a locked and secured room or closet or a least one securely locked and substantially constructed safe or steel cabinet bolted or secured to a floor or wall and of sufficient size to store all plates in the dealer's possession. These equipment requirements are necessary to allow a dealer to access the department's license plate database, to allow dealer personnel to promptly respond to inquiries, and to provide secure storage to prevent license plate inventory discrepancies and theft and fraud of license plates. Proposed new §215.159(b)(2)(D) would require that the license plate inventory be organized so that the inventory assigned to each licensed location is separate and easily identifiable, which would assist both the dealer and the department in efficiently fulfilling their respective responsibilities under Transportation Code, §§503.063, 503.0631, and 503.0633. Proposed new §215.159(b)(2)(E) - (G) would require the address to be clearly visible from the street, would require business hours to be posted in a public area, would set minimum business hours consistent with the requirements for a retail dealer's licensed location, and would require an owner or bona fide employee to be present at the license plate storage location. These requirements ensure that delivery services will have reasonable access to the location to deliver and transport license plates, and that department staff may fulfill their responsibilities under Transportation Code, §503.063(d). Proposed new §215.159(b)(2)(H) would require the telephone to be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. This requirement ensures that the department and others may contact the

location and speak to a person or leave a message. Proposed new §215.159(b)(2)(I) would allow a portable office building to be used as a license plate storage location if the building meets the other requirements and is not readily moveable. This flexibility is consistent with premises requirements in §215.140 for licensed locations and provides fraud prevention while providing flexibility which especially benefits small dealers. Proposed new §215.159(b)(2)(I) and §215.159(2)(J) would restrict where a license plate storage location may be located to prevent fraud and deter theft consistent with existing requirements for a licensed location. Proposed new §215.159(c) would notify dealers that the department may visit a license plate storage location prior to approving a dealer's request to add that location to a dealer's license and during the license term to monitor compliance with department rules as authorized by Occupations Code, §2301.256 and Transportation Code, §503.063(d), because a department visit may be necessary to confirm a dealer's compliance with statute and rule.

Subchapter E. Lessors and Lease Facilitators

§215.171

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.175

Proposed amendments to §215.175(a) would delete that subsection as redundant because the actions the board or department may take are stated in statute; the proposed amendments would reletter the remaining subsections accordingly. Proposed amendments to §215.175 would add punctuation, substitute "sanction" for a reference to deleted subsection (a), and add "if the person:" before listing common violations in the succeeding paragraphs for readability. A proposed amendment to relettered §215.175(a)(10) would update a reference to the applicable criminal offense guidelines in Chapter 211 of this title, which are proposed to be renumbered in an adoption proposal also being considered by the board. Proposed amendments would add new §215.175(a)(14) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a vehicle lessor, a vehicle lease facilitator, or their employee or agent violates the Act, and proposes related changes in punctuation and placement of a conjunction. Vehicle lessor and vehicle lease facilitator license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act, and disclosure in violation of the Act may cause significant consumer harm.

§215.177

A proposed amendment to §215.177(a)(2) would add "legible" to describe the requirements for letters on a sign to ensure that the public and the department can read the sign and identify the license holder.

§215.181

Proposed amendments to §215.181 would add a subject and rephrase a sentence to modernize and improve readability without changing meaning.

Subchapter F. Advertising

§215.241

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

§215.242

Proposed amendments to §215.242 would delete unnecessary phrases to improve readability without changing meaning.

§215.243

This section is proposed for repeal because it is unnecessary and redundant to consider an advertising rule violation a prima facie violation of Occupations Code, Chapter 2301. Occupations Code, §2301.263 states that a license issued under Chapter 2301 is subject to both Chapter 2301 and board rules in effect on the date the license is issued, and to any statutory or rule change that takes effect during the term of the license. Thus, considering an advertising rule violation to also be prima facie violation of Occupations Code, Chapter 2301 is unnecessary because it is a restatement of the statute.

§215.244

Proposed amendments to §215.244 would add and modify definitions found in the advertising rules. Proposed amendments would add §215.244(1)(A)(vi) and (vii) to modernize the definition of advertisement by including in the definition a statement or representation displayed on an internet website, social media platform, other digital application or platform, or sent electronically, such as in email. Use of electronic forms of advertisement have changed and expanded and these amendments would modernize the language to include the most common forms of digital advertisement. The proposed amendments to §215.244 would also move a conjunction and change punctuation to accommodate new §215.244(1)(A)(vi) and (vii).

Proposed new §215.244(6) would add a definition for what would constitute a "cure" to an alleged advertising violation in accordance with Occupations Code, §2301.203, which requires the department to notify a license holder of an alleged advertising violation and give the license holder an opportunity to cure the violation before sending a notice of violation and recommended sanction to the license holder. The proposed new provision would define a cure as a license holder's agreement to not violate the advertising rule cited in a department-issued opportunity-to-cure letter for a two-year period, and would require the license holder to correct any consumer harm caused by the alleged violation. Defining the term "cure" would provide license holders with a consistent way in which to cure an alleged violation and avoid receiving a notice of violation and related sanction. Proposed amendments would renumber subsequent paragraphs to accommodate proposed new §215.244(6) and update cross-references within those paragraphs to the definition of "Monroney Label." Proposed amendments to renumbered §215.224(18) would modify the definition of "subsequent violation" to be a violation of the same advertising rule previously identified in an opportunity to cure notice within two years, for consistency with the proposed new definition of "cure" in §215.244(6) and the requirements of Occupations Code, §2301.203.

§215.246

Proposed amendments to §215.246 would delete a redundant and unnecessary sentence because the requirement for an advertisement not to be false, deceptive, or misleading is already stated in §215.242 of this title, relating to General Prohibition.

§215.264

Proposed amendments to §215.264(h) and §215.264(j) would modernize the options for a dealer to provide the required disclosures in radio and television advertisements for leased vehicles. Instead of a dealer's advertisement referring only to a written advertisement published in the community served by the media station during a certain time period before and after the advertisement airs, a dealer will have the option to include all information required by this section in the radio or television advertisement itself without having to publish a concurrent written advertisement. These proposed amendments would provide more flexibility for dealers in markets without a general circulation community publication and would modernize the rule while still requiring dealers to provide consumers with important information about vehicle leasing terms.

§215.269

This section is proposed for repeal because the procedures for finding a violation under department rules were moved to 43 TAC Chapter 224. Therefore, this rule is redundant and no longer required.

§215.270

Proposed amendments to §215.270(a)(1) would streamline rule language to improve readability, and modernize the methods the department uses to contact licensees to include email. Proposed amendments to §215.270(a)(2) would add subparagraphs (A) and (B) and related punctuation to state that the department may issue a Notice of Department Decision to a license holder who did not timely respond to a notice of an opportunity to cure letter, or who agreed to cure the violation but failed complete the cure process by either not correcting a consumer harm or by committing a subsequent advertising violation. Another proposed amendment to §215.270(a)(2) would delete existing language regarding a subsequent violation of the same advertising violation for consistency with proposed amendments to the definitions of "cure" and "subsequent violation" in §215.244 of this title, relating to Definitions. Proposed amendments to §215.270(b) would amend §215.270(b)(3), and amend related punctuation and a conjunction, for consistency with proposed amendments to the definitions of "cure" and "subsequent violation" in §215.244. Proposed amendments would delete §215.270(c) and reletter the remaining subsection accordingly because printing a retraction notice in a local newspaper is no longer an effective or efficient method to put the public on notice or cure an alleged advertising violation.

Subchapter G. Administrative Sanctions

§215.500

Proposed amendments to §215.500 would add in the first sentence a clarifying phrase that an administrative sanction may include one or more penalties authorized by statute and rule, and would add corresponding references to Occupations Code, Chapter 2301, Transportation Code, Chapter 503, and §215.504, relating to Buyer or Lessee Refund. Proposed amendments to §215.500 would also delete paragraphs (1) through (5) because these paragraphs duplicate language found in statute or this proposed rule, and would delete unnecessary punctuation.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new sections and amendments will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal.

Monique Johnston, Director of the Motor Vehicle Division (MVD), and Corrie Thompson, Director of the Enforcement Division (ENF), have determined that there will be not be a measurable effect on local employment or the local economy as a result of the proposal because the overall number of motor vehicle sales will not be reduced.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston, Ms. Thompson, and Ms. Bowman have also determined that, for each year of the first five years amended and new sections are in effect, there are multiple public benefits anticipated because these amendments will facilitate consumer vehicle sales, and reduce opportunities for license plate fraud, and that vehicle registrants and certain applicants and license holders may incur costs to comply with the proposal. The department prioritized the public benefits associated with facilitating sales and reducing fraud and related crime, while carefully considering potential costs to license holders, vehicle registrants, and the public consistent with board and department responsibilities.

Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include facilitating retail vehicle sales; limiting the criminal activity of a small subset of dealers who may seek to fraudulently obtain, sell, or issue license plates to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement, or to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment; to reduce the misuse of motor vehicle record information by licensees; to reduce false or misleading advertising by licensees; and to enhance clarity and readability of the rules for the public.

Anticipated Costs to Comply With The Proposal. Ms. Johnston anticipates that certain license holders may incur costs to comply with these rules. Amendments to §215.104 and §215.145 would require a dealer to incur a $25 statutorily required license amendment fee when a dealer principal or other person overseeing the dealer's business activities changes. Ms. Johnston has determined that this cost is offset by the reduced risk of a dealer incurring civil penalties, including a fine and the potential loss of a license, if the person authorized to act on a dealer's behalf does not timely receive a department notice regarding an enforcement or licensing matter. Amendments to §215.107 would require a manufacturer or distributor who acquires an existing line-make to provide more information in the license amendment application. Ms. Johnston has determined these costs will be offset by the reduced risk of a manufacturer or distributor being required to respond to a protest or department notice for an alleged statutory or rule violation for which the manufacturer or distributor is not responsible and will enable the department to more efficiently process line-make-related dealer and consumer complaints. Amendments to §215.140 would require a dealer sharing a location with another business to post permanent signage to identify the dealer's reserved vehicle display space rather than use barriers that cannot be readily removed. Department research suggests that purchasing a sign for each of the five required spaces could range from $22 to $40 for a 12-inch by 18-inch sign or between $110 and $200 in total. The cost of two larger signs, such as 24-inch or 30-inch by 36-inch sign to cover multiple spaces could range from $100 to $225 per sign. Department research suggests that purchasing signage is less expensive than purchasing barriers for each space which may cost between $100 and $125 per vehicle space for a total

of $500 to $625 for five spaces and which may be more susceptible to damage or loss. Ms. Johnston has determined that going forward this signage requirement is less expensive for dealers sharing a location, easier for these dealers to implement, and a standard that is easier to interpret and enforce.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that this proposal may have an adverse economic effect or disproportionate economic impact on small or micro-businesses. More specifically, the department believes that the proposed amendments in §215.140 for dealers that share a location may have an adverse impact if the dealer is a small or micro-business. The department believes the costs associated with purchasing permanent signage for the dealer's display space may create an adverse economic impact on a short-term basis but that this cost will be offset in the future because the dealer will be more likely to not incur replacement or repair costs that would have been incurred under the prior rule which required barriers be put in place for each vehicle display space.

The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because rural communities are exempt from the requirement to hold a GDN under Transportation Code, §503.024.

The cost analysis in the Public Benefit and Cost Note section of this proposal determined that the proposed new rule may result in additional costs for existing license holders. Based on data from the Comptroller and the Texas Workforce Commission, the department estimates that most dealers are small or micro-businesses, especially those dealers that share a location, which the department estimates to be approximately 29% of all dealers. The department has tried to minimize costs for these dealers by proposing a rule that is anticipated to be lower cost over time and by proposing other signage changes that are more flexible and may be less expensive. The proposed new requirements are designed to set minimum standards that will satisfy the requirements of Transportation Code, §503.032(3) and allow these dealers to operate without incurring significant ongoing or unreasonable costs in the future. These requirements do not include requirements that will cause a dealer to incur unnecessary or burdensome costs, such as employing additional persons.

Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting amendments, exempting small and micro-business license holders from these amendments, and adopting a limited version of these amendments for small and micro-business applicants and license holders. The department rejects all three options. The department reviewed licensing records, including records for dealers who share locations with other dealers and determined that these small and micro-business license holders are more likely to violate department rules, including premises requirements under Transportation Code, §503.032. The department, after considering the purpose of the authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-business GDN dealers. Also, Government Code §2006.002(c-1) does not require the department to consider alternatives that might minimize possible adverse impacts on small businesses and micro-businesses if the alternatives would not be protective of the health and safety of the state. The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because rural communities are exempt from the requirement to hold a GDN under Transportation Code, §503.024.

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

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new sections and amendments are in effect, no government program would be created or eliminated. Implementation of the proposed new sections and amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department and would not increase fees paid to the department. The proposed new sections and amendments do create new regulations and expand existing regulations to provide more flexibility to license holders, protect consumers, and facilitate the department's obligation to monitor compliance with existing statutes. Lastly, the proposed new sections and amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on May 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §215.1

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring

of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.1. Purpose and Scope.

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 April 9, 2026.

TRD-202601519

Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 465-4160

43 TAC §215.2

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the

surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments and a new rule under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, 730, and 1002.

§215.2. Definitions; Conformity with Statutory Requirements.

(a) The definitions contained in Occupations Code, Chapters 2301 and 2305, and Transportation Code, Chapters 503, 520, 730, and 1001-1005 govern this chapter. In the event of a conflict, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

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

(1) Board--The Board of the Texas Department of Motor Vehicles, including department staff to whom the board delegates a duty.

(2) Day--The word "day" refers to a calendar day.

(3) Director--The director of the division that regulates the distribution and sale of motor vehicles, including any department staff to whom the director delegates a duty assigned under this chapter.

(4) Employee--A natural person employed directly by the license holder for wages or a salary.

(5) GDN--General distinguishing number, a license issued under Transportation Code, Chapter 503.

(6) Governmental agency--A state agency other than the department, all local governmental agencies, and all agencies of the United States government, whether executive, legislative, or judicial.

(7) Standard license plate--A motor vehicle license plate issued by the department to a license holder for use by the license holder that is not a personalized prestige dealer's license plate issued under Transportation Code §503.0615 or a dealer's temporary license plate issued under Transportation Code, §503.062.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER B. LICENSES, GENERALLY

43 TAC §215.81

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules

for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

§215.81. Purpose and Scope.

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 April 9, 2026.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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43 TAC §§215.82 - 215.85, 215.89, 215.91

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments and a new rule under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code,

§2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, 730, and 1002.

§215.82. Replacement Standard and Dealer's Temporary License Plates and Stickers.

A license holder may receive a replacement [~~dealer's, converter's, drive-a-way in-transit, or manufacturer's~~] standard license plate or a dealer's temporary license plate or assigned sticker, as applicable, at no charge if the license holder:

(1) did not receive the applicable [~~standard~~] license plate or sticker;

(2) makes the request within 45 days of the date the applicable [~~standard~~] license plate or sticker was mailed to the license holder; and

(3) submits a request electronically in the licensing system designated by the department.

§215.83. License Applications, Amendments, or Renewals.

(a) An applicant for a new license must register for an account in the department-designated licensing system by:

(1) accessing the licensing system through the department's website;

(2) designating the account administrator, which must be an owner, officer, manager, or bona fide employee;

(3) providing the name and email address for the account administrator; and

(4) providing the applicant's business telephone number, name, business type, and social security number or employer identification number, as applicable.

(b) [~~(a)~~] An application for a new license, license amendment, or license renewal filed with the department must be:

(1) filed electronically in the department-designated licensing system on a form approved by the department;

(2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant;

(3) accompanied by the required fee, paid by credit card or by electronic funds transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of the applicant's attorney or certified public accountant; and

(4) accompanied by proof of a surety bond, if required.

(c) [~~(b)~~] An authorized representative of the applicant or license holder who files an application with the department on behalf of an applicant or license holder may be required to provide written proof of authority to act on behalf of the applicant or license holder.

(d) [~~(c)~~] The department will not provide information regarding the status of an application, application deficiencies, or pending new license numbers to a person other than a person listed in subsection (a)(2) of this section, unless that person files a written request under Government Code, Chapter 552.

(e) [~~(d)~~] Prior to the expiration of a license, a license holder or authorized representative must electronically file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if the department receives a sufficient license renewal application on or before the date the license expires.

(f) [~~(e)~~] An application for a new license, license amendment, or license renewal filed with the department must be sufficient. An application is sufficient if the application:

(1) includes all information and documentation required by the department; and

(2) is filed in accordance with subsection (a) of this section.

(g) [~~(f)~~] If an applicant, license holder, or authorized representative does not provide the information or documentation required by the department, the department will issue a written notice of deficiency. The information or documentation requested in the written notice of deficiency must be received by the department within 20 calendar days of the date of the notice of deficiency, unless the department issues a written extension of time. If an applicant, license holder, or authorized representative fails to respond or fully comply with all deficiencies listed in the written notice of deficiency within the time prescribed by this subsection, the application will be deemed withdrawn and will be administratively closed.

(h) [~~(g)~~] The department will evaluate a sufficient application for a new license, license amendment, or license renewal in accordance with applicable rules and statutes to determine whether to approve or deny the application. If the department determines that there are grounds for denial of the application, the department may pursue denial of the application in accordance with Subchapter G of this chapter (relating to Administrative Sanctions).

(i) [~~(h)~~] The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55 and §215.91 of this title (relating to License Processing for Military Service Members, Spouses, and Veterans).

(j) [~~(i)~~] A license holder who timely files a sufficient license renewal application in accordance with subsection (d) of this section may continue to operate under the expired license until the license renewal application is determined in accordance with Government Code §2001.054.

(k) [~~(j)~~] A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 15 days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

(l) [~~(k)~~] The department shall accept a late license renewal application up to 90 days after the date the license expires. In accordance with subsection (j) of this section, the license holder is not authorized to continue licensed activities after the date the license expires until the department approves the late license renewal application. If the department grants a license renewal under this section, the licensing period

begins on the date the department issues the renewed license. The license holder may resume licensed activities upon receipt of the department's written verification or upon receipt of the renewed license.

(m) [~~(l)~~] If the department has not received a late license renewal application within 90 days after the date the license expires, the department will close the license. A person must apply for and receive a new license before that person is authorized to resume activities requiring a license.

(n) [~~(m)~~] A dealer's standard license plate issued in accordance with Transportation Code, Chapter 503, Subchapter C expires on the date the associated license expires, is canceled, or when a license renewal application is determined, whichever is later.

§215.84. Brokering, New Motor Vehicles.

~~[(a) Unless excluded from the definition of "Broker" in Occupations Code, §2301.002, a person may not act, offer to act, or claim to be a broker.]~~

(a) [~~(b)~~] For purposes of this chapter, the phrase "arranges or offers to arrange a transaction," as used in the definition of broker in Occupations Code, §2301.002, includes the practice of arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not acting as a broker, provided the person's business primarily is broadcasting, printing, publishing, or advertising for others in their own names.

(b) [~~(c)~~] A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a fee to such entity is aiding and abetting brokering. However, a referral service, program, plan, club, or other entity that forwards a referral to a franchised dealership may lawfully operate in a manner that includes all [~~of~~] the following conditions:

(1) There is no exclusive market area offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

(2) Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes or discrimination by size of dealership or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same fee for participation in the program. The program fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the franchised dealer.

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(7) A program must comply with Subchapter F of this chapter (related to Advertising).

(c) [~~(d)~~] This section does not apply to a person who is not a broker as defined in Occupations Code, §2301.002.

§215.85. Brokering, Used Motor Vehicles.

(a) Transportation Code, §503.021 prohibits a person from directly or indirectly engaging in business as a dealer[~~, directly or indirectly, including by consignment~~] without a GDN. Except as provided by this section, "directly or indirectly" includes the practice of arranging or offering to arrange a transaction involving the sale of a used motor vehicle for a fee, commission, or other valuable consideration. [~~A person who is a bona fide employee of a dealer holding a GDN and acts for the dealer is not a broker for the purposes of this section.~~]

(b) A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a used motor vehicle is required to meet the requirements for and obtain a GDN, unless the referral service, program, plan, or club meets each of the following criteria [~~is operated in the following manner~~]:

(1) No [~~There is no~~] exclusive market area is offered to a dealer [~~by the program~~]. All dealers are allowed to participate [~~in the program~~] on equal terms.

(2) Dealer participation [~~Participation by a dealer in the program~~] is not restricted by conditions, such as limiting the number of line-makes or discriminating [~~discrimination~~] by dealer size [~~of dealer~~] or location. The [~~total~~] number of participants [~~in the program~~] may be restricted if [~~the program is~~] offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same participation fee [~~for participation in the program~~]. The [~~program~~] fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the dealer.

(4) A person is not [~~to be~~] charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) No motor vehicle or trade-in price is set or suggested to the dealer. [~~The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.~~]

(6) Advertisements or promotions do not imply that a buyer [~~The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program,~~] receives a special discounted price by being referred. [~~that cannot be obtained unless the customer is referred through that program.~~]

(7) Advertising [~~A program~~] complies with Subchapter F of this chapter (relating to Advertising).

(c) A dealer holding a GDN under [~~pursuant to~~] Transportation Code, §503.029(a)(6)(B), may pay a referral fee in cash or value to an individual who has purchased a motor vehicle from the dealer within the four-year period preceding the referral. The fee may be paid contingent upon either the new referred individual:

(1) purchasing a motor vehicle from the dealer; or

(2) the referral of a new potential purchaser.

§215.89. Fitness.

(a) In determining a person's fitness for a license [~~issued or to be issued by the department~~] under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board will consider:

(1) the requirements of Occupations Code, Chapter 53;

(2) the provisions of Occupations Code, §2301.651 and Transportation Code §503.034;

(3) any specific statutory licensing criteria or requirements;

(4) mitigating factors; and

(5) other evidence of a person's fitness, as allowed by law, including the standards identified in subsection (b) of this section.

(b) The board may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application or revoke or suspend a license if the person:

(1) fails to meet or maintain the qualifications and requirements of licensure;

(2) is convicted, or considered convicted under Occupations Code §53.021(d), by any local, state, federal, or foreign authority of an offense that directly relates to the duties or responsibilities of the licensed occupation as described in §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines) or is convicted, or considered convicted under Occupations Code §53.021(d), of an offense that is independently disqualifying under Occupations Code §53.021;

(3) omits information or provides false, misleading, or incomplete information on an initial application, renewal application, or application attachment, for a license or other authorization issued by the department or by any local, state, or federal regulatory authority;

(4) is found to have violated an administrative or regulatory requirement based on action taken on a license, permit, or other authorization, including disciplinary action, revocation, suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(5) is insolvent or fails to obtain or maintain financial resources sufficient to meet the financial obligations of the license holder causing consumer harm;

(6) is a corporation or other legal entity that fails to maintain its charter, certificate, registration, or other authority to conduct business in Texas;

(7) is assessed a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or a local, state, or federal regulatory authority, for violation of a requirement governing or impacting the distribution or sale of a vehicle or a motor vehicle, or the acquisition, sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle, and fails to comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

(8) [~~was or~~] is a person described in §211.9 of this title (relating to Application of Subchapter B) [~~§211.2 of this title (relating to Application of Subchapter)~~] whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment;

(9) has an ownership, organizational, managerial, or other business arrangement, that would allow a person the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly, when the person could be considered unfit, ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority, has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(10) is found in a final order issued after a contested case hearing to be unfit or acting in a manner detrimental to the system of distribution or sale of motor vehicles in Texas, the economy of the state, the public interest, or the welfare of Texas residents.

§215.91. License Processing for Military Service Members, Spouses, and Veterans.

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member, [~~or~~] military spouse, or military veteran may engage in a business or occupation for which a department-issued license is required if the person [~~military service member or military spouse~~] meets the requirements of Occupations Code, §55.004 or §55.0041 and this section.

(1) To receive a provisional license a [~~A~~] military service member, [~~or~~] military spouse, or military veteran must submit to the department a completed provisional license application. The applicant may download the provisional license application form from the department website or contact the department to request the form. The applicant must submit the completed application to the department email address listed in the application form and attach the following:

[~~(A) a sufficient application as described in §215.83(c) of this title (relating to License Applications, Amendments, or Renewals);~~]

(A) [~~(B)~~] if the applicant is a military service member or a military spouse, proof of the military service member being stationed in Texas and a copy of the military service member or military spouse's military identification card;

(B) [~~(C)~~] if the applicant is a military spouse, a copy of the military spouse's marriage license; [~~and~~]

(C) if the applicant is a military veteran, a copy of the applicant's discharge certificate or other official document verifying military service and an identification document listed in the applicable license application rule; and

(D) if the applicant is licensed by another state, a notarized affidavit that meets the requirements of [~~as required by~~] Occupations Code, § 55.0041(b)(3).

(2) Upon receipt of the provisional license application and documentation required by paragraph (1) of this subsection the department shall:

(A) confirm with the other state that the military service member, [~~or~~] military spouse, or military veteran is currently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other state's license requirements, statutes, and rules with the department's licensing requirements to confirm [~~determine~~] if the requirements are similar in scope of practice; and

(C) if both subparagraphs (A) and (B) of this paragraph are confirmed, promptly issue a provisional license and notify the applicant to submit a sufficient application as described in §215.83(f) of this title (relating to License Applications, Amendments, or Renewals).

(3) The department shall issue a license, or notify the applicant why the department is currently unable to issue a license, within 10 days of receiving a complete application as described in §215.83(f) of

this title (relating to License Applications, Amendments, or Renewals) if the applicant:

(A) has been issued a provisional license;

(B) is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice; or

(C) was licensed in good standing in Texas in the last five years.

[If the department confirms that a military service member or military spouse is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice, or was licensed in good standing in Texas in the last five years, the department shall issue a license to the military service member or military spouse for the relevant business or occupation, or notify the applicant why the department is currently unable to issue a license pursuant to Occupations Code, §55.0041(b-1), within 10 days.]

(c) The license is subject to the requirements of this chapter and Occupations Code, Chapter 2301, and Transportation Code, Chapter 503, in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.

(d) [(c)] This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

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

Filed with the Office of the Secretary of State on April 9, 2026.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 465-4160

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SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §215.101

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which authorizes the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §, 503.0631, which require the board to adopt rules necessary to implement and manage the department's database of dealer-issued license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.101. Purpose and Scope.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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43 TAC §§215.104, 215.105, 215.107, 215.108, 215.110, 215.113 - 215.115, 215.120, 215.121

STATUTORY AUTHORITY. The department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-504, 520, and 1002.

§215.104. Changes to Franchised Dealer's License.

(a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an amendment application [~~to amend the franchised dealer's license~~] to add a line-make [~~request an additional line-make~~] at the dealer's currently licensed showroom. The amendment application must be filed electronically in the licensing system designated by the department.

(1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the franchised dealer must attach to the amendment application a legible and accurate electronic image of:

(A) the executed franchise agreement;

(B) the required excerpt from the executed franchise agreement; or

(C) an evidence of franchise form completed by the manufacturer, distributor, or representative.

(2) The amendment application for an additional franchise at the showroom is considered an original application and is subject to protest, in accordance with Occupations Code, Chapter 2301, this chapter, and Chapter 224 of this title [~~(relating to~~] (relating to Adjudicative Practice and Procedure)[~~)~~].

(b) A franchised dealer may propose to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, provided the physical location of the licensed entity remains the same.

(1) The franchised dealer shall notify the department in writing within 10 days of the sale or assignment of interest by filing a license amendment application [~~an application to amend the franchised dealer's license~~] electronically in the licensing system designated by the department.

(2) If the sale or assignment of any portion of the business results in a change of business entity, then the purchasing entity or assignee must apply for and obtain a new license in the name of the new business entity.

(3) A publicly-held corporation must file an amendment application if one person or entity acquires 10% or greater interest in the licensed entity.

(c) A franchised dealer must file an amendment application electronically in the licensing system designated by the department within 10 days of a license change, including:

(1) deletion of a line-make from the dealer's license;

(2) a change of assumed name on file with the Office of the Secretary of State or county clerk;

(3) a change of mailing address;

(4) a change of telephone number; [~~or~~]

(5) a change of email address; or[~~.~~]

(6) a change in the person responsible for a franchised dealer's business activities due to a receiver being appointed or a dealer filing bankruptcy.

(d) A franchised dealer must file an [~~a business entity~~] amendment application electronically in the licensing system designated by the department within 10 days of a business [~~an~~] entity change, including:

(1) a change in management, dealer principal, or change of other person who oversees a franchised dealer's business activities, including a managing partner, officer, director of a corporation, or similar person; or

(2) a change of legal entity name on file with the Office of the Secretary of State.

(e) If a franchised dealer changes or converts from one type of business entity to another type of business entity without changing ownership of the dealership, the submission of a franchise agreement in the name of the new entity is not required in conjunction with an amendment application. The franchise agreement on file with the department prior to the change or conversion of the dealer's business entity type applies to the successor entity until the parties agree to replace the franchise agreement. This subsection does not apply to a sole proprietorship or general partnership.

(f) If a franchised dealer adopts a plan of conversion under a state or federal law that allows one legal entity to be converted into another legal entity, only an amendment application is necessary to be filed with the department. The franchise agreement on file with the department continues to apply to the converted entity. If a license holder becomes another legal entity by any means other than by conversion, a new application is required, subject to subsection (e) of this section.

(g) In addition to obtaining permission from the manufacturer or distributor, a franchised dealer must obtain department approval prior to opening a supplemental location or relocating an existing location by filing an amendment application electronically in the licensing system designated by the department. A franchised dealer must notify the department electronically in the licensing system designated by the department when closing an existing location.

§215.105. Notification of License Application; Protest Requirements.

(a) This [~~The provisions of this~~] section does not apply [~~are not applicable~~] to a franchised dealer's [~~an~~] application filed with the department as part of a buy-sell or other transfer agreement [~~for a franchised dealer's license as a result of the purchase or transfer of an existing entity holding a current franchised dealer's license~~] that does not involve a physical relocation of the purchased or transferred line-makes.

(b) Upon receipt of a franchised dealer's license [~~an~~] application [~~for a franchised dealer's license~~], including a relocation [~~an~~] application [~~filed with the department by reason of the relocation~~] of an existing dealership, the department shall notify [~~give notice of the filing of the application to~~] each franchised dealer that may have standing to protest the application. The department shall send notice electronically and by certified mail, return receipt requested, to the email address and mailing address in the franchised dealer's license record.

(c) If it appears to the department that [~~there are~~] no franchised dealers have [~~with~~] standing to protest, then no notice shall be given.

(d) A person holding a franchised dealer's license for the sale of the same new motor vehicle line-make [~~of a new motor vehicle as proposed for sale in the subject application and~~] that has standing to protest the application may file with the department a notice of protest opposing the granting of a license by timely filing a protest electronically in the licensing system designated by the department and paying the required fee.

(e) A franchised dealer that wishes to protest the application shall give notice in accordance with Occupations Code, Chapter 2301.

(1) The notice of protest must be in writing and [~~shall be~~] signed by an authorized officer or other official authorized to sign on behalf of the protesting dealer [~~filing the notice~~].

(2) The notice of protest must state the statutory basis upon which the protest is made and assert how the protesting dealer meets the standing requirements under §215.119 of this title (relating to Standing to Protest) [~~to protest the application~~].

(3) The notice of protest must state that the protest is not made for purposes of delay or for any other purpose except for justifiable cause.

(4) If a protest is filed against an application for the establishment of a dealership or for addition of a line-make at an existing dealership, the notice of protest must state under which provision of Occupations Code, Chapter 2301 the protest is made.

§215.107. Sale or Transfer of a Line-Make.

(a) If a manufacturer or distributor sells, licenses, or otherwise transfers an existing line-make to another person, the acquiring person must:

(1) apply for a manufacturer or distributor license and add that line-make to the license; or

(2) amend an existing license to add that line-make.

(b) As part of the application or license amendment application process the person acquiring the line-make must:

(1) identify the effective date of the transfer;

(2) identify the franchised dealers authorized to sell and service the line-make;

(3) identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer; and

(4) certify compliance with Occupations Code, Chapter 2301, Subchapter J, which includes manufacturer or distributor responsibilities to existing dealers of that line-make if a franchise agreement is changed or terminated.

§215.108. Addition or Relocation of Line-make.

A franchised dealer's amendment application to add or relocate a line-make to an existing dealership [~~An application to amend an existing franchised dealer's license for the addition of another line-make at the existing dealership or for the relocation of a line-make to the existing~~

~~dealership~~] shall be deemed an "application to establish a dealership" insofar as the line-make to be added or relocated is concerned, and shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest).

§215.110. Evidence of Franchise.

(a) Upon application for a franchised dealer's license or an amendment of an existing franchised dealer's license to add a line-make, the applicant must submit a legible and accurate electronic image of the franchise agreement pages that reflect:

(1) the parties,

(2) the authorized signatures of the parties,

(3) each line-make listed in the application, and

(4) the address of the franchised dealership's physical location.

(b) To meet this requirement temporarily for the purpose of application processing, a form prescribed by the department and completed by the manufacturer or distributor may be electronically submitted with the application in lieu of the information described in subsection (a) of this section.

(c) The applicant must submit the required franchise agreement pages described in this section immediately upon the applicant's receipt of the franchise agreement as the department will not issue a license without verifying that the franchise agreement has been executed.

(d) Upon application to relocate a franchised dealership, the franchised dealer applicant must submit a form prescribed by the department and completed by the manufacturer or distributor that identifies the license holder and the new franchised dealership location.

§215.113. Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development.

(a) In the absence of a showing of good cause, an application for a franchised dealer's license of which a manufacturer or distributor owns any interest in or has control of the dealership entity must be submitted to the department electronically in the licensing system designated by the department no later than 30 days before:

(1) the opening of the dealership;

(2) close of the buy-sell agreement; or

(3) the expiration of the current license.

(b) If a manufacturer or distributor applies for a franchised dealer's license of which the manufacturer or distributor holds an ownership interest in or has control of the dealership entity in accordance with Occupations Code, §2301.476(d) - (f), the license application must contain a sworn statement from the manufacturer or distributor that the dealership was purchased from a franchised dealer and is for sale at a reasonable price and under reasonable terms and conditions, and that the manufacturer or distributor intends to sell the dealership to a person not controlled or owned by the manufacturer or distributor within 12 months of acquiring the dealership, except as provided by subsection (h) of this section.

(c) A request for an extension of the initial 12-month period for manufacturer or distributor ownership or control of a franchised dealership, in accordance with Occupations Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this section along with a sufficient application to renew the new motor vehicle dealer's license. The request must contain a detailed explanation, including appropriate documentary support, to show the manufacturer's or distributor's good cause for failure to sell the dealership within the initial 12-month period. The director shall evaluate the request and determine whether the license should be renewed for a period not to exceed 12 months or deny the renewal application. If the renewal application is denied, the manufacturer or distributor may request a hearing on the denial in accordance with Occupations Code, Chapter 2301, Subchapter O and the matter will be referred to SOAH for a hearing under Chapter 224, Subchapter B [~~C~~] of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry [~~License~~] Enforcement).

(d) Requests for extensions after the first extension is granted, as provided by Occupations Code, §2301.476(e), must be submitted at least 120 days before the expiration of the current license electronically in the licensing system designated by the department. Upon receipt of a subsequent request, the department shall initiate a hearing in accordance with Occupations Code, Chapter 2301, Subchapter O, at which the manufacturer or distributor will be required to show good cause for the failure to sell the dealership. The manufacturer or distributor has the burden of proof and the burden of going forward on the sole issue of good cause for the failure to sell the dealership.

(e) The department shall give notice of the hearing described in subsection (d) of this section to all other franchised dealers holding franchises for the sale and service or service only of the same line-make of new motor vehicles that are located in the same county in which the dealership owned or controlled by the manufacturer or distributor is located or in an area within 15 miles of the dealership owned or controlled by the manufacturer or distributor. Such dealers, if any, will be allowed to intervene and protest the granting of the subsequent extension. Notices of intervention by dealers afforded a right to protest under Occupations Code, §2301.476(e) must be filed with the department electronically in the licensing system designated by the department within 15 days of the date of mailing of the notice of hearing, and a copy must be provided to the manufacturer or distributor. The department shall reject a notice of intervention if the notice is not filed at least 30 days before:

(1) the opening of the dealership;

(2) close of the buy-sell agreement; or

(3) the expiration of the current license.

(f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants). The franchised dealer's license that is the subject of the hearing will continue in effect until a final decision on the request for a subsequent extension is issued by the board.

(g) The procedures described in subsections (d) - (f) of this section will be followed for all extensions requested by the manufacturer or distributor after the initial extension.

(h) An application for a new motor vehicle dealer's license of which a manufacturer or distributor owns any interest in the dealership entity in accordance with Occupations Code, §2301.476(g) must contain sufficient documentation to show that the applicant meets the requirements of Occupations Code, §2301.476(g).

§215.114. Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.

A licensed manufacturer or distributor [~~licensed under Occupations Code, Chapter 2301~~] or a wholly owned subsidiary [~~of a manufacturer or distributor~~], may sell motor vehicles it owns to dealers through a licensed Texas wholesale motor vehicle auction. The department shall cancel a [~~A~~] GDN issued to a licensed manufacturer, distributor, or wholly owned subsidiary of a manufacturer or distributor [~~shall be~~

~~canceled,~~] unless otherwise allowed under Occupations Code, Chapter 2301.

§215.115. Manufacturer, Distributor, and Converter Vehicle Sales Records.

(a) A manufacturer or distributor must maintain, for a minimum period of 48 months, a record of each vehicle sold to any person in this state. The manufacturer or distributor shall make the record available during business hours for inspection and copying by the department or be available to submit electronically to the department upon request.

(b) A converter must maintain, for a minimum period of 48 months, a record of each vehicle converted for a person in this state, including a Texas franchised dealer. The converter shall make the record available during business hours for inspection and copying by the department or be available to submit electronically to the department upon request.

(c) A manufacturer, distributor, or converter is required to maintain at its licensed location a record reflecting each purchase, sale, or conversion for a minimum period of 24 months. Records for prior time periods may be kept off-site.

(d) Within 15 days of receipt of a request sent by mail or electronic document transfer from the department, a manufacturer, distributor, or converter must submit a copy of specified records to the address listed in the request.

(e) Records required to be maintained and made available to the department must include the following, if applicable:

(1) the date of sale or conversion of the motor vehicle;

(2) the VIN;

(3) the name and address of the person purchasing the motor vehicle;

(4) a copy of or a record with the information contained in the manufacturer's certificate of origin or title;

(5) information regarding the prior status of the motor vehicle such as the Reacquired Vehicle Disclosure Statement;

(6) the repair history of any motor vehicle subject to a warranty complaint;

(7) technical service bulletin or equivalent advisory; and

(8) any audit of a franchised dealership.

(f) Any record required by the department may be maintained in an electronic format, if the electronic record can be printed at the licensed location upon request by the department or be available to submit electronically to the department upon request.

§215.120. Standard License Plates.

(a) A manufacturer, distributor, or converter may apply for a [~~manufacturer or converter~~] standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

(1) when applying for a new or renewal license, or

(2) by submitting a standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a [~~manufacturer's~~] standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A [~~manufacturer's~~] standard license plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a standard license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the license holder [~~manufacturer, distributor, or converter~~] by the department either in the license holder's recordkeeping system or in the department-designated system. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is secured [~~affixed~~];

(3) the VIN of the vehicle, if one has been assigned; and

(4) the name of the person in control of the license plate.

(e) If a manufacturer, distributor, or converter cannot account for a standard license plate or a standard license plate is damaged, the manufacturer, distributor, or converter shall:

(1) document the license plate as "void" in the department-designated system; and

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged electronically in the system designated by the department; and

(3) if found after reported missing, cease use of the license plate.

(f) A standard license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void license plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, shall destroy or recycle the license plate, or return the license plate to the department within 10 days.

(g) In evaluating requests for additional standard license plates [~~from any eligible license holder, including a franchised or other GDN dealer,~~] the department shall consider the business justification provided by a license holder including the following:

(1) the number of vehicles assembled or modified in the prior 12 months at facilities in or serving the Texas market;

(2) the highest number of motor vehicles in inventory in the prior 12 months;

(3) the size and type of business;

(4) how the license holder typically uses standard licenses plates;

(5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and

(6) any other factor the Department in its discretion deems necessary to support the number of license plates requested.

(h) A [~~a~~] license holder shall return a department-issued license plate to the department within 10 days of the license holder closing the associated license or the associated license being revoked, canceled, or closed by the department.

§215.121. Sanctions.

[(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:]

[(1) deny an application;]

[(2) revoke a license;]

[(3) suspend a license;]

[(4) assess a civil penalty;]

[(5) issue a cease and desist order; or]

[(6) take other authorized action.]

[(b)] The board or department may sanction [take action described in subsection (a) of this section if] a license applicant, a license holder, or a person engaged in business for which a license is required if the person:

(1) fails to maintain records required under this chapter;

(2) refuses or fails within 15 days to comply with a request for records made by a representative of the department;

(3) sells or offers to sell a motor vehicle to a retail purchaser other than through a licensed or authorized dealer;

(4) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(5) fails to timely submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's business or assumed name change, deletion of a line-make, or management or ownership change;

(6) fails to notify the department or pay or reimburse a franchised dealer as required by law;

(7) misuses or fails to display a license plate as required by law, or fails to report a lost, stolen, or damaged license plate within the time designated by rule;

(8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a new vehicle;

(9) fails to remain regularly and actively engaged in the business of manufacturing, assembling, or modifying a new motor vehicle of the type and line make for which a license has been issued by the department;

(10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501-504 [501-503] or 520 [1001-1005]; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [§211.3] of this title (relating to Criminal Offense Guidelines);

(12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(14) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(15) violates any state or federal law or regulation relating to the manufacture, distribution, modification, or sale of a motor vehicle;

(16) fails to issue a refund as ordered by the board or department;

(17) fails to participate in statutorily required mediation without good cause; [or]

(18) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D; or [.]

(19) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

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 April 9, 2026.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §215.131

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from

DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.131. Purpose and Scope.

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 April 9, 2026.

TRD-202601526
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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43 TAC §§215.132 - 215.134, 215.137, 215.140, 215.141, 215.144, 215.145, 215.152 - 215.155, 215.157 - 215.159

STATUTORY AUTHORITY. The department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter

503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-504, 520, 730, and 1002.

§215.132. Definitions.

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

~~[(1) Barrier--A material object or set of objects that separates or demarcates.]~~

(1) [~~(2)~~] Buyer's license plate--A general issue license plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. [~~This term also includes a buyer's provisional license plate that a dealer issues when the general issue license plate or set of license plates for that vehicle or motor vehicle type is not in a dealer's license plate inventory at the time of retail sale.~~]

(2) Buyer's provisional license plate--A license plate that a dealer issues when at the time of a retail sale:

(A) the general issue license plate for that vehicle or motor vehicle type is not in a dealer's license plate inventory;

(B) the dealer has submitted an application for an exempt license plate for the vehicle and that application is pending department approval; or

(C) a retail buyer requires a commercial fleet specific use license plate and will obtain that license plate from the department.

(3) Buyer's temporary license plate--A temporary license plate issued by a dealer to a non-resident vehicle buyer for a vehicle that will be titled and registered out-of-state in accordance with Transportation Code, §503.063(i).

(4) Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner.

(5) Dealer's temporary license plate--A license plate that a dealer may purchase and use for the purposes allowed under Transportation Code, §503.062.

(6) House trailer--A nonmotorized vehicle designed for human habitation and for carrying persons and property on its own structure and for being drawn by a motor vehicle. A house trailer does not include manufactured housing. A towable recreational vehicle, as defined by Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

(7) Municipality--As defined according to the Local Government Code, Chapter 1.

(8) Person--Has the meaning assigned by Occupations Code, §2301.002.

(9) Sale--With regard to a specific vehicle, the transfer of possession of that vehicle to a purchaser for consideration.

(10) Towable recreational vehicle--Has the same meaning as "house trailer" defined by this section.

(11) Travel Trailer--Has the same meaning as "house trailer" defined by this section.

(12) Vehicle--Has the meaning assigned by Transportation Code, §503.001.

(13) VIN--Vehicle identification number.

§215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

~~[(a) No person may engage in business as a dealer or as a wholesale motor vehicle auction unless that person has a valid GDN assigned by the department for each location from which the person engages in business. A dealer must also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle auction.]~~

~~[(b) Subsection (a) of this section does not apply to a person exempt from the requirement to obtain a GDN under Transportation Code §503.024.]~~

(a) [~~(c)~~] A GDN dealer or wholesale motor vehicle auction license application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or wholesale motor vehicle auction application must include all required information, required supporting documents, and required fees and must be submitted to the department electronically in the licensing system designated by the department. A GDN dealer or wholesale motor vehicle auction GDN holder renewing or amending its GDN, or a dealer or wholesale motor vehicle auction reapplying for a GDN, must enter or verify current license information, provide related information and documents for any new requirements or changes to the GDN, and pay required fees including any outstanding civil penalties owed the department under a final order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

(1) Required information:

(A) type of GDN requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the established and permanent place of business if the owner is out of state or will not be present during business hours at the established and permanent place of business in Texas;

(I) if a dealer, the name, telephone number, and business email address of the account administrator for the temporary tag database prior to July 1, 2025, or for the license plate system on or after July 1, 2025, designated by the applicant who must be an owner or representative listed in the application;

(J) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(K) military service status;

(L) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(M) information about the business location and business premises, including whether the applicant will operate as a salvage vehicle dealer at the location;

(N) history of insolvency, including outstanding or unpaid debts, judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act) or is pending resolution under a case filed under the Bankruptcy Act;

(O) signed Certification of Responsibility, which is a form provided by the department; and

(P) if a dealer, whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed; and

(Q) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) proof of a surety bond if required under §215.137 of this title (relating to Surety Bond);

(B) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(C) each assumed name certificate on file with the Secretary of State or county clerk;

(D) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card.

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location complies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

(F) documents proving business premises ownership, or lease or sublease agreement for the license period;

(G) business premises photos and a notarized affidavit certifying that all premises requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) are met and will be maintained during the license period;

(H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;

(I) proof of completion of the dealer education and training required under Transportation Code §503.0296, if applicable; and

(J) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the fee for each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each dealer's standard plate, and dealer's temporary license plate on or after July 1, 2025, requested by the applicant as prescribed by law.

(b) [~~(d)~~] An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.13 [~~§211.6~~] of this title (relating to Fingerprint Requirements for Designated License Types), as applicable.

(c) [~~(e)~~] An applicant for a GDN operating under a name other than the applicant's business name shall use the assumed name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(d) [~~(f)~~] A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles at retail.

(e) [~~(g)~~] An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(f) [~~(h)~~] In evaluating a new or renewal GDN application or an application for a new GDN location, the department may require a site visit to determine if the business location meets the requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized affidavit confirming that all premises requirements are met and will be maintained during the license period.

[~~(i) A person holding an independent motor vehicle dealer GDN does not have to hold a salvage vehicle dealer's license to:~~]

[~~(1) act as a salvage vehicle dealer or rebuilder; or~~]

[~~(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.~~]

(g) [~~(j)~~] A person holding an independent motor vehicle dealer GDN and performing salvage activities [~~under subsection (i)~~] must apply for a National Motor Vehicle Title Information System (NMVTIS)

identification number and provide the number to the department in the GDN application.

(h) [~~(k)~~] To be eligible for an independent motor vehicle dealer GDN, a person must complete dealer education and training specified by the department, except as provided in this subsection:

(1) once a person has completed the required dealer education and training, the person will not have to retake the dealer education and training for subsequent GDN renewals, but may be required to provide proof of dealer education and training completion as part of the GDN renewal process;

(2) a person holding an independent motor vehicle dealer GDN for at least 10 years as of September 1, 2019, is exempt from the dealer education and training requirement; and.

(3) a military service member, military spouse, or military veteran will receive appropriate credit for prior training, education, and professional experience and may be exempted from the dealer education and training requirement.

§215.134. Requirements for a Drive-a-way Operator In-Transit License.

~~[(a) No drive-a-way operator may engage in business in Texas unless that person has a currently valid drive-a-way operator in-transit license issued by the department.]~~

(a) [~~(b)~~] A drive-a-way operator in-transit license application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A drive-a-way operator in-transit application must include all required information, required supporting documents, and required fees, and must be submitted to the department electronically in the licensing system designated by the department.

(b) [~~(c)~~] A drive-a-way operator in-transit license holder renewing or amending its license must verify current license information, provide related information and documents for any new requirements or changes to the license, and pay required fees.

(c) [~~(d)~~] An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(d) [~~(e)~~] Once registered, an applicant may apply for a new license and must provide the following:

(1) Required information:

(A) type of license requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(I) military service status;

(J) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(K) signed Certification of Responsibility, which is a form provided by the department; and

(L) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(B) each assumed name certificate on file with the Secretary of State or county clerk;

(C) one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card;

(D) a list of manufacturers, distributors, dealers, or auctions for which the applicant provides drive-a-way services;

(E) a description of the business model or business process, transportation methods, compensation agreements, products, and services used or offered sufficient to allow department to determine if the license type applied for is appropriate under Texas law; and

(F) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the license fee as prescribed by law; and

(B) the fee, including any taxes, for each drive-a-way in-transit standard license plate requested by the applicant as prescribed by law.

(e) [~~(f)~~] An applicant for a drive-a-way operator in-transit license must also comply with fingerprint requirements in §211.13

[§211.6] of this title (relating to Fingerprint Requirements for Designated License Types).

(f) [(g)] An applicant operating under a name other than the applicant's business name shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

§215.137. Surety Bond.

(a) The surety bond required by Transportation Code, §503.033 shall be in the legal business name in which the dealer's GDN will be issued and shall contain the complete physical address of each location licensed under the GDN that the surety bond is intended to cover.

(b) A surety bond executed by an agent representing a bonding company or surety must be supported by an original power of attorney from the bonding company or surety.

(c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by the department. An obligee may be identified as:

(1) a person who obtains a court judgment assessing damages and attorney's fees for an act or omission on which the bond is conditioned; or

(2) unknown.

(d) A bonding company that pays any claim against a surety bond shall immediately report the payment to the department.

(e) A bonding company shall give written notice to the department 30 days prior to canceling any surety bond.

[(f) The surety bond required by this section does not apply to a:]

[(1) franchised motor vehicle dealer licensed by the department;]

[(2) franchised motorcycle dealer licensed by the department;]

[(3) franchised house trailer or travel trailer dealer licensed by the department; or]

[(4) trailer or semitrailer dealer licensed by the department.]

§215.140. Established and Permanent Place of Business Premises Requirements.

(a) A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license. If multiple dealers are licensed at a location, each dealer must maintain the following requirements during the entire term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office must be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office in a manner and location that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) Business sign requirements for retail dealers.

(A) A retail dealer must display a conspicuous, permanent sign with legible letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to an exterior building wall, [or] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door.

(C) A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) A retail dealer is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) Business sign requirements for wholesale motor vehicle dealers.

(A) Exterior Sign

(i) A wholesale motor vehicle dealer must display a conspicuous, permanent sign with legible letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of

the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(ii) The sign must be permanently mounted on the business property at the physical address listed on the application. A business sign is considered permanently mounted if bolted to an exterior building wall, [~~or~~] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door. A wholesale motor vehicle dealer may use a temporary exterior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(B) Interior Sign

(i) If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the property owner, a conspicuous permanent business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with legible letters at least two inches in height is acceptable. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least one inch in height.

(ii) An interior business sign is considered conspicuous if it is easily visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior sign is considered permanent if made from durable material and has lettering that cannot be changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(C) A wholesale motor vehicle dealer is responsible for ensuring that the business sign complies with municipal ordinances and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

(A) A dealer's office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) A dealer's office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) A dealer's office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) A dealer's office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a dealer's customer to pass through the other business.

(E) A dealer's office may not be virtual or provided by a subscription for office space or office services. Access to an office space or office services is not considered an established and permanent location.

(F) The physical address of the dealer's office must be in Texas and recognized by the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a dealer's or buyer's license plate to an out-of-state address and will only mail or deliver a license plate to a dealer's licensed physical location or other physical location listed in the dealer's license record and approved by the department.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(H) The dealer's office space must:

(i) include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms;

(ii) have a minimum seven-foot-high ceiling;

(iii) accommodate required office equipment; and

(iv) allow a dealer and customer to safely access the office and conduct business in private while seated.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access;

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts business; and

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all [~~dealer's and buyer's~~] license plates [~~in a dealer's possession including unissued and unassigned buyer's license plates~~].

(7) Number of retail dealers in one building. Not more than four retail dealers may be located in the same building. Each retail dealer located in the same building must meet the requirements of this section.

(8) Number of wholesale motor vehicle dealers in one office building. Not more than eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor vehicle dealer located in the same office building must meet the requirements of this section.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer licensed after September 1, 1999, may not be located in the same building.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the name of the other business, a separate telephone listing and a separate sign for each business are required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a sep-

arate lease agreement from the owner of that property that meets the requirements of this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(C) A dealer's office must have permanent interior walls on all sides and be separate from any public area used by another business.

(11) Display area and storage lot requirements.

(A) A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business premises.

(B) A retail dealer must have an area designated as display space for the retail dealer's inventory. A retail dealer's designated display area must comply with the following requirements.

(i) The display area must be located at the retail dealer's physical business address or contiguous to the retail dealer's physical address. The display area may not be in a storage lot.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. The display area must be reserved exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.

(iii) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(iv) If a retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by permanent signage identifying the area as reserved display space for that retail dealer's inventory. [~~a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.~~]

(v) If a dealer's business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the dealer's display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(vi) The display area must be adequately illuminated if the retail dealer is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(vii) The display area may be located inside a building; however, if multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by permanent signage identifying the area as reserved display space for that retail dealer's inventory [~~a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory~~].

(C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

(13) Lease requirements. If the premises from which a dealer conducts business, including any display area, is not owned by the dealer, the dealer must maintain a lease that is continuous during the period of time for which the dealer's license will be issued. The lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

(B) the period of time for which the lease is valid;

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, a dealer must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a vehicle sales business from the location.

(14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN issued by the department at all times in a manner that makes the GDN easily readable by the public and in a conspicuous place at each place of business for which the dealer's GDN is issued. A dealer required to obtain a surety bond must post a bond notice adjacent to and in the same manner as the dealer's GDN is displayed. The notice must include the bond company name, bond identification number, and procedure by which a claimant can recover under the bond. The notice must also include the department's website address and notify a consumer that a dealer's surety bond information may be obtained by submitting a request to the department. If the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.

(b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction must comply with the following premises requirements:

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed

location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

(2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) a wholesale motor vehicle auction GDN holder must display a business sign that meets the following requirements:

(A) The sign must be a conspicuous, permanent sign with legible letters at least six inches in height showing the business name or assumed name substantially similar to the name reflected on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the wholesale motor vehicle auction GDN. A business sign is considered permanently mounted if bolted to an exterior building wall, [~~or~~] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door.

(C) An applicant may use a temporary sign or banner if the applicant can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) An applicant or holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) The business office of a wholesale motor vehicle auction GDN applicant and holder must meet the following requirements:

(A) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) The office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) The office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) The office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a customer to pass through the other business.

(E) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(F) The physical address of the office must be in Texas and recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(5) A wholesale motor vehicle auction GDN applicant and holder must have the following office equipment:

(A) a desk;

(B) a chair;

(C) internet access; and

(D) a working telephone number listed in the business name or assumed name under which business is conducted.

(6) A wholesale motor vehicle auction must meet the following display area and storage lot requirements:

(A) The area designated as display space for inventory must be located at the physical business address or contiguous to the physical address. The display area may not be in a storage lot.

(B) The display area must be of sufficient size to display at least five vehicles. Those spaces must be reserved exclusively for inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, or a driveway to the office.

(C) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(D) If the business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(E) The display area must be adequately illuminated if open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(F) The display area may be located inside a building.

(G) A wholesale motor vehicle auction may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the business name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(7) A wholesale motor vehicle auction must meet the following lease requirements if the business premises, including any display area, is not owned by the wholesale motor vehicle auction:

(A) the applicant or holder must maintain a lease that is continuous during the period of time for which the GDN will be issued;

(B) The lease agreement must be on a properly executed form containing at a minimum:

(i) the name of the property owner as the lessor of the premises and the name of the GDN applicant or holder as the tenant or lessee of the premises;

(ii) the period of time for which the lease is valid;

(iii) the street address or legal description of the property, provided that if only a legal description of the property is included, a wholesale motor vehicle auction must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(iv) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee; and

(C) if the lease agreement is a sublease in which the property owner is not the lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the wholesale motor vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle auction business from the location.

§215.141. Sanctions.

[~~(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:~~]

[~~(1) deny an application;~~]

[~~(2) revoke a license;~~]

[~~(3) suspend a license;~~]

[~~(4) assess a civil penalty;~~]

[~~(5) issue a cease and desist order; or~~]

[~~(6) take other authorized action.~~]

[~~(b)~~] The board or department may sanction [~~take action described in subsection (a) of this section if~~] a license applicant, a license holder, or a person engaged in business for which a license is required if the person:

(1) fails to maintain a good and sufficient bond or post the required bond notice if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) issues more than one buyer's license plate or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

(13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as required by law;

(14) holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501 - 504, or 520 [~~503 or 1001-1005~~]; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines);

(18) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301, 2302, 2305; Transportation Code, Chapters 503 [and 1001-1005]; or other laws;

(22) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates);

(26) [on or after July 1, 2025,] fails to securely store a license plate or fails to destroy a [previously issued but currently unassigned] license plate within the time prescribed by statute;

(27) fails to maintain a record of dealer license plates as required under §215.138 of this title (relating to Use of Dealer's License Plates);

(28) [on or after July 1, 2025,] fails to file or enter a vehicle transfer notice;

(29) fails to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time limit prescribed by rule;

(30) violates any state or federal law or regulation relating to the sale of a motor vehicle;

(31) knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 [(relating to Application for Regular Certificate of Title for Salvage Vehicle)];

(32) fails to issue a refund as ordered by the board or department;

(33) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;

(34) [on or after July 1, 2025,] fails to remove a license plate from a vehicle as required by statute or rule; [or]

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department; [.]

(36) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent; or

(37) issues the wrong type of license plate based on the transaction or vehicle type;

(38) secures a license plate to a sold vehicle but fails to assign the license plate to the vehicle in the system designated by the department; or

(39) voids and reissues the same license plate to a buyer to extend a title or registration filing deadline.

§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receiving a request from a representative of the department, a dealer shall deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the department prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the dealer;

(5) the name and address of the person purchasing the vehicle from the dealer;

(6) the name and address of the consignor if the vehicle is offered for sale by consignment;

(7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a county tax assessor-collector receipt marked paid;

(8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

(A) the title application;

(B) the work-up sheet;

(C) the front and back of the manufacturer's certificate of origin or manufacturer's statement of origin, unless the dealer obtains the title through webDEALER as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems);

(D) the front and back of the title for the purchase and the sale, unless the dealer enters or obtains the title through webDEALER as defined in §217.71 of this title;

(E) the factory invoice, if applicable;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser;

(L) the purchaser's photo identification, unless prohibited by federal law;

(M) the odometer disclosure statement properly executed by the motor vehicle seller and acknowledged by the purchaser [~~signed by the buyer~~], unless the vehicle is exempt; [~~and~~]

(N) the rebuilt salvage disclosure, if applicable; and [.]

(O) the dealer's copy of the buyer's license plate receipt.

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a motor vehicle offered for sale by a dealer which must be properly stamped if the title transaction is entered into webDEALER as defined in §217.71 of this title by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

(A) title;

(B) manufacturer's statement of origin;

(C) manufacturer's certificate of origin; or

(D) other evidence of ownership.

(2) Unless not required by Transportation Code, §501.0234(b), a dealer must apply in the name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a county tax assessor-collector.

(3) To comply with Transportation Code, §501.0234(f), a title or registration is considered filed within a reasonable time if filed within:

(A) 30 days of the vehicle sale date; or

(B) 45 days of the vehicle sale date for a dealer-financed transaction; or

(C) 60 days of the vehicle sale date for a vehicle purchased by a member or reserve member of the United States armed forces, Texas National Guard, or National Guard of another state serving on active duty.

(4) The dealer is required to provide to the purchaser the receipt for the title and registration application.

(5) The dealer is required to maintain a copy of the receipt for the title and registration application in the dealer's sales file.

(g) Out-of-state sales. For a sale involving a vehicle to be transferred out of state, the dealer must:

(1) within 30 days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment must have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with a county tax assessor-collector. The dealer must, for a minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A GDN holder that acts as a public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle before offering the vehicle for sale at auction;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within a reasonable time as defined in subsection (f) of this section.

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder shall maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by the department during business hours.

(1) A wholesale motor vehicle auction license holder shall maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receiving a department request, a wholesale motor vehicle auction license holder shall deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale must, at a minimum, contain:

(A) the date of sale;

(B) the VIN;

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing the vehicle;

(E) the dealer's license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the federal odometer disclosure requirements in 49 CFR Part 580;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems:

(1) webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title [~~(relating to Automated and Web-Based Vehicle Registration and Title Systems)~~], shall comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location but must be made available to the department upon request.

(2) License Plate System. A license holder must comply with §215.151 of this title (relating to License Plate [~~Buyer's License Plates~~] General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates.

§215.145. Change of Dealer's Status.

(a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the new name, unless the dealer is not otherwise required to purchase a bond.

(b) A dealer shall notify the department in writing within 10 days of a change of ownership by submitting a license amendment application in the department-designated electronic licensing system. A licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, and provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days of the change by filing an application to amend the license in the department-designated electronic licensing system. If the sale or assignment of any portion of the business results in a change of entity, then the new entity must apply for and obtain a new license. A publicly held corporation only needs to inform the department of a change in ownership if one person or entity acquires a 10% or greater interest in the licensed entity.

(c) Upon the death of a dealer operating as a sole proprietor, either the surviving spouse of the deceased dealer or other individual deemed qualified by the department shall submit to the department a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the remainder of the bond and license term. The surviving spouse or other qualifying person may continue operating under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, the sole proprietor's surviving spouse may change the ownership of the dealership at the time the license is renewed without applying for a new GDN. At the time the renewal application is filed, the sole proprietor's surviving spouse must submit to the department:

(1) an amendment application [~~to amend the business entity~~];

(2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;

(3) the required ownership information; and

(4) if applicable, a bond in the name of the surviving spouse.

(e) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse may operate the sole proprietorship business during the term of the license. The qualifying person must file with the department:

(1) an amendment application [~~to amend the business entity,~~] identifying the qualifying person as the manager;

(2) an ownership information form, indicating that the qualifying person has no ownership interest in the business; and

(3) a bond rider adding the qualified person's name to the existing bond.

(f) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse must file with the department an application for a new GDN on or before the expiration of the license term in the department-designated electronic licensing system.

(g) A determination made under this section does not impact a decision made by the board under Occupations Code, §2301.462 (relating to Succession Following Death of Franchised Dealer).

(h) A dealer shall notify the department in writing within 10 days of a change in dealer principal or other person who oversees a dealer's business activities, including a change resulting from a receiver being appointed or a dealer filing bankruptcy, by submitting a license amendment application in the electronic licensing system designated by the department.

§215.152. Obtaining Dealer-Issued Buyer's License Plates.

(a) A dealer or governmental agency is required to have internet access to connect to webDEALER and the license plate system maintained by the department and is responsible for verifying receipt of license plates in the license plate system.

(b) Except as provided by §215.157 of this title (relating to Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available) before a license plate may be issued or secured on a vehicle, a dealer or governmental agency must enter in the license plate system true and accurate information about:

(1) the vehicle;

(2) the buyer; and

(3) the license plate number issued or assigned to the vehicle.

(c) The department will inform each dealer annually of the maximum number of new buyer's license plates the dealer is authorized to obtain during the calendar year under Transportation Code, §503.063, including:

(1) an allotment of buyer's license plates to be issued to a buyer of a vehicle that is to be titled and registered in Texas, and

(2) a separate allotment of buyer's temporary license plates to be issued to a non-resident buyer for a vehicle that will be registered and titled in another state.

(d) The department will calculate a dealer's maximum annual allotment of new buyer's license plates and buyer's temporary license plates based on the following formula:

(1) Vehicle title transfers, sales, or license plate issuance data determined from the department's systems from the previous fiscal year;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions processed through the department-designated registration and title system or license plate system, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of relevant transactions processed through the department-designated registration and title system or license plate system, not less than zero, to determine the dealer's annual allotment; and

(4) the department may increase or decrease the annual allotment for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(e) A dealer licensed after the commencement of a calendar year shall be allocated the number of buyer's license plates and buyer's temporary plates allocated in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's initial license expires. The department shall determine the initial allocations [~~The initial allocations shall be as determined by the department~~] in granting the license, but not more than:

(1) 200 buyer's license plates and 100 buyer's temporary license plates for a franchised dealer unless the dealer provides credible information indicating that a greater number of buyer's license plates is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section.

(2) 100 buyer's license plates and 48 buyer's temporary license plates for a nonfranchised dealer unless the dealer provides credible information indicating that a greater number of license plates is warranted based on anticipated sales as otherwise provided in this section.

(f) An existing dealer that is:

(1) moving its operations from one location to a different location will continue with its allotment of buyer's license plates and buyer's temporary license plates and not be allocated license plates under subsection (e) of this section;

(2) opening an additional location will receive a maximum allotment of buyer's license plates and buyer's temporary license plates based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (e) of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being purchased and not be allocated license plates under subsection (e) of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being inherited and not be allocated license plates under subsection (e) of this section.

(g) A new dealer may also provide credible information supporting a request for additional or fewer buyer's license plates and buyer's temporary license plates to the amount allocated under subsection (e) of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in GDN required by death or retirement, except as provided in subsection (f) of this section;

(3) prior year's sales by a dealer moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(h) The annual allotment of buyer's [~~issue~~] license plates and buyer's temporary license plates will each be divided by four and allocated to a dealer on a quarterly basis, unless a dealer sells only antique or special interest vehicles as defined by Transportation Code, §683.077(b), in which case each allocation may be divided by two and allocated on a half-yearly basis. A dealer's remaining unissued license plates at the end of the allocation period will count towards the dealer's next allotment.

(i) A dealer is not eligible to receive a quarterly allocation in the following circumstances:

(1) the dealer's license has been closed, canceled, or revoked in a final order;

(2) the department has issued a notice of department decision under §224.56 of this title (relating to Notice of Department Decision), alleging that the dealer is in violation of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) and appears to have abandoned the licensed location;

(3) the department has denied the dealer access to the temporary tag system or the license plate system in accordance with §224.58 of this title (relating to Denial of Dealer Access to License Plate System) and Transportation Code, §503.0633(f);

(4) a dealer fails a compliance review performed by the department under Transportation Code, §503.063(d);

(5) the dealer license expires during that quarter and the dealer has not submitted a license renewal application to the department;

(6) a dealer does not have an owner or bona fide employee at the licensed location during posted business hours to accept a license plate delivery and the delivery service has notified the department that a license plate shipment is undeliverable; [~~or~~]

(7) a dealer fails to keep license plates or the license plate system secure; or [~~.~~]

(8) an applicant or licensed dealer has filed a change of address with the department for the licensed location and the new location has not been approved by the department.

(j) A dealer with an active license and access to the license plate database who is ineligible to receive a quarterly allocation under subsection (i) of this section may request the department conduct a compliance review under Transportation Code, §503.063(d) to determine if the dealer is eligible to receive a future allocation by submitting a request to DealerCompliance@txdmv.gov. The department will conduct the compliance review within 14 days of the dealer's request.

(k) A dealer who has an active license but is not eligible to receive a quarterly allocation under subsection (i) of this section may obtain buyer's license plates from a county tax assessor-collector or department regional service center, as directed by the department.

(l) A dealer may request more buyer's license plates or buyer's temporary license plates:

(1) after using 50 percent of the quarterly allocation of buyer's license [~~general issue~~] plates or buyer's [~~buyer~~] temporary plates, a dealer may request an advance on the next quarter's allotment; or

(2) after using 50 percent of the allotted annual maximum number of buyer's license [~~general issue~~] plates or buyer's [~~buyer~~] temporary plates a dealer may request an increase in the annual allotted number of license plates.

(m) A dealer may request fewer buyer's license plates or buyer's temporary license plates:

(1) after using less than 50 percent of the quarterly allocation of buyer's [~~general issue~~] license plates or buyer's [~~buyer~~] temporary license plates in a quarter; or

(2) after using less than 50 percent of the allotted annual maximum number of buyer's [~~general issue~~] license plates or buyer's [~~buyer~~] temporary license plates in a year.

(n) To request [~~receive~~] more buyer's license plates or buyer's temporary license plates or to request a decrease in a quarterly or annual allocation, a dealer must submit a request in the department's designated license plate system.

(o) A dealer requesting an increase or decrease in the maximum annual allotment of buyer's license plates or buyer's temporary license plates must provide information demonstrating the need for additional license plates results from business operations, including anticipated needs, as required by Transportation Code, §503.0633(c). Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in Transportation Code, §503.0633(b).

(1) The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other relevant information may include information of the factors listed in Transportation Code, §503.0633(b), the timing of the request, and the dealer's [~~requestor's~~] license plate activity.

(2) The department may allocate a lesser or greater number of license plates than the amount requested. Allocation of a lesser or greater number of license plates is not a denial of the request. Allocation of license plates under this paragraph does not limit the dealer's ability to submit additional requests.

(3) If a request is denied, the denial will be sent to the dealer by email to the requestor's email address.

(A) A dealer may appeal the denial to the designated director in the Vehicle Titles and Registration Division.

(B) The appeal must be requested though the designated license plate system within 15 days of the date the department emailed the denial to the dealer.

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The designated director in the Vehicle Titles and Registration Division will review the appeal and any additional statements concerning the information submitted in the original request and render an opinion within 15 days of receiving the appeal. The designated director in the Vehicle Titles and Registration Division may decide to deny the appeal or award an amount of license plates that is lesser, equal to, or greater than the request.

(E) The requesting dealer will be notified as follows:

(i) If the designated director in the Vehicle Titles and Registration Division decides to deny the appeal, the department will contact the requesting dealer by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the designated director in the Vehicle Titles and Registration Division awards an amount of license plates that is lesser, equal to, or greater than the request, the dealer's allocation will be adjusted and the dealer will be contacted by email regarding the decision, informed that the request has not been denied, and informed about options to submit a new request.

(4) The designated director in the Vehicle Titles and Registration Division's decision on appeal is final.

(5) Once a denial is final, a dealer may only submit a subsequent request during that calendar year if the dealer is able to provide additional information not considered in a prior request.

(p) A change in the allotment under subsection (l) [~~(i)~~] of this section does not create a dealer base for subsequent year calculations.

(q) The department may at any time initiate an enforcement action against a dealer if license plate system activity suggests that misuse or fraud has occurred as described in Transportation Code §503.0633(f) or §503.0671.

§215.153. Dealer's Use of Buyer's Provisional License Plates.

(a) In the license plate system designated by the department, a dealer may order buyer's provisional license plates for the class of vehicle for which the dealer holds a GDN, and must manage buyer's provisional license plate inventory within the buyer's license plate allocation provided by §215.152 of this title (relating to Obtaining Dealer-Issued Buyer's License Plates). A dealer may be required to submit information supporting a request for buyer's provisional license plates, such as anticipated fleet vehicle sales based on sales history or orders in process.

(b) When a purchased vehicle is eligible for a general issue license plate and a general issue license plate for that vehicle type is not in a dealer's license plate inventory and the purchaser does not have an existing license plate eligible to be reassigned, a dealer must assign a buyer's provisional license plate to the vehicle by securing the provisional license plate to the vehicle and entering the license plate information into the license plate system designated by the department consistent with the requirements of §215.151 of this title (relating to License Plate General Use Requirements) and §215.155 of this title (relating to Buyer's License Plates).

(c) When a purchased vehicle is eligible for an exempt license plate, a dealer may issue a buyer's provisional license plate for use on the vehicle until the department processes the exempt license plate application. If the department does not approve the exempt license plate application, a dealer must issue a general issue license plate, and the retail buyer must pay the related registration fee.

(d) When a purchased vehicle is eligible for a commercial fleet license plate, such as an apportioned, forestry, token, combination, extended trailer, or multi-year license plate, a dealer may issue a buyer's provisional license plate for use on the vehicle. The retail purchaser is responsible for requesting the appropriate commercial fleet license plate in the department's designated system.

(e) Unless the sale is of a commercial fleet vehicle, the selling dealer is responsible for promptly:

(1) submitting the title and registration application to the county tax assessor-collector;

(2) removing the buyer's provisional license plate if secured to the vehicle; and

(3) securing the assigned license plate to the vehicle if that license plate is provided to the dealer by either the county tax assessor-collector or the retail buyer.

(f) A buyer's provisional license plate is for temporary use only and expires 14 days after a general issue, exempt, commercial fleet, or other eligible license plate is assigned to the vehicle.

(g) A dealer must mark and destroy an expired buyer's provisional license plate in the dealer's possession as provided in §215.158 of this title (relating to General Requirements for Buyer's License Plates).

§215.154. Dealer's Temporary License Plate Allocation.

(a) The number of dealer's temporary license plates a dealer may order for business use is based on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year.

(b) Unless otherwise qualified under this section, the maximum number of dealer's temporary license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.
Figure: 43 TAC §215.154(b)
[~~Figure: 43 TAC §215.154(b)~~]

~~[(c) A person holding a dealer license on July 1, 2025, is eligible to receive the following maximum number of dealer's temporary plates:]~~

~~[(1) the number designated for that license type in subsection (b) of this section; and]~~

~~[(2) the number designated in subsection (c) of this section based on vehicle sales in the last 12-month period.]~~

(c) [~~(d)~~] A dealer that applies for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of dealer's temporary license plates if that dealer is:

(1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity of ownership;

(2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

(d) [~~(e)~~] A dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of sales for the previous 12-month period that justifies additional license plates.

(1) The number of additional dealer's temporary license plates the department will issue to a dealer that demonstrates need through proof of sales is indicated in the following table.
Figure: 43 TAC §215.154(d)(1)
[~~Figure: 43 TAC §215.154(e)(1)~~]

(2) For purposes of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as received by the taxing authority.

(e) [~~(f)~~] A wholesale motor vehicle dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of the number of vehicles the dealer has purchased in the previous 12-month period that justifies additional license plates.

(1) Evidence of the wholesale motor vehicle dealer's vehicle purchases for the previous 12-month period must include the date of purchase, VIN of the vehicle purchased, and the selling dealer's name, and any other information the department in its discretion deems necessary to determine the need for additional dealer's temporary license plates for the wholesale motor vehicle dealer.

(2) Upon review and approval of a wholesale motor vehicle dealer's proof of vehicle purchases documentation, the department shall issue up to 5 additional dealer's temporary license plates to the dealer.

(f) [~~(g)~~] The Director of the Motor Vehicle Division may waive the dealer's temporary license plate issuance restrictions if the waiver is essential for the continuation of the business. The director will determine the number of dealer's temporary license plates the department will issue based on the dealer's past sales, dealer's inventory, and any other factor the Director determines pertinent.

(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional dealer's temporary license plates are necessary for the continuation of the dealer's business.

(2) A request for a waiver must be accompanied by proof of the dealer's sales and the number of vehicles transported for the previous 12-month period, if applicable.

§215.155. Buyer's License Plates.

(a) A dealer may issue and secure a buyer's license plate or a buyer's temporary license plate only on a vehicle:

(1) from the selling dealer's inventory;

(2) that can be legally operated on the public streets and highways;

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's license plate or a buyer's [~~general issue or~~] temporary license plate to the buyer of a vehicle that is to be titled but not registered.

(c) For a wholesale transaction, a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

(1) dealer's temporary license plate; or

(2) dealer's standard or personalized prestige license plate.

(d) A buyer's temporary license plate is valid until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 60th day after the date of purchase.

(e) A dealer shall charge a buyer a fee of $10, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county [~~with the title transfer application~~] for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) A governmental agency may charge a buyer a fee of $10 unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.

If [~~In accordance with Transportation Code, §503.0631(d), if~~] a dealer or governmental agency is unable to access the internet at the time of a sale, the dealer or governmental agency must comply with Transportation Code, §503.0631(d) [~~document the issuance of a buyer's license plate or a buyer's temporary license plate on a receipt form prescribed by the department and enter the required information regarding the sale in the license plate system not later than the close of the next business day. The buyer's receipt must include a statement that the dealer or governmental agency, has internet access but, at the time of the sale, the dealer or governmental agency, was unable to access the internet or the license plate system~~] and [~~meet~~] the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt).

§215.158. General Requirements for Buyer's License Plates

(a) A dealer or governmental agency is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 of this title (relating to Dealer Authorization to Issue License Plates). A dealer or governmental agency shall report any loss, theft, or destruction of a [~~buyer's license plate or buyer's temporary~~] license plate to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction.

(b) When a dealer is required to void a previously assigned buyer's license plate or other type of license plate from a vehicle, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

(1) destroy the license plate;

(2) recycle the license plate using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

§215.159. License Plate Storage Away from the Licensed Location.

(a) Application Requirements. A dealer with two or more licensed locations may store and manage license plate inventory at one of the licensed locations or from another location if, in a license application, the dealer:

(1) discloses the physical address of the license plate storage location; and

(2) certifies that the license plate storage location satisfies all requirements in subsection (b) of this section.

(b) Location Requirements.

(1) If the license plate storage location is at a licensed location, the location must comply with the requirements of §215.140 of this title (related to Established and Permanent Place of Business Premises Requirements).

(2) If the license plate storage location is not at a licensed location, the location must:

(A) be located in Texas at an address recognized by the U.S. Postal Service and which is capable of receiving U.S. mail, and has an assigned emergency services property address;

(B) be located in a building with a permanent roof and connecting exterior walls on all sides;

(C) be equipped with:

(i) a computer;

(ii) internet access;

(iii) a working telephone number listed in the business name or assumed name under which the dealer conducts business;

(iv) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all license plates in a dealer's possession;

(D) be organized so the license plate inventory for each licensed location is separate and easily identifiable and is properly assigned to a location in the license plate management system;

(E) have the address clearly visible from the street;

(F) have business hours posted at the main entrance in a manner and place accessible to delivery services and department staff;

(G) be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment, with the owner or a bona fide employee at the license plate storage location during the posted business hours for purposes of processing license plates, including acceptance of license plate deliveries;

(H) have a telephone that is answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine, so that a caller is able to speak to a natural person or leave a message during these hours;

(I) not be in a residence, apartment, hotel, motel, rooming house, provided by a subscription for office or storage space, or in

a rented storage unit, but it may be in a portable-type office building if the building meets the requirements of this subsection and is not a readily moveable trailer or other vehicle; and

(J) not be in a restaurant, gas station, or convenience store, unless the location has a separate entrance door that does not require a person to pass through the other business.

(c) Site Visit. The department may visit the location prior to approving a dealer's application to add a license plate storage location and during the term of the license to monitor compliance with department rules as authorized under Occupations Code, §2301.256 and Transportation Code, §503.063(d).

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

43 TAC §215.171

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.171. Purpose and Scope.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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43 TAC §§215.175, 215.177, 215.181

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority;

Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. These proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 730, 1001-1003, and 1005.

§215.175. Sanctions.

~~[(a) The board or department may:]~~

~~[(1) deny a vehicle lessor or vehicle lease facilitator application;]~~

~~[(2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or]~~

~~[(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.]~~

(a) [~~(b)~~] The board or department may sanction [~~take action described in subsection (a) of this section if~~] a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required, if the person:

(1) fails to maintain an established and permanent place of business required by §215.177 of this title (relating to Established and Permanent Place of Business);

(2) fails to maintain records required under this subchapter;

(3) refuses or fails to comply with a request by a representative of the department to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or vehicle lease facilitator's licensed location:

(A) a vehicle leasing record required to be maintained by §215.178 of this title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

(B) ownership papers for a vehicle owned, leased, or under that vehicle lessor's or vehicle lease facilitator's control; or

(C) evidence of ownership or a current premises lease agreement for the property upon which the business is located;

(4) refuses or fails to timely comply with a request for records made by a representative of the department;

(5) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's:

(A) mailing address;

(B) physical address;

(C) telephone number; or

(D) email address;

(6) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's name, assumed name, management, or ownership;

(7) fails to comply with the fee restrictions or other requirements under Occupations Code, §2301.357 or Chapter 2301, Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators;

(8) fails to maintain advertisement records or otherwise fails to comply with the advertising requirements of:

(A) §215.178; or

(B) Subchapter F of this chapter (relating to Advertising);

(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;

(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines), directly relates to the duties or responsibilities of the licensed occupation;

(11) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter 2301; [~~or~~]

(13) omits material information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document; or [~~.~~]

(14) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

(b) [~~(c)~~] The board or department may take action on a vehicle lessor's license or assess civil penalties for the vehicle lessor's failure to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

(c) [~~(d)~~] The board or department may take action on a vehicle lease facilitator's license or assess civil penalties for the failure to notify the department in writing within 10 days by electronically submitting a license amendment in the licensing system designated by the department of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

(d) [~~(e)~~] The board or department may take action on a vehicle lessor's or vehicle lease facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle.

§215.177. Established and Permanent Place of Business Premises Requirements.

(a) A vehicle lessor or vehicle lease facilitator operating within Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

(1) Physical location requirements.

(A) A vehicle lessor or vehicle lease facilitator operating within Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

(B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and two chairs from which the vehicle lessor or vehicle lease facilitator transacts business;

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and

(iii) internet access.

(C) A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with the following requirements:

(i) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house or building not open to the public.

(iv) The physical address of the office must be recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(v) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(D) A portable-type office structure may qualify as an office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(E) One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each vehicle lessor or vehicle lease facilitator must have:

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

(F) A vehicle lease facilitator's established and permanent place of business must be physically located within Texas.

(2) Business Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent business sign at the licensed location showing the name under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor business signs must contain legible letters that are at least six inches in height. The business name or assumed name on the sign must be substantially similar to the name reflected on the license issued by the department. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(3) Premises lease requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner of the premises and the name of the vehicle lease facilitator as the tenant or lessee of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application as the physical address for the established and permanent place of business;

(C) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee;

(D) the period of time for which the premises lease is valid; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the applicant or holder must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the license holder is authorized to sublease the location and may operate a motor vehicle leasing business from the location.

(b) A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease facilitator is an:

(1) employee or legal subsidiary of the financial institution or dealership; or

(2) entity wholly owned by the financial institution or dealership.

(c) For purposes of this section, an employee is a person who meets the requirements of §215.173(b) of this title (relating to License).

§215.181. General Distinguishing Number Exception.

A licensed vehicle lessor is not required to hold a GDN in order to sell a motor vehicle that the vehicle lessor owns to the lessee or to a duly licensed dealer, either directly or through a licensed wholesale motor vehicle auction. A licensed vehicle lessor may not purchase a motor vehicle at a wholesale motor vehicle auction. The department shall cancel a vehicle lessor's GDN if the vehicle lessor is not qualified to hold the GDN. [~~Any existing GDN held by a vehicle lessor that does not otherwise qualify for a GDN shall be canceled.~~] A vehicle lessor whose GDN has been canceled under this section may reapply for a GDN once all the qualifications for a GDN are met.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER F. ADVERTISING

43 TAC §§215.241, 215.243, 215.269

STATUTORY AUTHORITY. The department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement

the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed repeals would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.241. Purpose and Scope.

§215.243. Specific Rules.

§215.269. Finding of Violation.

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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43 TAC §§215.242, 215.244, 215.246, 215.264, 215.270

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.242. General Prohibition.

[~~A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.~~] In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the department to be false, deceptive, or misleading, [~~whether herein described,~~] shall be deemed a violation of Occupations Code, Chapter 2301 and [~~shall also be deemed a violation of~~] this rule.

§215.244. Definitions.

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

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

(i) made in a newspaper, magazine, or other publication;

(ii) contained in a notice, sign, poster, display, circular, pamphlet, business card, or letter;

(iii) aired on the radio;

(iv) broadcast on the internet or television; [~~or~~]

(v) streamed via an online service;[~~.~~]

(vi) displayed on an internet website, social media platform, or other digital application or platform; or

(vii) transmitted electronically.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Cure--A license holder's agreement to not violate for a two-year period an advertising rule cited in a department opportunity-to-cure notice, and if applicable, any action necessary to correct a consumer harm caused by the alleged advertising violation, such as issuing a consumer refund.

(7) [~~(6)~~] Dealership addendum--A form that is displayed on a window of a motor vehicle when a dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

(i) that it is supplemental;

(ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;

(iii) any additional charge to the selling price such as additional dealership markup; and

(iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptively similar in appearance to the Monroney label, as defined by paragraph (14) [~~(13)~~] of this section.

(8) [~~(7)~~] Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(9) [~~(8)~~] Disclosure--Required information that is clear, conspicuous, and accurate.

(10) [~~(9)~~] Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [~~(13)~~] of this section.

(11) [~~(10)~~] Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(12) [~~(11)~~] Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(13) [~~(12)~~] Manufacturer's Suggested Retail Price (MSRP)--Means [~~means~~] the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [~~(13)~~] of this section.

(14) [~~(13)~~] Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

(A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;

(B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;

(C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and

(D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(15) [~~(14)~~] Online service--A network that connects computer users.

(16) [~~(15)~~] Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(17) [~~(16)~~] Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to,

a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(18) [~~(17)~~] Subsequent violation--A license holder's violation of the same advertising rule cited in an opportunity to cure notice within a two-year period. [~~Conduct that is the same or substantially the same as conduct the department has previously alleged in a notice of an opportunity to cure to be a violation of an advertising provision.~~]

§215.246. Accuracy.

Advertisements shall be accurate, clear, and conspicuous. [~~Advertisements shall not be false, deceptive, or misleading.~~] For an internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:

(1) the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or

(2) only one click on select text or image(s) is required to view the disclosure; and

(3) the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.

§215.264. Payment Disclosure - Vehicle Lease.

(a) An advertisement that promotes a consumer lease and contains the amount of any payment or that contains either a statement of any capitalized cost reduction or other payment or a statement that no payment is required at consummation or prior to consummation or delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:

(1) that the transaction advertised is a vehicle lease;

(2) the total amount due at consummation or prior to consummation or delivery, if delivery occurs after consummation;

(3) the number, amount, and due date or period of scheduled payments under the vehicle lease;

(4) a statement of whether a security deposit is required; and

(5) a statement that an extra charge may be imposed at the end of the vehicle lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the vehicle lease term.

(b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this section cannot be more prominently advertised than the disclosure of the total amount due at vehicle lease signing or delivery.

(c) Except for disclosures of limitations on rate information, if a percentage rate is advertised, that rate shall not be more prominently advertised than any other disclosure or deal term.

(d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or any equivalent terms in any advertisement containing a percentage rate.

(e) A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement, provided that for vehicle lease terms appearing without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(f) A merchandise tag stating any item listed in subsection (a) of this section must comply with subsection (a) of this section by referring to a sign or to a display prominently posted in the vehicle lessor's place of business. The sign or display must contain a table or schedule of the required disclosures under subsection.

(g) An advertisement made through television or radio stating any item listed in subsection (a) of this section, must include the following statements:

(1) that the transaction advertised is a vehicle lease;

(2) the total amount due at consummation or due prior to consummation or delivery, if delivery occurs after consummation; and

(3) the number, amount, and due date or period of scheduled payments under the vehicle lease.

(h) In addition to the requirements of subsection (g) of this section, an advertisement made through television or radio stating any item listed in subsection (a) of this section, must:

(1) provide a toll-free telephone number along with a statement that the telephone number may be used by consumers to obtain the information in subsection (a) of this section; or

(2) include all information required by this section in the advertisement. [~~direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in subsection (a) of this section are included in the advertisement.~~]

(i) The toll-free telephone number required by subsection (h)(1) of this section shall be available for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide the information in subsection (a) of this section orally or in writing.

[~~(j) The written advertisement required by subsection (h)(2) of this section shall be published beginning at least three days before the broadcast and ending at least 10 days after the broadcast.~~]

§215.270. Enforcement.

(a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

(1) that the department notified the license holder of the opportunity to cure the alleged violation [~~who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation~~] by email and certified mail, return receipt requested, and that the notice complied [~~in compliance~~] with subsection (b) of this section; and

(2) that the license holder:

(A) did not timely respond to the notice of an opportunity to cure, or

(B) agreed to cure the violation but violated the cure agreement by failing to correct a consumer harm or by committing a subsequent violation. [~~committed a subsequent violation of the same advertising provision.~~]

(b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section must:

(1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;

(2) set forth the facts upon which the department bases its allegation of a violation; and

(3) state that if the license holder does not timely agree to cure the violation or violates a cure agreement [~~commits a subsequent violation of the same advertising provision~~], the department will file a Notice of Department Decision under §224.56 of this title (relating to Notice of Department Decision).

[~~(c) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:~~]

[~~(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;~~]

[~~(2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;~~]

[~~(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and~~]

[~~(4) identify the alleged violation of the advertising provision and contain a statement of correction.~~]

(c) [~~(d)~~] A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.

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

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SUBCHAPTER G. ADMINISTRATIVE SANCTIONS

43 TAC §215.500

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. These amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 730, 1001-1003, and 1005.

§215.500. Administrative Sanctions.

An administrative sanction may include one or more penalties authorized by Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, including a refund under §215.504 of this title (relating to Buyer or Lessee Refund).[:]

[~~(1) denial of an application for a license;~~]

[~~(2) suspension of a license;~~]

[~~(3) revocation of a license;~~]

[~~(4) the imposition of civil penalties; or~~]

[~~(5) a refund under §215.504 of this title (relating to Buyer or Lessee Refund).~~]

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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CHAPTER 221. SALVAGE VEHICLE DEALERS

SUBCHAPTER B. LICENSING

43 TAC §221.17

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter B, Licensing; §221.17, License Processing for Military Service Members, Spouses, and Veterans. These proposed amendments are necessary for the department to be able to identify and expedite the processing of these applications as required by Occupations Code, §55.0041, without significant licensing system programming changes.

EXPLANATION.

Occupations Code, §55.004(b-1), as amended by Senate Bill 1818, 89th Texas Legislature, Regular Session, requires all state licensing agencies including the department to issue a provisional license to military service members, veterans and military spouses while the agency processes the application for licensure. Proposed amendments to §221.17(b) would clarify the license application process for a military service member, military veteran, or a military spouse to obtain a provisional license as a salvage vehicle dealer. These clarifications are necessary for the department to be able to identify and process these applications on an expedited basis as required by Occupations Code, §55.0041. Proposed amendments to §221.17(b)(1) would establish less-onerous application requirements for a provisional license to align the rule with Occupations Code, §55.0041, which sets the specific requirements for this temporary license type. The proposed amendments to §221.17(b)(1) would also clarify that a military service member, military spouse, or military veteran may apply for a provisional license by downloading and completing the form from the department website or contacting the department. Proposed amendments to §221.17(b)(1) would also require the applicant to submit a completed provisional license application to the department at the email address designated in the application form, would delete a requirement to submit a more comprehensive online application as specified in 43 Texas Administrative Code §221.15 and §221.16, would reletter the required attachments that must be submitted with the provisional license application, and would clarify the circumstances in which a certain attachment is required.

Proposed amendments to §221.17(b)(2) would add the phrase "provisional license" to describe the application type, would add in §221.17(b)(2)(A) military veteran to the list of those eligible and amend related prepositions, and would change a verb in §221.17(b)(2)(B) to align with the language used in §221.17(b)(2)(A) and (C) and in Occupations Code, §55.0041. Proposed amendments in new §221.17(b)(2)(C) would add that if the department confirms that the applicant is licensed in good standing in a state with licensing requirements that are similar in scope and practice, the department will promptly issue the provisional license and notify the applicant to submit a sufficient application as described in §221.15 and §221.16.

Proposed amendments to §221.17(b)(3) would align the rule with Occupations Code, §55.0041(b-1) and §55.005(a), both as amended by House Bill 5629, 89th Legislature, Regular Session, which require that all licensing agencies issue a license within to a military service member, veteran, or military spouse within 10 business days of an application or explain why the agency is unable to issue the license. The proposed amendments to §221.17(b)(3) would clarify that the department will issue a license within 10 days of receiving a complete application as described in §221.15 and §221.16 or notify the applicant why a license cannot currently be issued- if an applicant holds a provisional license, is currently licensed in good standing in another state with similar licensing requirements, or was licensed in good standing in Texas in the last five years. These proposed amendments would streamline and standardize the salvage dealer licensing process for military members, military spouses, and military veterans consistent with the requirements of Occupations Code, Chapter 55, without requiring substantial licensing system changes that would delay implementation. The remaining text of current §221.17(b)(3) is proposed to be re-lettered as §221.17(c), and current §221.17(c) is proposed to be re-lettered as §221.17(d).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Monique Johnston, Director of the Motor Vehicle Division (MVD), has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston has also determined that, for each year of the first five years the amended section is in effect, the public may benefit because these amendments may encourage military service members or military spouses to apply for a license and build a business serving Texas citizens.

Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include economic benefits resulting from increasing the number of licensed businesses that serve Texas citizens.

Anticipated Costs to Comply With The Proposal. Ms. Johnston anticipates that there will be no costs to comply with these rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by the Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because rural communities are not subject to licensing requirements and the proposal does not require any additional costs for license holders. The department has an electronic licensing system available to all applicants that allows an applicant to apply online for a license and upload any required documents. This rule proposal does not impact small businesses or micro-businesses.

Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

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

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease in fees paid to the department. The proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on May 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The department proposes amendments to Chapter 221 under Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code, Chapter 503.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapter 2001; Occupations Code, Chapters 53, 55, and 2302; and Transportation Code, Chapters 501-503, and 1002.

§221.17. License Processing for Military Service Members, Spouses, and Veterans.

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member, [~~or~~] military spouse, or military veteran may engage in a business or occupation for which a department-issued [~~department~~ ~~issued~~] license is required if the person [~~military~~ ~~service~~ ~~member~~ ~~or~~ ~~military~~ ~~spouse~~] meets the requirements of Occupations Code, §55.004 or §55.0041 and this section.

(1) To receive a provisional license a [~~A~~] military service member, [~~or~~] military spouse, or military veteran must submit to the department a completed provisional license application. The applicant may download the provisional license application form from the department website or contact the department to request the form. The applicant must submit the completed application to the department email address listed in the application form and attach the following:

[~~(A) a complete application;~~]

(A) [~~(B)~~] if the applicant is a military service member or a military spouse, proof of the military service member being stationed in Texas and a copy of the military service member or military spouse's military identification card;

(B) [~~(C)~~] if the applicant is a military spouse, a copy of the military spouse's marriage license; [~~and~~]

(C) if the applicant is a military veteran, a copy of the applicant's discharge certificate or other official document verifying military service and an identification document listed in §221.16 of this title (relating to Required Attachments to the License Application); and

(D) if the applicant is licensed by another state, a notarized affidavit that meets the requirements of [~~as required by~~] Occupations Code, § 55.0041(b)(3).

(2) Upon receipt of the provisional license application and documentation required by paragraph (1) of this subsection, the department shall:

(A) confirm with the other licensing state that the military service member, [~~or~~] military spouse, or military veteran is cur-

rently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other state's license requirements, statutes, and rules with the department's licensing requirements to confirm [~~determine~~] if the requirements are similar in scope of practice; and

(C) if subparagraphs (A) and (B) of this paragraph are confirmed, promptly issue a provisional license and notify the applicant to submit a complete application as described in §221.15 of this title (relating to Required License Application Information) and §221.16 of this title.

(3) The department shall issue a license, or notify the applicant why the department cannot or is currently unable to issue a license, within 10 days of receiving a complete application as described in §221.15 of this title and §221.16 of this title if the applicant:

(A) has been issued a provisional license;

(B) is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice; or

(C) was licensed in good standing in Texas in the last five years.

[~~(C) If the department confirms that a military service member or military spouse is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice, or was licensed in good standing in Texas in the last five years, the department shall issue a license to the military service member or military spouse for the relevant business or occupation, or notify the applicant why the department is currently unable to issue a license pursuant to Occupations Code, §55.0041(b-1), within 10 days.~~]

(c) The license is subject to the requirements of this chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.

(d) [~~(c)~~] This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

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

Filed with the Office of the Secretary of State on April 9, 2026.

TRD-202601513
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: May 24, 2026
For further information, please call: (512) 465-4160

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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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.4

The Texas Department of Housing and Community Affairs (the Department) adopts without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 669) the amendment to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors. The rule will not be republished. The purpose of the amended section is to make several minor changes to bring this rule into greater compliance with the rules of the Texas Comptroller of Public Accounts found at 34 TAC Chapter 20, Subchapter F, Division 3.

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

The Department has analyzed this 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 has determined that, for the first five years the amendment would be in effect:

1. The amended section does not create or eliminate a government program but relates to minor revisions to bring the rule into greater compliance with the Comptroller's rules on the same subject.

2. The amended section 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 amended section does not require additional future legislative appropriations.

4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended section is not creating a new regulation.

6. The amended section will not expand, limit, or repeal an existing regulation.

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

8. The amended section 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 the amended section and determined that it 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 amended section 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 amended section as to its possible effects on local economies and has determined that for the first five years the amended section 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 amended section is in effect, the public benefit anticipated as a result of the new section would be greater consistency between the Department's rule and the Comptroller's rule on the same subject. There will not be economic costs to individuals required to comply with the amended section.

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

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment from February 6, 2026 to March 8, 2026. No public comment was received and the rule is adopted without changes.

STATUTORY AUTHORITY. The amended section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amended section affects no other code, article, or statute.

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 April 9, 2026.

TRD-202601536
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.5

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 670), the amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5, Waiver Applicability in the Case of State or Federally Declared Disasters. The rule will not be republished. The purpose of the amended section is to make several minor changes to provide greater clarity around when the Executive Director can waive rules when there have been state or federal regulatory waivers in response to state or federal disasters.

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

The Department has analyzed this 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 has determined that, for the first five years the amendment would be in effect:

1. The amended section does not create or eliminate a government program but relates to minor revisions to make the rule more clear.

2. The amended section 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 amended section does not require additional future legislative appropriations.

4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended section is not creating a new regulation.

6. The amended section will not expand, limit, or repeal an existing regulation.

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

8. The amended section 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 the amended section and determined that it 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 amended section 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 amended section as to its possible effects on local economies and has determined that for the first five years the amended section 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 amended section is in effect, the public benefit anticipated as a result of the new section would be a more clear rule. There will not be economic costs to individuals required to comply with the amended section.

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

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026 to March 8, 2026, to receive input on the proposed action. No public comment was received and the amendment is adopted without changes.

STATUTORY AUTHORITY. The amended section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amended section affects no other code, article, or statute.

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 April 9, 2026.

TRD-202601537
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, State of Texas Low Income Housing Plan and Annual Report (SLIHP), without

changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 672). The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action, in order to adopt by reference the 2026 SLIHP.

The Department has analyzed this 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 repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption by reference the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723.

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

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

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

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

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption in order to adopt by reference the 2026 SLIHP.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated more germane rule that will adopt by reference the 2025 SLIHP. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENT. The public comment period for the rule was held Monday, February 2, 2026, through Sunday, March 8, 2026, to receive input on the proposed repealed section. No comments were received on the proposed repeal of §1.23.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules, and Tex. Gov't Code §2306.0723, which requires this annual report to be considered a rule and be adopted following rulemaking procedures.

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

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 April 9, 2026.

TRD-202601541
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-3959

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10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP), without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 673). The rule will not be republished. The purpose of the new section is to provide compliance with Tex. Gov't Code §2306.0723 and to adopt by reference the 2026 SLIHP, which offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The 2026 SLIHP reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2024, through August 31, 2025).

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it is exempt under item (c)(9) because it is necessary to implement legislation. Tex. Gov't Code §2306.0721 requires that the Department produce a state low income housing plan, and Tex. Gov't Code §2306.0722 requires that the Department produce an annual low income housing report. Tex. Gov't Code §2306.0723 requires that the Department consider the annual low income housing report to be a rule. This rule provides for adherence to that statutory requirement. Further no costs are

associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this 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 new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the adoption, by reference, of the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723.

2. The 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 new rule changes do not require additional future legislative appropriations.

4. The new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not expand, limit, or repeal an existing regulation.

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

8. The 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 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 §2306.0723.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are no small or micro-businesses subject to the rule for which the economic impact of the rule is projected to be null. There are no rural communities subject to the rule for which the economic impact of the rule is projected to be null.

3. The Department has determined that because the rule will adopt by reference the 2025 SLIHP, 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 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 rule will be in effect the rule has no economic effect on local employment because the rule will adopt by reference the 2026 SLIHP; therefore, no local employment impact statement is required to be prepared for the rule.

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 the rule will adopt by reference the 2026 SLIHP there are no "probable" effects of the new rule on particular geographic regions.

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 new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule that will adopt by reference the 2026 SLIHP, as required by Tex. Gov't Code §2306.0723. There will not be any economic cost to any individuals required to comply with the new section because the adoption by reference of prior year SLIHP documents has already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the new rule will adopt by reference the 2026 SLIHP.

SUMMARY OF PUBLIC COMMENT. The public comment period for the proposed new rule was held between Friday, February 6, 2026, and Sunday, March 8, 2026. The public comment period for the draft 2026 SLIHP was held between January 16, 2026, and February 16, 2026. A public hearing for the draft 2026 SLIHP was held on February 10, 2026, in Austin, Texas. Written comments were accepted by email and mail. While the Department received public comment on the draft 2026 SLIHP, no comments were received specifically regarding (and in response to) the proposed new rule.

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

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

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 April 9, 2026.

TRD-202601542
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-3959

CHAPTER 7. HOMELESSNESS PROGRAMS
SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §§7.1 - 7.12

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 7, Subchapter A, General Policies and Procedures, §§7.1 - 7.12, without changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 451). The rules will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule.

The rules provide guidance on program eligibility, applications, documentation, monitoring, and compliance. The Department's analysis identified the need to clarify terminology, refine definitions, update contract and reporting requirements, enhance oversight of construction and LURAs, and align marketing, records retention, and waiver procedures with current federal and state regulations.

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 repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, General Policies and Procedures for the Department's Homelessness Programs.

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

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

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

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

6. The action will repeal an existing regulation but is associated with a simultaneous readoption making changes to an existing activity, General Policies and Procedures for the Department's Homelessness Programs.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between January 30, 2026 and March 3, 2026, and no comment was received on the repeal.

The Board adopted the final order adopting the repeal on April 9, 2026.

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

Except as described herein the adopted repealed sections affect no other code, article, or statute.

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 April 9, 2026.

TRD-202601557
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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10 TAC §§7.1 - 7.12

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 7, Subchapter A, General Policies and Procedures, §§7.1 - 7.12, without changes to the text proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 452). The rules will not be republished. The purpose of the new subchapter is to update the rule to include special allocations of funds and to further clarify program requirements.

The rule provides guidance on program eligibility, applications, documentation, monitoring, and compliance. The Department's analysis identified the need to clarify terminology, refine definitions, update contract and reporting requirements, enhance oversight of construction and LURAs, and align marketing,

records retention, and waiver procedures with current federal and state regulations.

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

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

The Department has analyzed this 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 new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, General Policies and Procedures for the Department's Homelessness Programs.

2. The 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 workload to a degree that eliminates any existing employee positions.

3. The new rule does not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not limit or repeal an existing regulation, but can be considered to "expand" the existing regulations on this activity because the proposed new rule provides a regulatory framework for instances where the Department receives an additional allocation of funds for homelessness programs not contemplated by the current rule. However, this addition to the rule is necessary to ensure compliance with federal and state fund commitment deadlines.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The 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 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. The Department has evaluated this new rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

The Department has determined that because this rule only impacts nonprofits and units of local government by outlining administrative requirements of existing programs, 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 new rule 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 new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect the new rule has no economic effect on local employment because this rule only outlines administrative requirements of existing programs; therefore, no local employment impact statement is required to be prepared for the new rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the new rule on employment in each geographic region affected by this new rule…" Considering that these programs are offered in all areas of the state, there are no "probable" effects of the new rule on particular geographic regions.

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

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

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment, to receive input on the proposed action, between January 30, 2026 and March 3, 2026. Comments regarding the repeal were accepted in writing with comments received from one commenter: 1) Sidney Beaty, Texas Housers.

Comment opposing the removal of Language Access Plans.

Rule Section §7.10(c)(2)

COMMENT SUMMARY: Commenter (1) opposed the removal of Language Access Plans at §7.10(c)(2), noting that Executive Order 14224 does not require agencies to eliminate such plans. They emphasized that maintaining language access is essential to ensure meaningful participation by individuals with limited English proficiency (LEP) in TDHCA-funded programs. Citing the Department of Justice, they highlighted that removing these plans could create barriers to critical services and harm low-income Texans seeking assistance.

STAFF RESPONSE: The Department acknowledges the comment regarding the importance of Language Access Plans (LAP) and affirms that maintaining language access is essential to ensure meaningful participation by individuals with limited English proficiency (LEP) in TDHCA-funded programs. Although the proposed repeal removes the specific requirement for a formal LAP, no change to the rule is necessary. The rule continues to re-

quire that subrecipients follow federal regulations and guidance when interacting with Program Participants with LEP. Consistent with Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, subrecipients must take reasonable steps to ensure meaningful access to programs and activities for LEP persons, thereby preserving protections and accessibility for all participants.

The Board adopted the final order adopting the repeal on April 9, 2026.

STATUTORY AUTHORITY. The new rules are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

Except as described herein the adopted new rules affect no other code, article, or statute.

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 April 9, 2026.

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SUBCHAPTER C. EMERGENCY SOLUTIONS GRANTS (ESG)

10 TAC §§7.31 - 7.43

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants (ESG) §§7.31 - 7.43, without changes to the text proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 460). The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule.

These rules govern ESG program operations, including funding, eligibility, reporting, and Subrecipient compliance. The revisions update terminology, improve clarity, ensure consistency across Chapter 7, and align the rules with current federal and state program requirements. The Department has analyzed this 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 repeal would be in effect, the 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 Emergency Solutions Grants Program.

2. The 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 repeal does not require additional future legislative appropriations.

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

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

6. The action will repeal an existing regulation but is associated with a simultaneous readoption making changes to an existing activity, administration of the Emergency Solutions Grants Program.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between January 30, 2026 and March 3, 2026. No comment was received.

The Board adopted the final order adopting the repeal on April 9, 2026.

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

Except as described herein the adopted repealed sections affect no other code, article, or statute.

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 April 9, 2026.

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Bobby Wilkinson
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10 TAC §§7.31 - 7.43

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants (ESG) §§7.31 - 7.43. Section 7.40 is adopted with changes to the text proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 461). The rule will be republished. The remaining rules are adopted without changes and will not be republished. The purpose of the new subchapter is to update the rule to include special allocations of funds and to further clarify program requirements. Additionally, the Department has made a technical correction to clarify Language Access requirements in §7.40, Competitive Program Participant Services Selection Criteria. Previously, the rule awarded two points if a member of staff was fluent in one or more languages identified in the Applicant's Language Access Plan (LAP). The update clarifies that points are awarded when a staff member is fluent in one or more languages spoken by the population served in the Applicant's service area, consistent with §7.10(c)(2). This technical correction aligns the rule with current program administration and was not prompted by public comment.

Tex. Gov't Code §2001.0045(b) does not apply to the new rules 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 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 new rules would be in effect:

1. The new rules do not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, administration of the Emergency Solutions Grants Program.

2. The new rules do 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 new rules do not require additional future legislative appropriations.

4. The new rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rules are not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rules will not limit or repeal an existing regulation, but can be considered to "expand" the existing regulations on this activity because the new rule provides a regulatory framework for instances where the Department receives an additional allocation of funds for homelessness programs not contemplated by the current rule. However, this addition to the rule is necessary to ensure compliance with federal and state fund commitment deadlines.

7. The new rules will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The new rules 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 these new rules, 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. The Department has evaluated this new rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

The Department has determined that because these rules only impacts nonprofits and units of local government by outlining administrative requirements of an existing program, 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 new rules do 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 new rules as to their possible effects on local economies and has determined that for the first five years the new rules will be in effect the new rules have no economic effect on local employment because this rule only outlines administrative requirements of an existing program; therefore, no local employment impact statement is required to be prepared for the new rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the new rule on employment in each geographic region affected by this new rule…" Considering that these programs are offered in all areas of the state, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new rules are in effect, the public benefit anticipated as a result of the new rules will be an updated and more germane rule. There will not be any economic cost to any individuals required to comply with the new rules because the processes described

by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rules are in effect, enforcing or administering the new rules does not have any foreseeable implications related to costs or revenues of the state or local governments because this rule only outlines administrative requirements of an existing program.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between January 30, 2026 and March 3, 2026. No comment was received.

The Board adopted the final order adopting the repeal on April 9,2026.

STATUTORY AUTHORITY. The new rule(s) is/are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the adopted new rules affect no other code, article, or statute.

§7.40. Competitive Program Participant Services Selection Criteria.

(a) An Application for competitive funding allocated under §7.33(b) of this title (relating to Apportionment of ESG Funds), and made to the Department, may be awarded points for Program Participant services under each category. Points awarded for Program Participant services will be separately tabulated and added to the uniform Application score to determine a score for each of the Program Participant services Applications submitted. All scoring criteria that are based upon measurable future performance expectations will be measured and expected to be fulfilled by being included as a performance requirement in the Contract should the Application be awarded funds.

(b) Street outreach. An Application proposing street outreach may receive points under the following criteria:

(1) Matching funds for street outreach. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110% of the total ESG funds requested for street outreach.

(2) Street outreach serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(31) of this title (relating to Definitions). An Applicant providing street outreach may receive a maximum of:

(A) One point based on a minimum target of 70% of persons served who are in one or more Homeless Subpopulation;

(B) Two points based on a minimum target of 80% of persons served who are in one or more Homeless Subpopulation;

(C) Three points based on a minimum target of 90% of persons served who are in one or more Homeless Subpopulation;

(D) Four points based on a minimum target of 95% of persons served who are in one or more Homeless Subpopulation; or

(E) Five points based on a minimum target of 100% of persons served who are in one or more Homeless Subpopulation.

(3) Street outreach exit to a positive housing destination. An Application may receive a maximum of five points based on the percentage of persons served within the 12 months prior to the Application due date who exited homelessness to a positive housing destination per HMIS data standards:

(A) Two points based on 25% of persons served with street outreach who exited to positive housing destinations;

(B) Three points based on 35% of persons served with street outreach who exited to positive housing destinations;

(C) Four points based on 45% of persons served with street outreach who exited to positive housing destinations; or

(D) Five points based on 55% of persons served with street outreach who exited to positive housing destinations.

(4) Street outreach staff qualifications. An Applicant may receive a maximum of six points if a member of the staff interacting with Program Participants in the street outreach component has one or more of the following qualifications:

(A) Two points if a member is a licensed mental health provider through the Texas Behavioral Executive Health Council;

(B) Two points if a member of staff is fluent in one or more languages identified by the Applicant as necessary to provide equitable and meaningful access for persons with Limited English Proficiency (LEP), as required by §7.10(c)(2); and

(C) Two points if program includes a paid staff member who has formerly experienced homelessness.

(5) Street outreach temporary/transitional/permanent housing target. An Application may receive a maximum of three points based on the percentage of persons targeted to be served with street outreach who will be placed in temporary, transitional or permanent housing. An Application may receive a maximum of:

(A) One point based on a minimum target of 35% of persons served with street outreach who will be placed in temporary housing;

(B) Two points based on a minimum target of 45% of persons served with street outreach who will be placed in temporary housing; or

(C) Three points based on a minimum target of 55% of persons served with street outreach who will be placed in temporary housing.

(6) Street outreach services. An Application may receive a maximum of five points based on the number of street outreach services provided through ESG or other funds including engagement, case management, emergency health services, emergency mental health services, and transportation services. Emergency health services and emergency mental services may only be provided by ESG funds if these services are inaccessible or unavailable within the area. An Application may receive a maximum of:

(A) Two points if the Applicant provides street outreach engagement and case management;

(B) Three points if the Applicant provides street outreach engagement and case management, and one other service;

(C) Four points if the Applicant provides street outreach engagement and case management, and two other services; or

(D) Five points if the Applicant provides street outreach engagement and case management, and three other services.

(7) Experience providing street outreach. An Application may receive a maximum of 10 points based on the Applicant's experience providing street outreach services.

(A) Two points if the Applicant has provided street outreach for up to two years;

(B) Four points if the Applicant has provided street outreach for up to four years;

(C) Six points if the Applicant has provided street outreach for up to six years;

(D) Eight points if the Applicant has provided street outreach for up to eight years; or

(E) Ten points if the Applicant has provided street outreach for 10 or more years.

(c) Emergency shelter. An Application proposing emergency shelter may receive points under the following criteria:

(1) Matching funds for emergency shelter. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110% of the total ESG funds requested for emergency shelter.

(2) Emergency shelter serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(31) of this title. An Applicant providing emergency shelter may receive a maximum of:

(A) One point based on a minimum target of 70% of persons served who are in one or more Homeless Subpopulation;

(B) Two points based on a minimum target of 80% of persons served who are in one or more Homeless Subpopulation;

(C) Three points based on a minimum target of 90% of persons served who are in one or more Homeless Subpopulation;

(D) Four points based on a minimum target of 95% of persons served who are in one or more Homeless Subpopulation; or

(E) Five points based on a minimum target of 100% of persons served who are in one or more Homeless Subpopulation.

(3) Emergency shelter exit to a positive housing destination. An Application may receive a maximum of five points based on the percentage of persons served within the 12 months prior to the Application due date exited homelessness to a positive housing destination per HMIS data standards:

(A) Two points based on 25% of persons served with emergency shelter who exited to positive housing destinations;

(B) Three points based on 35% of persons served with emergency shelter who exited to positive housing destinations;

(C) Four points based on 45% of persons served with emergency shelter who exited to positive housing destinations; or

(D) Five points based on 55% of persons served with emergency shelter who exited to positive housing destinations.

(4) Emergency shelter staff qualifications. An Applicant may receive a maximum of six points if a member of the staff interacting with Program Participants in the street outreach component has one or more of the following qualifications:

(A) Two points if a member is a licensed mental health provider through the Texas Behavioral Executive Health Council;

(B) Two points if a member of staff is fluent in one or more languages, other than English, identified by the Applicant as necessary to provide equitable and meaningful access for persons with Limited English Proficiency (LEP) in the Applicant's proposed service area under Contract, as required by §7.10(c)(2); and

(C) Two points if program includes a paid staff member who has formerly experienced homelessness.

(5) Emergency shelter permanent housing. An Applicant may receive a maximum of three points based on the percentage of persons served with emergency shelter targeted to be placed in permanent housing. An Application may receive a maximum of:

(A) One point based on a minimum target of 35% of persons served with emergency shelter who will be placed in permanent housing;

(B) Two points based on a minimum target of 45% of persons served with emergency shelter who will be placed in permanent housing; or

(C) Three points based on a minimum target of 55% of persons served with emergency shelter who will be placed in permanent housing.

(6) Emergency shelter services. An Applicant may receive a maximum of five points based on the number of emergency shelter services provided through ESG or other funds, as listed in 24 CFR §576.102. Emergency shelter services include case management, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, outpatient mental health services, outpatient substance abuse treatment services, and transportation. Outpatient health services, mental services, and substance abuse treatment services should only be provided by ESG funds if these services are otherwise inaccessible or unavailable within the Service Area. This selection criterion will become a contractual requirement if the Applicant is awarded a Contract. An Application may receive a maximum of:

(A) Two points if the Applicant provides case management and two of the other services;

(B) Three points if the Applicant provides case management and three of the other services;

(C) Four points if the Applicant provides case management and four of the other services; or

(D) Five points if the Applicant provides case management and five of the other services.

(7) Experience providing emergency shelter. An Application may receive a maximum of 10 points based on the Applicant's experience providing emergency shelter services.

(A) Two points if the Applicant has provided emergency shelter for up to two years;

(B) Four points if the Applicant has provided emergency shelter for up to four years;

(C) Six points if the Applicant has provided emergency shelter for up to six years;

(D) Eight points if the Applicant has provided emergency shelter for up to eight years; or

(E) Ten points if the Applicant has provided emergency shelter for 10 or more years.

(d) Homelessness prevention. An Application proposing homelessness prevention may receive points under the following criteria:

(1) Matching funds for homelessness prevention. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110% of the total ESG funds requested for homelessness prevention.

(2) Homelessness prevention serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(31) of this title. An Applicant providing homelessness prevention may receive a maximum of:

(A) One point based on a minimum target of 70% of persons served who have one or more special needs;

(B) Two points based on a minimum target of 80% of persons served who have one or more special needs;

(C) Three points based on a minimum target of 90% of persons served who have one or more special needs;

(D) Four points based on a minimum target of 95% of persons served who have one or more special needs; or

(E) Five points based on a minimum target of 100% of persons served who have one or more special needs.

(3) Homelessness prevention exit to a positive housing destination. An Application may receive a maximum of five points based on the percentage of persons served within the 12 months prior to the Application due date exited homelessness to a positive housing destination per HMIS data standards:

(A) Two points based on 25% of persons served with homelessness prevention who exited to positive housing destinations;

(B) Three points based on 35% of persons served with homelessness prevention who exited to positive housing destinations;

(C) Four points based on 45% of persons served with homelessness prevention who exited to positive housing destinations; or

(D) Five points based on 55% of persons served with homelessness prevention who exited to positive housing destinations.

(4) Homelessness prevention staff qualifications. An Applicant may receive a maximum of six points if a member of the staff interacting with Program Participants in the homelessness prevention component has one or more of the following qualifications:

(A) Two points if a member is a licensed mental health provider through the Texas Behavioral Executive Health Council;

(B) Two points if a member of staff is fluent in one or more languages, other than English, identified by the Applicant as necessary to provide equitable and meaningful access for persons with Limited English Proficiency (LEP) in the Applicant's proposed service area under the Contract, as required by §7.10(c)(2) of this title relating to Language Access Requirements and

(C) Two points if program includes a paid staff member who has formerly experienced homelessness.

(5) Homelessness prevention maintaining housing. An Application may receive a maximum of three points based on the percentage of persons served with Homelessness prevention who are targeted to maintain their housing for three months or more after program exit. Applications may receive a maximum of:

(A) One point based on a minimum target of 50% of persons served with homelessness prevention maintaining housing for three months;

(B) Two points based on a minimum target of (60% of persons served with homelessness prevention maintaining housing for three months; or

(C) Three points based on a minimum target of 70% of persons served with homelessness prevention maintaining housing for three months.

(6) Homelessness prevention services and rental assistance. An Application may receive a maximum of five points based on the number of homeless prevention services and type of rental assistance provided through ESG or other funds. Homeless prevention services and rental assistance include rental application fees, security deposits and last month's rent, utility payments/deposits, moving costs, housing search and placement, housing stability case management, mediation, legal services, credit repair, short-term rental assistance, and medium-term rental assistance. An Application may receive a maximum of:

(A) Two points if the Applicant provides housing stability case management and three of the other services or rental assistance;

(B) Three points if the Applicant provides housing stability case management and four of the other services or rental assistance;

(C) Four points if the Applicant provides housing stability case management and five of the other services or rental assistance; or

(D) Five points if the Applicant provides housing stability case management and six of the other services or rental assistance.

(7) Experience providing homelessness prevention or rental assistance services. An Application may receive a maximum of 10 points based on the Applicant's experience providing homelessness prevention or tenant-based rental assistance services.

(A) Two points if the Applicant has provided homelessness prevention or tenant-based rental assistance services for up to two years;

(B) Four points if the Applicant has provided homelessness prevention or tenant-based rental assistance services for up to four years;

(C) Six points if the Applicant has provided homelessness prevention or tenant-based rental assistance services for up to six years;

(D) Eight points if the Applicant has provided homelessness prevention or tenant-based rental assistance services for up to eight years; or

(E) Ten points if the Applicant has provided homelessness prevention or tenant-based rental assistance services for 10 or more years.

(e) Rapid re-housing. An Application proposing rapid re-housing may receive points under the following criteria:

(1) Matching funds for rapid re-housing. Applications may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110% of the total ESG funds requested for rapid re-housing.

(2) Rapid re-housing serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(31) of this title. Applicants providing rapid re-housing may receive a maximum of:

(A) One point based on a minimum target of 70% of persons served who are in one or more Homeless Subpopulation;

(B) Two points based on a minimum target of 80% of persons served who are in one or more Homeless Subpopulation;

(C) Three points based on a minimum target of 90% of persons served who are in one or more Homeless Subpopulation;

(D) Four points based on a minimum target of 95% of persons served who are in one or more Homeless Subpopulation; or

(E) Five points based on a minimum target of 100% of persons served who are in one or more Homeless Subpopulation.

(3) Rapid re-housing exit to a positive housing destination. An Application may receive a maximum of five points based on the percentage of persons served within the 12 months prior to the Application due date exited homelessness to a positive housing destination per HMIS data standards:

(A) Two points based on 25% of persons served with rapid re-housing exited to positive housing destinations;

(B) Three points based on 35% of persons served with rapid re-housing who exited to positive housing destinations;

(C) Four points based on 45% of persons served with rapid re-housing who exited to positive housing destinations; or

(D) Five points based on 55% of persons served with rapid re-housing who exited to positive housing destinations.

(4) Rapid re-housing staff qualifications. An Applicant may receive a maximum of six points if a member of the staff interacting with Program Participants in the rapid re-housing component has one or more of the following qualifications:

(A) Two points if a member is a licensed mental health provider through the Texas Behavioral Executive Health Council;

(B) Two points if a member of staff is fluent in one or more languages, other than English, identified by the Applicant as necessary to provide equitable and meaningful access for persons with Limited English Proficiency (LEP), as required by §7.10(c)(2); and

(C) Two points if program includes a paid staff member who has formerly experienced homelessness.

(5) Rapid re-housing maintaining housing. Applicants may receive a maximum of three points based on the percentage of persons served with rapid re-housing targeted to maintain their housing for three months or more after program exit. Applications may receive a maximum of:

(A) One point based on a minimum target of 50% of persons served with rapid re-housing maintaining housing for three months;

(B) Two points based on a minimum target of 60% of persons served with rapid re-housing maintaining housing for three months; or

(C) Three points based on a minimum target of 70% of persons served with rapid re-housing maintaining housing for three months.

(6) Rapid re-housing services and rental assistance. Applicants may receive a maximum of five points based on the number of rapid re-housing services and type of rental assistance provided through ESG or other funds. Rapid re-housing services and rental assistance include rental application fees, security deposits/last month's rent, utility payments/deposits, moving costs, housing search and placement, housing stability case management, mediation, legal services, credit repair, short-term rental assistance, medium-term rental assistance. Applications may receive a maximum of:

(A) Two points if the Applicant provides housing stability case management and three of the other services or rental assistance;

(B) Three points if the Applicant provides housing stability case management and four of the other components;

(C) Four points if the Applicant provides housing stability case management and five of the other components; or

(D) Five points if the Applicant provides housing stability case management and six of the other components.

(7) Experience providing rapid re-housing or tenant-based rental assistance services. Applications may receive a maximum of 10 points based on the Applicant's experience providing homeless prevention or tenant-based rental assistance services.

(A) Two points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to two years;

(B) Four points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to four years;

(C) Six points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to six years;

(D) Eight points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to eight years; or

(E) Ten points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for 10 or more years.

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 April 9, 2026.

TRD-202601560
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER E. POST AWARD AND ASSET MANAGEMENT REQUIREMENTS

10 TAC §§10.400, 10.401, 10.405 - 10.408

The Texas Department of Housing and Community Affairs (the "Department") adopts the amendment, with changes, to 10 TAC Chapter 10, Subchapter E, §§10.400, 10.401, 10.405 - 10.408, Post Award and Asset Management Requirements to the proposed text as published in the January 30, 2026, issue of the *Texas Register* (51 TexReg 474). The rules will be republished. The purpose of the amendment is to make corrections to gain consistency across other sections of rule, correct references,

clarify existing language and processes that will ensure accurate processing of post award activities, and to communicate more effectively with multifamily Development Owners regarding their responsibilities after funding or award by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the amended rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset. In general, most changes were corrective in nature and clarify language or processes to more adequately communicate the language or process.

The Department has analyzed this 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 amended rule would be in effect, the amendment does not create or eliminate a government program, but relates to changes to an existing activity, concerning the post award activities of Low-Income Housing Tax Credit (LIHTC) and other Department-funded multifamily Developments.

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

3. The amendment does not require additional future legislative appropriations.

4. The amendment does not result in an increase in fees paid to the Department or in a substantial decrease in fees paid to the Department.

5. The amendment is not creating a new regulation, but are revisions to provide additional clarification.

6. The amendment will not repeal an existing regulation.

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

8. The amendment will not negatively or positively affect this 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.

1. The Department has evaluated this amended rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This amended rule relates to the procedures for the handling of post award and asset management activities of multifamily developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the amended rule. If a small or micro-business is such an owner or participant, the amended rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the amended rule because this amended rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this amended rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, 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 amendment 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 amended rule as to its possible effects on local economies and has determined that for the first five years the amended rule will be in effect, there will be no economic effect on local employment, because the amended rule only provides for administrative processes required of properties in the Department's portfolio. No program funds are channeled through this amended rule, so no activities under this amended rule would support additional local employment opportunities. Alternatively, the amended rule would also not cause any negative impact on employment. Therefore, no local employment impact statement is required to be prepared for the amended rule.

Texas 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 no impact is expected on a statewide basis, there are also no "probable" effects of the amended rule on particular geographic regions.

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 amended rule is in effect, the benefit anticipated as a result of the amended sections would be increased clarity and consistency across rule sections. There will not be economic costs to individuals required to comply with the amendment.

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

SUMMARY OF PUBLIC COMMENTS. The Department accepted public comment between January 30, 2026, and March 3, 2026. No comments were received from the public during the public comment period.

STATUTORY AUTHORITY. The amendments are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein, the amended sections affect no other code, article, or statute.

§10.400. Purpose.

(a) The purpose of this subchapter is to establish the requirements governing the post award and asset management activities associated with awards of multifamily Development assistance pursuant to Tex. Gov't Code, Chapter 2306 and its regulation of multifamily funding provided through the Texas Department of Housing and Community Affairs (the Department) as authorized by the legislature. This subchapter is designed to ensure that Developers and Development Own-

ers of low-income Developments that are financed or otherwise funded through the Department maintain safe, decent and affordable housing for the term of the affordability period. Therefore, unless otherwise indicated in the specific section of this subchapter, any uncorrected issues of noncompliance outside of the corrective action period or outstanding fees (related to the Development subject to the request) owed to the Department must be resolved to the satisfaction of the Department before a request for any post award activity described in this subchapter will be acted upon. Non-compliance issues that cannot be corrected will be taken into account and will be reviewed by Asset Management staff to determine if additional action is required by the Development Owner.

(b) The capitalized terms in this subchapter shall have the meaning as defined in this title in Chapter 1 relating to Administration, Chapter 2 relating to Enforcement, Chapter 10 relating to Uniform Multifamily Rules, Chapter 11 relating to the Qualified Action Plan (QAP), Chapter 12 relating to the Multifamily Housing Revenue Bond Rules, Chapter 13 relating to the Multifamily Direct Loan Rule, Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the applicable HOME Rule, the NHTF Interim Rule, and other federal or Department rules, as applicable.

§10.401. Housing Tax Credit and Tax Exempt Bond Developments.

(a) 10% Test (Competitive HTC Only). No later than July 1 of the year following the submission of the Carryover Allocation Agreement or as otherwise specified in the applicable year's Qualified Allocation Plan, documentation must be submitted to the Department verifying that the Development Owner has expended more than 10% of the Development Owner's reasonably expected basis, pursuant to §42(h)(1)(E)(i) and (ii) of the Code and Treasury Regulations, 26 CFR §1.42-6. The Development Owner must submit, in the form prescribed by the Department, documentation evidencing paragraphs (1) - (7) of this subsection, along with all information outlined in the Post Award Activities Manual. Satisfaction of the 10% Test will be contingent upon the submission of the items described in paragraphs (1) - (7) of this subsection as well as all other conditions placed upon the Application in the Commitment. Requests for an extension will be reviewed on a case by case basis as addressed in §10.405(c) of this subchapter and §11.2 of this title, as applicable, and a point deduction evaluation will be completed in accordance with Tex. Gov't Code §2306.6710(b)(2) and §11.9(f) of this title. Documentation to be submitted for the 10% Test includes:

(1) An Independent Accountant's Report and Taxpayer's Basis Schedule form. The report must be prepared on the accounting firm's letterhead and addressed to the Development Owner or an Affiliate of the Development Owner. The Independent Accountant's Report and Taxpayers Basis Schedule form must be signed by the Development Owner. If, at the time the accountant is reviewing and preparing their report, the accountant has concluded that the taxpayer's reasonably expected basis is different from the amount reflected in the Carryover Allocation agreement, then the accountant's report should reflect the taxpayer's reasonably expected basis as of the time the report is being prepared;

(2) Any conditions of the Commitment or Real Estate Analysis underwriting report due at the time of 10% Test submission;

(3) Evidence that the Development Owner has purchased, transferred, leased, or otherwise has ownership of the Development Site and a current title policy. The Development Site must be identical to the Development Site that was submitted at the time of Application submission. For purposes of this paragraph, any changes to the Development Site acreage between Application and 10% Test must be addressed by written explanation or, as appropriate, in accordance with §10.405 of this subchapter (relating to Amendments and Extensions);

(4) A current survey or plat of the Development Site, prepared and certified by a duly licensed Texas Registered Professional Land Surveyor. The survey or plat must clearly delineate the flood plain boundary lines and show all easements and encroachments;

(5) For New Construction, Reconstruction, and Adaptive Reuse Developments, a certification from a Third Party civil engineer or architect stating that all necessary utilities will be available at the Development Site and that there are no easements, licenses, royalties, or other conditions on or affecting the Development that would materially or adversely impact the ability to acquire, develop, and operate as set forth in the Application. Copies of supporting documents may be required by the Department;

(6) For the Development Owner and on-site or regional property manager, training certificate(s) from a Department approved "property owner and manager Fair Housing trainer" showing that a controlling Principal in the Development Owner structure and an on-site or regional property manager attended and passed at least five hours of Fair Housing training. For architects and engineers, training certificate(s) from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineer responsible for certifying compliance with the Department's accessibility and construction standards has attended and passed at least five hours of Fair Housing training. Certifications required under this paragraph must not be older than three years from the date of submission of the 10% Test Documentation, and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five hour required minimum, even if they were attended on different dates; and

(7) A Certification from the lender and syndicator identifying all known Guarantors. If identified Guarantors have changed from the Guarantors or Principals identified at the time of Application, a non-material amendment may be required in accordance with §10.405 of this subchapter (relating to Amendments and Extensions), and the new Guarantors or Principals must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(8) Evidence of submission of the CMTS Filing Agreement pursuant to §10.607(a) of this title (relating to Reporting Requirements).

(b) Construction Status Report (All Multifamily Developments). All multifamily Developments must submit a construction status report. Construction status reports shall be due by the tenth day of the month following each reporting quarter's end (January, April, July, and October) and continue on a quarterly basis until the entire Development is complete as evidenced by one of the following: Certificates of occupancy for each building, the Architect's Certificate(s) of Substantial Completion (AIA Document G704 or equivalent form) for the entire Development, the final Application and Certificate for Payment (AIA Document G702 and G703), or an equivalent form approved for submission by the construction lender and/or investor. For Competitive Housing Tax Credit Developments, the initial report is due by October 10th following the year of award (this includes Developments funded with HTC and TDHCA Multifamily Direct Loans), and for Developments awarded under the Department's Multifamily Direct Loan programs only, the initial report is due by the 90th calendar day after loan closing. For Tax Exempt Bond Developments, the initial construction status report must be submitted as part of the Post Bond Closing Documentation and is due by the 60th calendar day following closing on the bonds. A Construction Status Report not submitted by the due date will incur an extension fee in accordance with §11.901 of this title (relating to Fee Schedule). The initial report

for all multifamily Developments shall consist of the items identified in paragraphs (1) - (6) of this subsection, unless stated otherwise. All subsequent reports shall contain items identified in paragraphs (4) - (6) of this paragraph and must include any changes or amendments to items in paragraphs (1) - (3) of this subsection if applicable:

(1) The executed partnership agreement with the investor or, for Developments receiving an award only from the Department's Direct Loan Program, other documents setting forth the legal structure and ownership. If identified Guarantors or Principals of a Guarantor entity were not already identified as a Principal of the Owner, Developer, or Guarantor at the time of Application, a non-material amendment must be requested in accordance with §10.405 of this subchapter, and the new Guarantors and all of its Principals, as applicable, must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee);

(2) The executed construction contract for the General Contractor, prime subcontractor(s) and Affiliates or Related Party subcontractor(s);

(3) The construction loan agreement. If the loan has not closed, the anticipated closing date must be provided and, upon closing, the agreement must be provided to the Department;

(4) The most recent Application and Certificate for Payment (AIA Document G702 and G703) certified by the Architect of Record (or equivalent form approved for submission by the construction lender and/or investor) for the General Contractor, prime subcontractor(s) and Affiliates or Related Party subcontractor(s);

(5) All Third Party construction inspection reports not previously submitted. If the lender and/or investor does not require third party construction inspection reports, the Development Owner must hire a Third Party inspector to perform these inspections on a quarterly basis, and the Third Party inspector, or Third Party lender or investor, must submit the inspection reports to the Department. Third Party construction inspection reports must include, at a minimum, the date construction started (initial submission only), a discussion of site conditions as of the date of the site visit, current photographs of the construction site and exterior and interior of buildings, an estimated percentage of construction completion as of the date of the site visit, identification of construction delays and other relevant progress issues, if any, and the anticipated construction completion date; and

(6) Minority Owned Business Report (HTC only) showing the attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as required and further described in Tex. Gov't Code §2306.6734.

(c) LURA Origination.

(1) The Development Owner must request origination of the HTC LURA as directed in the Post Award Activities Manual. The Department will draft a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to specific commitments to provide tenant services, to lease to Persons with Disabilities, and/or to provide specific amenities. After origination, the Department executed LURA and all exhibits and addendums will be sent to the Development Owner to execute and record in the real property records for the county in which the Development is located. A copy of the fully executed, recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no Housing Tax Credits are allowed to be issued for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period. Nothing in this section negates a Development Owner's responsibility for full compliance with §42(h)(6) of the Code. The Department will not issue IRS Form(s) 8609 until it receives a copy of the fully executed, recorded LURA.

(2) LURAs for Direct Loan awardees will be prepared by the Department's Legal Division and executed at loan closing.

(d) Cost Certification (Competitive and Non-Competitive HTC, and related activities only). The Department conducts a feasibility analysis in accordance with §42(m)(2)(C)(i)(III) of the Code and Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) to make a final determination on the allocation of Housing Tax Credits. For Non-Competitive HTC Developments, the amount of tax credits reflected in the IRS Form(s) 8609 may be greater or less than the amount set forth in the Determination Notice based upon the Department's determination as of each building's placement in service. Any increase of tax credits will only be permitted if it is determined necessary by the Department, as required by §42(m)(2)(D) of the Code through the submission of the Cost Certification package. Increases to the amount of tax credits that exceed 120% of the amount of credits reflected in the Determination Notice must be approved by the Board. Increases to the amount of tax credits that do not exceed 120% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director or designee. All credit increases are subject to the Tax-Exempt Bond Credit Increase Request Fee as described in Chapter 11, Subchapter E of this Part (relating to Fee Schedule, Appeals, and other Provisions). The requirements for cost certification include those identified in paragraphs (1) - (3) of this subsection.

(1) For Competitive HTC Developments, Development Owners must file cost certification documentation no later than January 15 following the first year of the Credit Period, as defined in §42(f)(1) of the Code. For Tax-Exempt Bond Developments, Development Owners must file cost certification documentation no later than May 15 following the first year of the Credit Period.

(2) The Department will evaluate the cost certification documentation and notify the Development Owner of any additional required documentation needed to complete the review. The Department reserves the right to request additional documents or certifications as it deems necessary or useful in the determination of the Development's eligibility for a final Housing Tax Credit allocation amount. Any communication issued to the Development Owner pertaining to the cost certification documentation may also be sent to the syndicator. In accordance with Tex. Gov't Code §2306.6724(g), IRS Form(s) 8609 will be issued no later than the 120th day following the date on which the Department receives a complete cost certification package, and the Development Owner has fulfilled any requests for information.

(3) The cost certification package must meet the conditions as stated in subparagraphs (A) - (G) of this paragraph. The Development Owner has:

(A) Provided evidence that all buildings in the Development have been placed in service by:

(i) December 31 of the year the Commitment was issued;

(ii) December 31 of the second year following the year the Carryover Allocation Agreement was executed; or

(iii) the approved Placed in Service deadline;

(B) Provided a complete final cost certification package in the format prescribed by the Department. As used herein, a com-

plete final cost certification package means a package that meets all of the Department's criteria with all required information and exhibits listed in clauses (i) - (xxxiv) of this subparagraph, and pursuant to the Post Award Activities Manual. If any item on this list is determined to be unclear, deficient, or inconsistent with the cost certification review completed by the Department, a Request for Information (RFI) will be sent to the Development Owner. Requirements include:

(i) Owner's signed and notarized Statement of Certification verifying the CPA firm's licenses and validity, including any restrictions;

(ii) Owner Summary & Organization Charts for the Owner, Developer, and Guarantors;

(iii) Evidence of Qualified Nonprofit or CHDO Participation;

(iv) Certification and evidence of Historically Underutilized Business (HUB) Participation;

(v) Development Team List;

(vi) Development Summary with Architect's Certification;

(vii) Development Change Documentation;

(viii) As Built Survey;

(ix) A copy of the fully executed Closing Statement for each parcel of land and/or buildings purchased and included in the Development;

(x) Development Owner's Title Policy for the Development;

(xi) Title Policy Update;

(xii) Placement in Service;

(xiii) Evidence of Placement in Service;

(xiv) Architect's Certification of Completion Date and Date Ready for Occupancy (for Developments located in areas where Certificates of Occupancy (COs) are not issued by a local government or rehabilitation Developments that cannot provide COs);

(xv) Auditor's Certification of Acquisition/Rehabilitation Placement in Service Election;

(xvi) Independent Auditor's Report;

(xvii) Independent Auditor's Report of Bond Financing;

(xviii) Development Cost Schedule;

(xix) Contractor's Application for Final Payment (G702/G703) for the General Contractor, all prime subcontractors, Affiliated Contractors, and Related Party Contractors;

(xx) Additional Documentation of Offsite Costs;

(xxi) Rent Schedule;

(xxii) Utility Allowances;

(xxiii) Annual Operating Expenses;

(xxiv) 30 Year Rental Housing Operating Pro Forma;

(xxv) Current Operating Statement in the form of a trailing twelve month statement;

(xxvi) Current Rent Roll;

(xxvii) Summary of Sources and Uses of Funds;

(xxviii) Final Limited Partnership Agreement with all amendments and exhibits;

(xxix) All Loan Agreements and Promissory Notes (except for Agreements and Notes issued directly by the Department);

(xxx) Architect's Certification of Accessibility Requirements;

(xxxi) Development Owner Assignment of Individual to Compliance Training;

(xxxii) TDHCA Compliance Training Certificate (not older than two years from the date of cost certification submission);

(xxxiii) TDHCA Final Inspection Clearance Letter or evidence of submitted final inspection request to the Compliance Division (IRS Form(s) 8609 will not be issued without a TDHCA Final Inspection Clearance Letter); and

(xxxiv) Other Documentation as Required, including but not limited to conditions to be satisfied at cost certification as reflected in the Development's latest Underwriting Report;

(C) Informed the Department of and received written approval for all amendments, extensions, and changes in ownership relating to the Development in accordance with §10.405 of this subchapter (relating to Amendments and Extensions) and §10.406 of this subchapter (relating to Ownership Transfers (§2306.6713));

(D) Paid all applicable Department fees, including any past due fees;

(E) Met all conditions noted in the Department underwriting report, Determination Notice, and Commitment;

(F) Corrected all issues of noncompliance, including but not limited to noncompliance status with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for the subject Development, as described in this chapter. Developments in the corrective action period and/or with any uncorrected issues of noncompliance outside of the corrective action period will not be issued IRS Form(s) 8609s until all events of noncompliance are corrected or otherwise approved by the Executive Director or designee; and

(G) Completed an updated underwriting evaluation in accordance with Chapter 11, Subchapter D of this Part based on the most current information at the time of the review.

§10.405. Amendments and Extensions.

(a) Amendments to Housing Tax Credit (HTC) Application or Award Prior to Land Use Restriction Agreement (LURA) recording or amendments that do not result in a change to the LURA (§2306.6712). The Department expects the Development Owner to construct or rehabilitate, operate, and own the Development consistent with the representations in the Application. The Department must receive notification of any amendments to the Application. Regardless of development stage, the Board shall re-evaluate a Development that undergoes a material change, as identified in paragraph (3) of this subsection at any time after the initial Board approval of the Development (§2306.6731(b)). The Board may deny an amendment request and subsequently may rescind any Commitment or Determination Notice issued for an Application, and may reallocate the credits to other Applicants on the waiting list.

(1) Requesting an amendment. The Department shall require the Applicant to file a formal, written request for an amendment

to the Application. Such request must include a detailed explanation of the amendment request and other information as determined to be necessary by the Department, and the applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule, Appeals, and other Provisions) in order to be received and processed by the Department. Department staff will evaluate the amendment request to determine if the change would affect an allocation of Housing Tax Credits by changing any item that received points, by significantly affecting the most recent underwriting analysis, or by materially altering the Development as further described in this subsection.

(2) Notification Items. The Department must be notified of the changes described in subparagraphs (A) - (F) of this paragraph. The changes identified are subject to staff agreement based on a review of the amendment request and any additional information or documentation requested. Notification items will be considered satisfied when an acknowledgment of the specific change(s) is received from the Department and include:

(A) Changes to Development Site acreage required by the City or other local governmental authority, or changes resulting from survey discrepancies, as long as such change does not also result in a modification to the residential density of more than 5%;

(B) Minor modifications to the site plan that will not significantly impact development costs, including, but not limited to, relocation or rearrangement of buildings on the site (as long as the number of residential and non-residential buildings remains the same), and movement, addition, or deletion of ingress/egress to the site;

(C) Increases or decreases in net rentable square footage or common areas that do not result in a material amendment under paragraph (4) of this subsection;

(D) Changes in amenities that do not require a change to the recorded LURA and do not negatively impact scoring, including changes to outdated amenities that could be replaced by an amenity with equal benefit to the resident community;

(E) Changes in Developers or Guarantors (notifications for changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period are not required) with no new Principals (who were not previously checked by Previous Participation review; and

(F) Any other amendment not identified in paragraphs (3) and (4) of this subsection.

(3) Non-material amendments. The Executive Director or designee may administratively approve all non-material amendments, including, but not limited to:

(A) Any amendment that is determined by staff to exceed the scope of notification acknowledgement, as identified in paragraph (2) of this subsection but not to rise to a material alteration, as identified in paragraph (4) of this subsection;

(B) Changes in Developers or Guarantors (excluding changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period) not addressed in §10.405(a)(2)(E). Changes in Developers or Guarantors will be subject to Previous Participation requirements as further described in Chapter 11 of this title and the credit limitation described in §11.4(a) of this title; and

(C) For Exchange Developments only, requests to change elections made on line 8(b) of the IRS Form(s) 8609 to group buildings together into one or more multiple building projects. The request must include an attached statement identifying the buildings in the project. The change to the election may only be made once during the Compliance Period.

(4) Material Amendments. Amendments considered material pursuant to this paragraph must be approved by the Board. When an amendment request requires Board approval, the Development Owner must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting in which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting (§2306.6717(a)(4)). Material Amendment requests may be denied if the Board determines that the modification proposed in the amendment would materially alter the Development in a negative manner or would have adversely affected the selection of the Application in the Application Round. Material alteration of a Development includes, but is not limited to:

(A) A significant modification of the site plan;

(B) A modification of the number of Units or bedroom mix of Units;

(C) A substantive modification of the scope of tenant services;

(D) A reduction of 3% or more in the square footage of the Units or common areas;

(E) A significant modification of the architectural design of the Development;

(F) A modification of the residential density of at least 5%;

(G) A request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609;

(H) Exclusion of any requirements as identified in Chapter 11, Subchapter B of this title (relating to Site and Development Requirements and Restrictions) and Chapter 11, Subchapter C of this title (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules); or

(I) Any other modification considered material by the staff and therefore required to be presented to the Board as such.

(5) Amendment requests will be denied if the Department finds that the request would have changed the scoring of an Application in the competitive process such that the Application would not have received a funding award or if the need for the proposed modification was reasonably foreseeable or preventable by the Applicant at the time the Application was submitted, unless good cause is found for the approval of the amendment.

(6) This section shall be administered in a manner that is consistent with §42 of the Code. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department before a request for amendment will be acted upon.

(7) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants identified in the Application and Credit Underwriting Analysis Report at the time of award and as approved by the Board, the procedure described in subparagraphs (A) and (B) of this paragraph will apply to

the extent such request is not prohibited based on statutory and/or regulatory provisions:

(A) For amendments that involve a reduction in the total number of Low-Income Units, or a reduction in the number of Low-Income Units at any rent or income level, as approved by the Board, evidence noted in either clause (i) or (ii) of this subparagraph must be presented to the Department to support the amendment:

(i) In the event of a request to implement (rent to a household at an income or rent level that exceeds the approved AMI limits established by the minimum election within the Development's Application or LURA) a revised election under §42(g) of the Code prior to an Owner's submission of IRS Form(s) 8609 to the IRS, Owners must submit updated information and exhibits to the Application as required by the Department; or

(ii) For all other requests for reductions in the total number of Low-Income Units or reductions in the number of Low-Income Units at any rent or income level, prior to issuance of IRS Form(s) 8609 by the Department, the lender and syndicator must submit written confirmation that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request; however, any affirmative recommendation to the Board is contingent upon concurrence from Department staff that the Unit adjustment is necessary for the continued financial feasibility of the Development; and

(B) If it is determined by the Department that the loss of low-income targeting points would have resulted in the Application not receiving an award in the year of allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all Persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for 24 months from the time that the amendment is approved.

(b) Amendments to Contracts and LURAs. Department approval shall be required for any amendment to a LURA in accordance with this section. An amendment request shall be submitted in writing, containing a detailed explanation of the request, the reason the change is necessary, the good cause for the change, financial information related to any financial impact on the Development, information related to whether the necessity of the amendment was reasonably foreseeable at the time of application, and other information as determined to be necessary by the Department, along with any applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule, Appeals, and other Provisions). The Department may order or require the Development Owner to order a Market Study or appraisal at the Development Owner's expense. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department before a request for amendment will be acted upon. The Department will not approve changes that would violate state or federal laws including the requirements of §42 of the Code, 24 CFR Part 92 (HOME Final Rule), 24 CFR Part 93 (NHTF Interim Rule), Chapter 1 of this title (relating to Administrative Requirements), Chapter 11 of this title (relating to Qualified Allocation Plan), Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules), Chapter 13 of this title (relating to Multifamily Direct Loan Rule), Tex. Gov't Code, Chapter 2306, and the Fair Housing Act. For Tax-Exempt Bond Developments, compliance with their Regulatory Agreement and corresponding bond financing documents. Prior to staff taking a recommendation to the Board for consideration, the procedures described in paragraph (3) of this subsection must be followed.

(1) Non-Material LURA Amendments. The Executive Director or designee may administratively approve all LURA amendments not defined as Material LURA Amendments pursuant to paragraph (2) of this subsection. A non-material LURA amendment may include but is not limited to:

(A) HUB participation removal. Removal of a HUB participation requirement will only be processed as a non-material LURA amendment after the issuance of IRS Form(s) 8609 and requires that the Department find that:

(i) The HUB is requesting removal of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(ii) the participation by the HUB has been substantive and meaningful, or would have been substantive or meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operating of affordable housing; and

(iii) where the HUB will be replaced as a general partner or special limited partner that is not a HUB and will sell its ownership interest, an ownership transfer request must be submitted as described in §10.406 of this subchapter;

(B) A change resulting from a Department work out arrangement as recommended by the Department's Asset Management Division;

(C) A change in the Right of First Refusal period as described in amended §2306.6726 of the Tex. Gov't Code;

(D) Where the Board has approved a de minimis modification of the Unit Mix or bedroom mix of Units to increase the Development's accessibility;

(E) In accordance with HOMEFires, Vol. 17 No. 1 (January 2023, as may be amended from time to time) bifurcation of the term of a HOME or NSP LURA with the Department that requires a longer affordability period than the minimum federal requirement, into a federal and state affordability period;

(F) A change in Target Population if the Elderly restrictions in the LURA expired at the end of the Compliance Period or the Federal Affordability Period (as applicable), and the amendment is requested within one year of expiration and contains a certification from the Development Owner that the Development still qualifies as Elderly;

(G) Amendments necessary to opt into the 2025 HOME final rule in accordance with §10.601(g) of this chapter, relating to the 2025 HOME final rule; or

(H) A correction of error.

(2) Material LURA Amendments. Development Owners seeking LURA amendment requests that require Board approval must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting at which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting (§2306.6717(a)(4)). The Board must consider the following material LURA amendments:

(A) Reductions to the number of Low-Income Units;

(B) Changes to the income or rent restrictions;

(C) Changes to the Target Population;

(D) The removal of material participation by a Non-profit Organization as further described in §10.406 of this subchapter;

(E) The removal of material participation by a HUB prior to filing of IRS Form(s) 8609;

(F) Any amendment that pertains to a right enforceable by a tenant or other third party under the LURA; or

(G) Any LURA amendment deemed material by the Executive Director.

(3) Prior to staff taking a recommendation to the Board for consideration, the Development Owner must provide reasonable notice and hold a public hearing regarding the requested amendment(s) at least 20 business days prior to the scheduled Board meeting where the request will be considered. A Development Owner is required to submit a copy of the notification with the amendment request. If the amendment pertains to a right enforceable by a tenant or other third party, the Development Owner must explain why performance of the original condition is impossible or demonstrate that Development would no longer be financially feasible, in accordance with the rules adopted in Chapter 11 Subchapter D of this part relating to Underwriting and Loan Policy. If a LURA amendment is requested prior to issuance of IRS Form(s) 8609 by the Department, notification must be provided to the recipients described in subparagraphs (A) - (E) of this paragraph. If an amendment is requested after issuance of IRS Form(s) 8609 by the Department, notification must be provided to the recipients described in subparagraph (A) - (B) of this paragraph. Notifications include:

(A) Each tenant of the Development;

(B) The current lender(s) and investor(s);

(C) The State Senator and State Representative of the districts whose boundaries include the Development Site;

(D) The chief elected official for the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction); and

(E) The county commissioners of the county in which the Development Site is located (if the Development Site is located outside of a municipality).

(4) Contents of Notification. The notification must include, at a minimum, all of the information described in subparagraphs (A) - (D) of this paragraph:

(A) The Development Owner's name, address and an individual contact name and phone number;

(B) The Development's name, address, and city;

(C) The change(s) requested; and

(D) The date, time, and location of the public hearing where the change(s) will be discussed.

(5) Verification of public hearing. Minutes of the public hearing and attendance sheet must be submitted to the Department within three business days after the date of the public hearing.

(6) Approval. Once the LURA Amendment has been approved administratively or by the Board, as applicable, Department staff will provide the Development Owner with a LURA amendment for execution and recording in the county where the Development is located. For some Programs, a Contract Amendment or amendment to the Loan Documents may also be needed, in the determination of the Department's Legal Division.

(c) HTC Extensions. Extensions must be requested if the original deadline associated with Carryover, the 10% Test (including submission and expenditure deadlines), construction status reports, or cost certification requirements will not be met. Extension requests submitted at least 30 calendar days in advance of the applicable original deadline will not be required to submit an extension fee as described in §11.901 of this title. Any extension request submitted fewer than 30 days in advance of the applicable original deadline or after the original deadline will not be processed unless accompanied by the applicable fee. Extension requests will be approved by the Executive Director or designee, unless, at staff's discretion it warrants Board approval due to extenuating circumstances stated in the request. The extension request must specify a requested extension date and the reason why such an extension is required. If the Development Owner is requesting an extension to the Carryover submission or 10% Test deadline(s), a point deduction evaluation will be completed in accordance with Tex. Gov't Code, §2306.6710(b)(2), and §11.9(f) of this title (relating to Factors Affecting Scoring and Eligibility in current and future Application Rounds). Therefore, the Development Owner must clearly describe in their request for an extension how the need for the extension was beyond the reasonable control of the Applicant/Development Owner and could not have been reasonably anticipated. Carryover extension requests will not be granted an extended deadline later than December 1st of the year the Commitment was issued.

§10.406. Ownership Transfers (§2306.6713).

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The exceptions to the ownership transfer process in this subsection are applicable.

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals, or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval, but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as

soon as possible of the revised ownership structure and ownership contact information.

(5) Changes resulting from a deed-in-lieu of foreclosure do not require Executive Director approval. However, advance notification must be provided to both the Department and to the tenants at least 30 days prior to finalizing the transfer. This notification must include information regarding the applicable rent/income requirements post deed-in-lieu of foreclosure.

(6) Changes resulting from a foreclosure do not require Executive Director approval. However, a Development that is subject to the 2025 HOME final rule as described in §10.601(g) of this chapter must provide advance notification to both the Department and to all households at least 30 days prior to the foreclosure sale. This notification must include information regarding the applicable rent/income requirements post foreclosure.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Persons and Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this Subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(5) Any initial operating, capitalized operating, or replacement reserves funded with an allocation from the HOME American Rescue Plan (HOME-ARP) and Special Reserves required by the Department must remain with the Development.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs), an Applicant may request a change to its ownership structure to add Principals or to remove Principals provided not all controlling Principals identified in the Application will be removed. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s. In addition, for Competitive HTC Developments, changes in the ownership structure for the addition of a public facility corporation, a housing finance corporation, or a public housing authority prior to the issuance of 8609s that will result in a 100% property tax exemption that was not previously reflected in the Application, require a resolution of support from the municipality, or if the Development is not within a municipality or its Extra Territorial Jurisdiction (ETJ), a resolution of support from the commissioners court.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package. However, for ownership transfers that occur on or after April 30, 2026, the Department will require the CHDO to renew their certification using the new certification package that will include the 2025 HOME final rule requirements.

(3) Exceptions to paragraphs (1) and (2) of this subsection may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this subchapter. The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Devel-

opment Owner and it determines to sell its ownership interest, after the issuance of IRS Form(s) 8609, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the LURA does not require it or the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved. The removal of a HUB requirement prior to filing of IRS Form(s) 8609 is subject to the procedure described in §10.405(b)(2) of this Chapter (relating to Material LURA Amendments).

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, terms of any new financing introduced as a result of the transfer, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre- and post-transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(12)(B) of Subchapter C of this title (relating to Required Documentation for Application Submission);

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(12)(C) of this title (relating to Required Documentation for Application Submission);

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted as further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

(9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30-day period has expired. Additional notification requirements may apply under 10 TAC §10.607, relating to Reporting Requirements; and

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of this title (relating to Ineligible Applicants and Applications).

(j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(k) Penalties, Past Due Fees, and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing Requirements and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS or NSPIRE violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this section (relating to Reserve Accounts).

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this title (relating to Fee Schedule).

§10.407. Right of First Refusal.

(a) General. This section applies to Development Owners that agreed to offer a Right of First Refusal (ROFR) to a Qualified Entity or as applicable a Qualified Nonprofit Organization, as memorialized in the applicable LURA. For the purposes of this section, a Qualified Nonprofit Organization also includes an entity 100% owned by a Qualified Nonprofit Organization pursuant to §42(h)(5)(C) of the Code and operated in a similar manner. The purpose of this section is to provide administrative procedures and guidance on the process and valuation of properties under the LURA. All requests for ROFR submitted to the Department, regardless of existing regulations, must adhere to this process.

(1) The Development Owner may market the Property for sale and enter into an agreement to sell the Property to a Qualified Entity, or as applicable a Qualified Nonprofit Organization without going through the ROFR process outlined in this section, unless otherwise restricted or prohibited and only in the following circumstances:

(A) The LURA includes a 90-day ROFR and the Development Owner is selling to a Qualified Nonprofit Organization;

(B) The LURA includes a two-year ROFR and the Development Owner is selling to a Qualified Nonprofit Organization that meets the definition of a Community Housing Development Organization (CHDO) under 24 CFR Part 92, as approved by the Department;

(C) The LURA includes a 180-day ROFR, and the Development Owner is selling to a Qualified Entity that meets the definition of a CHDO under 24 CFR Part 92, or to an entity that includes a CHDO as one of its controlling members, as approved by the Department, or to the public housing authority or public facility corporation that owns the fee title to the Development Owner's leasehold estate; or

(D) The Multifamily Direct Loan LURA requires a new Owner to be a qualified CHDO or has a ROFR Period for purchase by a CHDO, and the Development is subject to the 2013 or 2025 HOME final rule, and the Development Owner is selling or conveying the Development to another CHDO approved by the Department. The entity will have to be structured in accordance with the applicable HOME rule, and the requirements in Chapter 13 of this title.

(2) A ROFR request must be made in accordance with the LURA for the Development. If there is a conflict between the Development's LURA and this subchapter, every effort will be made to harmonize the provisions. If the conflict cannot be resolved, requirements in the LURA will supersede this subchapter. If there is a conflict between the Development's LURA and Tex. Gov't Code Chapter 2306, every effort will be made to harmonize the provisions. A Development Owner may request a LURA amendment to make the ROFR provisions in the LURA consistent with Tex. Gov't Code Chapter 2306 at any time.

(3) If a LURA includes the ROFR provision, the Development Owner may not request a Preliminary Qualified Contract (if such opportunity is available under the applicable LURA and §10.408 of this Subchapter) until the requirements outlined in this section have been satisfied.

(4) The Department reviews and approves all ownership transfers pursuant to §10.406 of this subchapter. Thus, if a proposed purchaser is identified by the Owner in accordance with paragraph (1) of this subsection or in the ROFR process, the Development Owner and proposed purchaser must complete the ownership transfer process. A Development Owner may not transfer a Development to a Qualified Nonprofit Organization or Qualified Entity that is considered an ineligible entity under the Department's rules. In addition, ownership transfers to a Qualified Entity or as applicable a Qualified Nonprofit Organization pursuant to the ROFR process are subject to Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(5) Satisfying the ROFR requirement does not terminate the LURA or the ongoing application of the ROFR requirement to any subsequent Development Owner.

(6) If there are multiple buildings in the Development, the end of the 15th year of the Compliance Period will be based upon the date the last building(s) began their credit period(s). For example, if five buildings in the Development began their credit periods in 2007 and one in 2008, the 15th year would be 2022. The ROFR process is triggered upon:

(A) The Development Owner's determination to sell the Development to an entity other than as permitted in paragraph (1) of this subsection; or

(B) The simultaneous transfer or concurrent offering for sale of a General Partner's and limited partner's interest in the Development Owner's ownership structure.

(7) The ROFR process is not triggered if a Development Owner seeks to transfer the Development to a newly formed entity:

(A) That is under common control with the Development Owner; and

(B) The primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the Development using assistance administered through a state financing program.

(8) This section applies only to a Right of First Refusal memorialized in the Department's LURA. This section does not authorize a modification of any other agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity. The enforceability of a contractual agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity may be impacted by the Development Owner's commitments at Application and recorded LURA.

(b) Right of First Refusal Offer Price. There are two general expectations of the ROFR offer price identified in the outstanding LURAs. The descriptions in paragraphs (1) and (2) of this subsection do not alter the requirements or definitions included in the LURA but provide further clarification as applicable:

(1) Fair Market Value is established using either a current appraisal (completed within three months prior to the ROFR request and in accordance with §11.304 of this title (relating to Appraisal Rules and Guidelines)) of the Property or an executed purchase offer that the Development Owner would like to accept. In either case the documentation used to establish Fair Market Value will be part of the ROFR property listing on the Department's website. The purchase offer must contain specific language that the offer is conditioned upon satisfaction of the ROFR requirement. If a subsequent ROFR request is made within six months of the previously approved ROFR posting, the lesser of the prior ROFR posted value or new appraisal/purchase contract amount must be used in establishing Fair Market Value;

(2) Minimum Purchase Price, pursuant to §42(i)(7)(B) of the Code, is the sum of the categories listed in subparagraphs (A) and (B) of this paragraph:

(A) The principal amount of outstanding indebtedness secured by the project (other than indebtedness incurred within the five year period immediately preceding the date of said notice); and

(B) All federal, state, and local taxes incurred or payable by the Development Owner as a consequence of such sale. If the Property has a minimum Applicable Fraction of less than one, the offer must take this into account by multiplying the purchase price by the applicable fraction and the fair market value of the non-Low-Income Units. Documentation submitted to verify the Minimum Purchase Price calculation will be part of the ROFR property listing on the Department's website.

(c) Required Documentation. Upon establishing the ROFR offer price, the ROFR process is the same for all types of LURAs. To proceed with the ROFR request, documentation must be submitted as directed in the Post Award Activities Manual, which includes:

(1) ROFR fee as identified in §11.901 of this title (relating to Fee Schedule);

(2) A notice of intent to the Department;

(3) Certification that the Development Owner has provided, to the best of their knowledge and ability, a notice of intent to all additional required persons and entities in subparagraph (A) of this paragraph and that such notice includes, at a minimum the information in subparagraph (B) of this paragraph;

(A) Copies of the letters or emailed notices provided to all persons and entities listed in clauses (i) to (vi) of this subparagraph as required by this paragraph and applicable to the Development at the time of the submission of the ROFR documentation must be attached to the Certification:

(i) All tenants and tenant organizations, if any, of the Development;

(ii) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(iii) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(iv) Presiding officer of the Governing Body of the county in which the Development is located;

(v) The local housing authority, if any; and

(vi) All prospective buyers maintained on the Department's list of prospective buyers.

(B) Letters must include, at a minimum, all of the information required in clauses (i) to (vii) of this subparagraph and must not contain any statement that violates Department rules, statute, Code, or federal requirements:

(i) The Development's name, address, city, and county;

(ii) The Development Owner's name, address, individual contact name, phone number, and email address;

(iii) Information about tenants' rights to purchase the Development through the ROFR;

(iv) The length of the ROFR posting period;

(v) The ROFR offer price;

(vi) A physical description of the Development, including the total number of Units and total number of Low-Income Units; and

(vii) Contact information for the Department staff overseeing the Development's ROFR application.

(4) Documentation evidencing any contractual ROFR between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity, along with evidence that such Qualified Nonprofit Organization or Qualified Entity is in good standing in the state of its organization;

(5) Documentation verifying the ROFR offer price of the Property:

(A) If the Development Owner receives an offer to purchase the Property from any buyer other than a Qualified Entity or Qualified Nonprofit Organization that the Development Owner would like to accept, the Development Owner may execute a sales contract, conditioned upon satisfaction of the ROFR requirement, and submit the executed sales contract to establish fair market value; or

(B) If the Development Owner chooses to establish fair market value using an appraisal, the Development Owner must submit an appraisal of the Property completed during the last three months prior to the date of submission of the ROFR request, establishing a value for the Property in compliance with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) in effect at the time of the request. The appraisal should take into account the existing and continuing requirements to operate the Property under the LURA and any other restrictions that may exist. Department staff will review all materials within 30 calendar days of receipt. If, after the review, the Department does not agree with the fair market value proposed in the Development Owner's appraisal, the Department may order another appraisal at the Development Owner's expense; or

(C) If the LURA requires valuation through the Minimum Purchase Price calculation, submit documentation verifying the calculation of the Minimum Purchase Price as described in subsection (b)(2) of this section regardless of any existing offer or appraised value;

(6) Description of the Property, including all amenities;

(7) Copies of all documents imposing income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Property;

(8) A current title commitment or policy not older than six months prior to the date of submission of the ROFR request or the most recent title policy along with a title endorsement or nothing further certificate not older than six months prior to the date of submission of the ROFR request;

(9) The most recent Physical Needs Assessment, pursuant to Tex. Gov't Code §2306.186(e) conducted by a Third-Party. If the PNA/SCR identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to proceed with a Right of First Refusal Request;

(10) Copy of the monthly operating statements, including income statements and balance sheets for the Property for the most recent 12 consecutive months (financial statements should identify amounts held in reserves);

(11) The three most recent consecutive annual operating statements (audited would be preferred);

(12) Detailed set of photographs of the Property, including interior and exterior of representative units and buildings, and the Property's grounds;

(13) Current and complete rent roll for the Property; and

(14) If any portion of the land or improvements is leased for other than residential purposes, copies of the commercial leases.

(d) Posting and offers. Within 30 business days of receipt of all required documentation, the Department will review the submitted documents and notify the Development Owner of any deficiencies. During that time, the Department will notify any Qualified Entity or as applicable any Qualified Nonprofit Organization identified by the Development Owner as having a contractual ROFR of the Development Owner's intent to sell. Once any deficiencies are resolved and the Development Owner and Department come to an agreement on the ROFR offer price of the Property, the Department will list the Property for sale on the Department's website and notify entities registered to the email list maintained by the Department of the availability of the Property at a price as determined under this section. The Department will notify the Development Owner when the Property has been listed. The ROFR posting period commences on the date the Property is posted for sale on the Department's website. During the ROFR posting period, a Qualified Nonprofit Organization or Qualified Entity can submit an offer to purchase as follows:

(1) if the LURA requires a 90-day ROFR posting period with no priority for any particular kind of Qualified Nonprofit Organization or tenant organization, any Qualified Nonprofit Organization or tenant organization may submit an offer to purchase the property; or

(2) If the LURA requires a two-year ROFR posting period, a Qualified Nonprofit Organization may submit an offer to purchase the Property as follows:

(A) During the first six months of the ROFR posting period, only a Qualified Nonprofit Organization that is a Community

Housing Development Organization (CHDO) under 24 CFR Part 92, or that is 100% owned by a CHDO, as approved by the Department, may submit an offer;

(B) During the next six months of the ROFR posting period, only a Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or that is 100% owned by Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or a tenant organization may submit an offer; and

(C) During the final 12 months of the ROFR posting period, any Qualified Nonprofit Organization may submit an offer; or

(3) If the LURA requires a 180-day ROFR posting period, a Qualified Entity may submit an offer to purchase the Property consistent with the subparagraphs of this paragraph.

(A) During the first 60 days of the ROFR posting period, only a Qualified Entity that is:

(i) a CHDO under 24 CFR Part 92, or to an entity that includes a CHDO as one of its controlling members or general partners, as approved by the Department, may submit an offer. In accordance with 24 CFR Part 92, Developments committed HOME CHDO funding on or after August 23, 2013, and still within the Federal Affordability Period must have a CHDO or its wholly owned entity (as applicable) as its only controlling entities and no other entities are eligible;

(ii) if the public housing authority or public facility corporation owns the fee title to the Development Owner's leasehold estate:

(I) a public housing authority; or

(II) a public facility corporation created by a public housing authority under Chapter 303, Local Government Code; or

(iii) controlled by an entity described by either clause (i) or (ii) of this subparagraph.

(B) During the second 60 days of the ROFR posting period, only a Qualified Entity as described by Tex. Gov't Code §2306.6706, or that is controlled by Qualified Entity as described by Tex. Gov't Code §2306.6706, or a tenant organization such may submit an offer.

(C) During the final 60 days of the ROFR posting period, any Qualified Entity may submit an offer.

(4) If the Multifamily Direct Loan LURA for a property funded out of the CHDO set-aside and subject to the 2025 HOME final rule requires a 60-day ROFR posting period, a CHDO approved by the Department may submit an offer to purchase the property.

(5) If the LURA does not specify a required ROFR posting timeframe or is unclear on the required ROFR posting timeframe and the required ROFR value is determined by the Minimum Purchase Price method, any Development that received a tax credit allocation prior to September 1, 1997, is required to post for a 90-day ROFR period, and any Development that received a tax credit allocation on or after September 1, 1997, and until September 1, 2015, is required to post for a two year ROFR, unless the LURA is amended under §10.405(b), or after September 1, 2015, is required to post for a 180-day ROFR period as described in Tex. Gov't Code, §2306.6726.

(e) Acceptance of offers. A Development Owner may accept or reject any offer received during the ROFR posting period; provided however, that to the extent the LURA gives priority to certain classifications of Qualified Nonprofit Organizations or Qualified Entities to make offers during certain portions of the ROFR posting period, the Development Owner can only negotiate a purchase contract with such classifications of entities during their respective periods. For example, during the CHDO priority period, the Development Owner may only accept an offer from and enter into negotiations with a Qualified Nonprofit Organization or Qualified Entity in that classification. A property may not be transferred under the ROFR process for less than the Minimum Purchase Price, but if the sequential negotiation created by statute yields a higher price, the higher price is permitted.

(f) Satisfaction of ROFR.

(1) A Development Owner that has posted a Property under the ROFR process is deemed to have satisfied the ROFR requirements in the following circumstances:

(A) The Development Owner does not receive any bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(B) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(C) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), and the Development Owner received no other bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period; or

(D) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period at or above the posted ROFR offer price; or

(2) A Development Owner with a LURA that identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR will satisfy the ROFR if:

(A) The identified beneficiary is in existence and conducting business;

(B) The Development Owner offers the Development to the identified beneficiary pursuant to the terms of the ROFR;

(C) If the ROFR includes a priority for a certain type of Qualified Entity (such as a CHDO) to have the first opportunity make an offer to acquire the Development, the identified beneficiary meets such classification; and

(D) The identified entity declines to purchase the Development in writing, and such evidence is submitted to and approved by the Department.

(g) Non-Satisfaction of ROFR. A Development Owner that has posted a Property under the ROFR process does not satisfy the ROFR requirements in the following circumstances:

(1) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), and the Development Owner does not accept the offer;

(2) The LURA identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR, and such entity no longer exists or is no longer conducting business and the Development Owner received other bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers;

(3) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and then fails to accept any of such other offers;

(4) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, and such failure is determined to be the fault of the Development Owner;

(5) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers; or

(6) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), and the Development Owner fails to accept any of such offers.

(h) Activities Following ROFR.

(1) If a Development Owner satisfies the ROFR requirement pursuant to subsection (f)(1) - (2) of this section, it may request a Preliminary Qualified Contract (if such opportunity is available under §10.408 of this Subchapter) or proceed with the sale to an entity that is not a Qualified Nonprofit Organization or Qualified Entity at or above the ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation).

(2) Following notice that the ROFR requirement has been met, if the Development Owner does not post the Property for Qualified Contract in accordance with §10.408 of this Subchapter or sell the Property to an entity that is not a Qualified Nonprofit Organization or Qualified Entity within 24 months of the Department's written indication that the ROFR has been satisfied, the Development Owner must follow the ROFR process for any subsequent transfer.

(3) If the Department determines that the ROFR requirement has not been met during the ROFR posting period, the Owner may not re-post under this provision at a ROFR offer price that is higher than the originally posted ROFR offer price until 24 months has expired from the Department's written indication that the ROFR has not been satisfied. The Development Owner may market the Property for sale and sell the Property to a Qualified Nonprofit Organization or Qualified Entity during this 24-month period in accordance with subsection (a)(1) of this section.

(i) Sale and closing.

(1) Prior to closing a sale of the Property, the Development Owner must obtain Department approval of the transfer through the ownership transfer process in accordance with §10.406 of this Subchapter (relating to Ownership Transfers (§2306.6713)). The request should include, among other required transfer documents outlined in the Post Award Activities Manual, the final sales contract with all amendments.

(2) If the closing price is materially less than the ROFR offering price or the terms and conditions of the sale change materially from what was submitted in the ROFR posting, in the Department's sole determination, the Development Owner must go through the ROFR process again with a revised ROFR offering price equal to the reduced closing price or adjusted terms and conditions based upon the revised terms, before disposing of the Property.

(j) Appeals. A Development Owner may appeal a staff decision in accordance with §11.902 of this title (relating to Appeals Process).

§10.408. Qualified Contract Requirements.

(a) General. Pursuant to §42(h)(6) of the Code, after the end of the 14th year of the Compliance Period, the Development Owner of a Development utilizing Housing Tax Credits can request that the allocating agency find a buyer at the Qualified Contract Price. If a buyer cannot be located within one year, the Extended Use Period will expire. This section of this subchapter provides the procedures for the submittal and review of a Qualified Contract Request.

(b) Eligibility. Development Owners who received an award of credits on or after January 1, 2002, are not eligible to request a Qualified Contract prior to the 30 year anniversary of the date the property was placed in service (§2306.185); if the property's LURA indicates a commitment to an Extended Use Period beyond 30 years, the Development Owner is not eligible to request a Qualified Contract until the expiration of the Extended Use Period. Development Owners awarded credits prior to 2002 may submit a Qualified Contract Request at any time after the end of the year preceding the last year of the Initial Affordability Period, provided it is not precluded by the terms of the LURA, following the Department's determination that the Development Owner is eligible. The Initial Affordability Period starts concurrently with the credit period, which begins at placement-in-service or is deferred until the beginning of the next tax year, if there is an

election. Unless the Development Owner has elected an Initial Affordability Period longer than the Compliance Period, as described in the LURA, this can commence at any time after the end of the 14th year of the Compliance Period. References in this section to actions which can occur after the 14th year of the Compliance Period shall refer, as applicable, to the year preceding the last year of the Initial Affordability Period, if the Development Owner elected an Initial Affordability Period longer than the Compliance Period.

(1) If there are multiple buildings placed in service in different years, the end of the Initial Affordability Period will be based upon the date the last building placed in service. For example, if five buildings in the Development began their credit periods in 2005 and one began in 2006, the 15th year would be 2020.

(2) If a Development received an allocation in multiple years, the end of the Initial Affordability Period will be based upon the last year of a multiple allocation. For example, if a Development received its first allocation in 2004 and a subsequent allocation and began the credit period in 2006, the 15th year would be 2020.

(c) Preliminary Qualified Contract Request. All eligible Development Owners must file a Preliminary Qualified Contract Request.

(1) In addition to determining the basic eligibility described in subsection (b) of this section, the pre-request will be used to determine that:

(A) The Development does not have any uncorrected issues of noncompliance outside the corrective action period;

(B) There is a Right of First Refusal (ROFR) connected to the Development that has been satisfied; and

(C) The Compliance Period under the LURA has expired; and

(2) In order to assess the validity of the pre-request, the Development Owner must submit:

(A) Preliminary Request Form;

(B) Qualified Contract Pre-Request fee as outlined in §11.901 of this title (relating to Fee Schedule);

(C) Copy of all regulatory agreements or LURAs associated with the Property (non-TDHCA); and

(D) Copy of a Physical Needs Assessment (PNA), conducted by a Third Party, that is no more than 12 months older than the request date. If the PNA identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to submit a Qualified Contract Request.

(3) The pre-request will not bind the Development Owner to submit a Qualified Contract Request and does not start the One Year Period (1YP). A review of the pre-request will be conducted by the Department within 90 days of receipt of all documents and fees described in paragraph (2) of this subsection. If the Department determines that this stage is satisfied, a letter will be sent to the Development Owner stating that they are eligible to submit a Qualified Contract (QC) Request.

(d) Qualified Contract Request. A Development Owner may file a QC Request any time after written approval is received from the Department verifying that the Development Owner is eligible to submit the Request.

(1) Documentation that must be submitted with a Request is outlined in subparagraphs (A) - (P) of this paragraph:

(A) A completed application and certification;

(B) The Qualified Contract price calculation worksheets completed by a licensed Third-Party certified public accountant (CPA). The CPA shall certify that they have reviewed annual partnership tax returns for all years of operation, loan documents for all secured debt, and partnership agreements. They shall also certify that they are not being compensated for the assignment based upon a predetermined outcome;

(C) A thorough description of the Development, including all amenities;

(D) A description of all income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Development;

(E) A current title report;

(F) A current appraisal with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy);

(G) A current Phase I Environmental Site Assessment (and Phase II, if necessary) with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title;

(H) A copy of the most recent Physical Needs Assessment of the property conducted by a Third Party, if different from the assessment submitted during the preliminary qualified contract request, consistent with Chapter 11, Subchapter D of this title;

(I) A copy of the monthly operating statements for the Development for the most recent 12 consecutive months;

(J) The three most recent consecutive annual operating statements (audited would be preferred) for the Development;

(K) A detailed set of photographs of the Development, including interior and exterior of representative units and buildings, and the property's grounds;

(L) A current and complete rent roll for the Development;

(M) A certification that all tenants in the Development have been notified in writing of the request for a Qualified Contract. A copy of the letter used for the notification must also be included;

(N) If any portion of the land or improvements is leased, copies of the leases;

(O) The Qualified Contract Fee as identified in §11.901 of this title (relating to Fee Schedule); and

(P) Additional information deemed necessary by the Department.

(2) Unless otherwise directed by the Department pursuant to subsection (g) of this section, the Development Owner shall contract with a broker to market and sell the Property. The Department may, at its sole discretion, notify the Owner that the selected Broker is not approved by the Department. The fee for this service will be paid by the seller, not to exceed 6% of the QC Price.

(3) Within 90 days of the submission of a complete Request, the Department will notify the Development Owner in writing of the acceptance or rejection of the Development Owner's QC Price calculation. The Department will have one year from the date of the acceptance letter to find a Qualified Purchaser and present a QC. The Department's rejection of the Development Owner's QC Price calcula-

tion will be processed in accordance with subsection (e) of this section and the 1YP will commence as provided therein.

(e) Determination of Qualified Contract Price. The QC Price calculation is not the same as the Minimum Purchase Price calculation for the ROFR. The CPA contracted by the Development Owner will determine the QC Price in accordance with §42(h)(6)(F) of the Code taking the following into account:

(1) Outstanding indebtedness secured by, or with respect to, the building;

(2) Distributions to the Development Owner of any and all cash flow, including incentive management fees, capital contributions not reflected in outstanding indebtedness or adjusted investor equity, and reserve balance distributions or future anticipated distributions, but excluding payments of any eligible deferred developer fee. These distributions can only be confirmed by a review of all prior year tax returns for the Development;

(3) All equity contributions will be adjusted based upon the lesser of the consumer price index or 5% for each year, from the end of the year of the contribution to the end of year fourteen or the end of the year of the request for a QC Price if requested at the end of the year or the year prior if the request is made earlier than the last month of the year; and

(4) These guidelines are subject to change based upon future IRS Rulings and/or guidance on the determination of Development Owner distributions, equity contributions and/or any other element of the QC Price.

(f) Appeal of Qualified Contract Price. The Department reserves the right, at any time, to request additional information to document the QC Price calculation or other information submitted. If the documentation does not support the price indicated by the CPA hired by the Development Owner, the Department may engage its own CPA to perform a QC Price calculation and the cost of such service will be paid for by the Development Owner. If a Development Owner disagrees with the QC Price calculated by the Department, a Development Owner may appeal in writing in accordance with §11.902 of this title (relating to Appeals Process). A meeting will be arranged with representatives of the Development Owner, the Department and the CPA contracted by the Department to attempt to resolve the discrepancy. The 1YP will not begin until the Department and Development Owner have agreed to the QC Price in writing. Further appeals can be submitted in accordance with §11.902 of this title (relating to Appeals Process) and Tex. Gov't Code §2306.0321 and §2306.6715.

(g) Marketing of Property. By submitting a Request, the Development Owner grants the Department the authority to market the Development and provide Development information to interested parties. Development information will consist of pictures of the Development, location, amenities, number of Units, age of building, etc. Development Owner or broker contact information will also be provided to interested parties. The Development Owner is responsible for providing staff any requested information to assist with site visits and inspections. Marketing of the Development will continue until such time that a Qualified Contract is presented or the 1YP has expired. Notwithstanding subsection (d)(2) of this section, the Department reserves the right to contract directly with a Third Party in marketing the Development. Cost of such service, including a broker's fee, will be paid for by the existing Development Owner. The Department must have continuous cooperation from the Development Owner. Lack of cooperation will cause the process to cease and the Development Owner will be required to comply with requirements of the LURA for the remainder of the Extended Use Period. Responsibilities of the Development Owner include but are not limited to the items described in paragraphs (1) - (3) of this subsection. The Development Owner must:

(1) Allow access to the Property and tenant files;

(2) Keep the Department informed of potential purchasers; and

(3) Notify the Department of any offers to purchase.

(h) Presentation of a Qualified Contract. If the Department finds a Qualified Purchaser willing to present an offer to purchase the property for an amount at or above the QC Price, the Development Owner may accept the offer and enter into a commercially reasonable form of earnest money agreement or other contract of sale for the property and provide a reasonable time for necessary due diligence and closing of the purchase. If the Development Owner chooses not to accept the QC offer that the Department presents, the QC request will be closed and the possibility of terminating the Extended Use Period through the Qualified Contract process is eliminated; the Property remains bound by the provisions of the LURA for the remainder of the Extended Use Period. If the Development Owner decides to sell the development for the QC Price pursuant to a QC, the purchaser must complete all requirements of an ownership transfer request and be approved by the Department prior to closing on the purchase, but the consummation of such a sale is not required for the LURA to continue to bind the Development for the remainder of the Extended Use Period.

(1) The Department will attempt to procure a QC only once during the Extended Use Period. If the transaction closes under the contract, the new Development Owner will be required to fulfill the requirements of the LURA for the remainder of the Extended Use Period.

(2) If the Department fails to present a QC before the end of the 1YP, the Department will file a release of the LURA and the Development will no longer be restricted to low-income requirements and compliance. However, in accordance with §42(h)(6)(E)(ii) of the Code, for a three-year period commencing on the termination of the Extended Use Period, the Development Owner may not evict or displace tenants of Low-Income Units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credit rents. Additionally, the Development Owner should submit to the Department a request to terminate the LURA and evidence, in the form of a signed certification and a copy of the letter, to be approved by the Department, that the tenants in the Development have been notified in writing that the LURA will be terminated and have been informed of their protections during the three-year time frame.

(3) Prior to the Department filing a release of the LURA, the Development Owner must correct all instances of noncompliance at the Development.

(i) Compliance Monitoring during Extended Use Period. For Developments that continue to be bound by the LURA and remain affordable after the end of the Compliance Period, the Department will monitor in accordance with the applicable requirements in Subchapters F and G of this chapter (relating to Uniform Multifamily Rules).

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601581

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 30, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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SUBCHAPTER F. COMPLIANCE MONITORING

10 TAC §§10.601, 10.607, 10.611, 10.613, 10.614, 10.621, 10.622, 10.625

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §10.601 Compliance Monitoring Objectives and Applicability; §10.607 Reporting Requirements; §10.611 Determination, Documentation and Certification of Annual Income; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.621 Property Condition Standards; §10.622 Special Rules Regarding Rents and Rent Limit Violations; and §10.625 Events of Noncompliance, with changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 489). The rules will be republished. The amendments add new program requirements to developments that are subject to the new HOME Final rule. Additionally, the amendments clarify that non-operable elevators must be reported to the Department within 72 hours, and rent payment made on time and in full must be accepted if the household does not have any prior outstanding rent balance(s) due.

The purpose of the adoption of amendments is to codify the new HOME Final rule requirements, clarify when non-operable elevators must be reported to the Department and ensure rent is accepted by developments when payment is made on time and in full.

The Department has analyzed this adoption of amendments, 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 adoption of amendments would be in effect, the adopted amendment to the rule will not create or eliminate a government program;

2. The adopted amendment to the rule will not require a change in the number of employees of the Department and it does reduce workload to a degree that any existing employee position is eliminated.

3. The adopted amendment to the rule will not require additional future legislative appropriations.

4. The adopted amendment to the rule will result in neither an increase nor a decrease in fees paid to the Department

5. The adopted amendment to the rule will not create a new regulation;

6. The adopted amendment to the rule will not repeal an existing regulation;

7. The adopted amendment to the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The adopted amendment to the rule will neither positively nor negatively 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 the adoption of the amendment and determined that 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 adoption of the amendment 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 amendment as to its possible effects on local economies and has determined that for the first five years the amendment 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 adopted amendment to the rule is in effect, the public benefit anticipated as a result of the action will be a rule in compliance with the new HOME Final rule. There will not be any economic cost to any individual required to comply with the amendment.

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

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from January 30, 2026, through March 3, 2026. Comment was received from eleven commenters. Comments regarding the amendments were accepted in writing and by e-mail with comments received from:

Brenda Jimenez, Property Manager, Residences at Lake Waco

Melissa Petitt, Property Manager, Richmond Senior Village

Lorena Caballero-Chavez, Property Manager, Hibiscus Village

Tayna Lavelle, Policy Specialist- Housing and Transportation, Disability RIGHTS Texas

Kathy Green, Director, State and Federal Strategy, AARP Texas

Sharon Underwood, Tenant Advocate

Robert Dryman, President, Brownstone Residential, LLC

Texas Apartment Association, Texas Realtors and Texas Association of Builders

Maria Watkins, Director of Compliance, FDI Management Group

Dena Moreland, Compliance Director, Accolade Property Management

Sidney Beaty, Research Analyst, Texas Housers

Rule Section §10.613(a) and 10.613(b)

COMMENT SUMMARY: Commenter 8 requests immediate removal of 10 TAC §10.613(a) and related reference in 10 TAC §10.613(b) regarding the 30-day notice requirement under the CARES Act. Commenter 8 goes on to state that other federal housing agencies, The Federal Housing Finance Agency (FHFA), the U.S. Department of Housing and Urban Development (HUD), and the U.S. Department of Agriculture (USDA) all have eliminated the 30-day notice requirements that were previously imposed during COVID-19 and continuing to require the 30-day notice in the Compliance Monitoring rule creates confusion and conflicts with the timelines adopted by the Texas Legislature in Senate Bill 38. Commenter 8 also requests the removal or revision of the corresponding language in §10.613(b) to eliminate any state imposed 30-day requirement not mandated by federal statute or regulation.

STAFF RESPONSE: Multifamily direct loans programs, specifically HOME, TCAP-RF, NSP and HOME-ARP developments regulations require that to terminate a lease, the owner must provide a 30-day written notice. Staff did not accept Commenter 8's suggestion to revise §10.613(b) as a 30-day notification requirement prior to termination of lease for nonpayment of rent is still required under the CARES Act. Furthermore, HUD on March 13, 2026, has withdrawn its interim final rule because of litigation regarding notice requirements regarding this change, and in its rulemaking USDA has stated that the CARES Act 30 day requirement is still in effect. No change to the rule is made in response to this comment, but the Department will continue to monitor this topic.

Rule Section §10.613(o)(3)(A)

COMMENT SUMMARY: Commenter 10 indicates that the requirement to submit a copy of the lease template for designated units to the Department creates an additional administrative burden for all parties. Commenter 10 also suggests that for a property utilizing the Texas Apartment Association (TAA) lease and addenda, the submission of these form templates should be exempted, because TAA and the Department have a strong working relationship and updates to lease forms will reflect Departmental policy changes. Commenter 10 also suggests that the lease forms can be effectively monitored during file audits. Commenter 9 seeks clarification if the lease template required to be submitted for approval is for each development, or once per Management Company.

STAFF RESPONSE: Staff did not accept suggestions from Commenter 10 because this requirement only pertains to Units subject to this provision in 2025 HOME final rule. The requirement to submit lease templates to the Department is a federal requirement in the new 2025 HOME Final Rule regardless of the template implemented. As this will also be a new requirement for the Department to receive, review and approve lease templates for designated units, the Department anticipates this review being done at property level, since the approval is for a property and not a Management Agent's portfolio. The Department will ensure whatever procedures it adopts will be as efficient and expedient as possible for owners and developments. No change to the rule is made in response to this comment.

Rule Section §10.613(o)(3)(D)

COMMENT SUMMARY: Commenter 9 seeks clarification; if the provisions are already included in the TAA Lease and Affordable Addendum, what do properties need to do differently if the property is layered with other TDHCA programs.

STAFF RESPONSE: The requirement is only applicable for Units subject to this provision in the 2025 HOME Final Rule and only if the property utilizes different lease templates for designated units than other units on the property. The Department has not encountered any properties that are using different lease templates for different program units, however, this provision was included as a safeguard in case a property was using different lease templates. No change to the rule is made in response to this comment.

Rule Section §10.613(o)(4)

COMMENT SUMMARY: Commenter 9 states that adding the requirement for all notices to vacate be submitted to the Department is a bit extreme and would cause undue financial burden to properties, etc. Commenter 9 suggests implementing this requirement would result in the need for additional staff to just oversee this one task. Commenter 9 asks if this requirement is for non-payment of rent, or all other violations. Commenter 10 does not support the requirement that all notices to vacate must be submitted to the Department either upon issuance or within 14-days because it would create a significant administrative burden for property owners and the Department. Commenter 10 also shares that this required increase in reporting offers limited regulatory value and introduces unnecessary procedural complications during urgent circumstances. Commenter 10 is also concerned that adding this requirement would put the Department at risk of assuming oversight responsibilities beyond its operational capacity and could expose it to increased liability.

STAFF RESPONSE: Staff did not accept suggestions from Commenter 9 and 10 because this only impacts Units subject to this provision of the 2025 HOME rule. The requirement to submit copies of notices to vacate to the Department is a federal requirement in the new 2025 HOME Final Rule and will apply to all notices to vacate regardless of reason. No change to the rule is made in response to this comment.

Rule Section §10.621(K)

COMMENT SUMMARY: Commenters 1, 2 and 3 oppose reporting non-operable elevators within 24 hours because it adds another administrative burden on property owners and managers and will not result in the issue being addressed sooner. Commenter 1 suggests placing penalties on elevator vendors and that the Department working with the Texas Department of Licensing and Regulation (TDLR) may be a more practical solution to address elevator issues.

Commenter 2 suggest allowing owners to submit vendor service records, work orders, and other related documentation when an elevator is non-operable in lieu of submitting a form to the Department. Commenter 2 also advises that reporting a non-operable elevator does not address the primary cause of extended elevator outages because of the lack of control over the timing of elevators repairs and that delayed responses, service backlogs, and extended repair timelines are common within the industry.

Commenter 3 advises that adding more reporting requirements will not result in a faster resolution(s) or resident safety and that staff time should be focused on assisting residents and vendor management instead. Commenter 3 also suggests the alternative is to allow the submission of vendor service logs and other documentation when an elevator is non-operational. Commenter 3 offers the suggestion that TDHCA should work

with TDLR and increase penalties on elevator vendors and force them to perform or risk losing their license.

Commenter 7 strongly opposes and seeks to withdraw the provision that requires owners to report non-operational elevators to the Department within 24 hours using a specified form. It imposes an administrative burden on owners and managers, and it does not address the actual causes of prolonged elevator outages including accelerating vendor performance. According to Commenter 7, the primary reason elevators remain out of service for extended periods is not owner inaction, it is systemic delays by licensed elevator vendors. Owners and managers have no control over vendor response times which are routinely slowed by backlogs, scheduling issues, part shortages, supply chain disruptions and labor shortages in the elevator service industry. Commenter 7 explains that multifamily operators already manage complex compliance obligations with Fair Housing Accessibility requirements, HUD inspections/certifications, local building codes and ordinances and daily resident accommodations during outages. This results in diverting staff time and resources away from resident support, vendor coordination, and actual repair facilitation. It also could result in increased operation costs, risks staff burnout, and exposes owners to penalties for circumstances beyond their control. Commenter 7 also states penalizing owners for vendor failures will discourage development, rehabilitation, or continued operation of properties with elevators. Commenter 7 suggests allowing for submission of vendor documentation, such as service logs, repair tickets, vendor correspondence, and records of parts ordered in lieu of a required form to be submitted within 24 hours. Commenter 7 also recommends the Department work with TDLR because they license and inspect elevator companies, making them the appropriate agency to enforce faster service. Commenter 7 proposes a more reasonable reporting time by extending the timeline to 48-72 hours, exempting short outages (e.g., under 48 hours) and only applying the reporting requirement on buildings serving vulnerable populations (seniors, disabled residents).

Commenter 9 suggests that requiring reporting within 24-hours is extreme and the Department should allow for at least 7 days for owners to attempt to cure, allowing time to call for service and order parts.

Commenter 10 does not support the requirement of mandating reporting for every instance, regardless of duration or impact. This would generate reporting volume that does not enhance resident protections or Department oversight. Also, Commenter 10 reports that elevator outages are operational maintenance matters that are addressed through preventative maintenance plans, existing repair protocols, vendor contracts and applicable local code requirements including compliance with TDLR. Commenter suggests a more tailored reporting requirement, such as when outages exceed a defined duration, would be more appropriate than a blanket 24-hours reporting mandate. Commenter 10 advises the Department to remove or revise the requirement to better align with operational realities.

Commenters 4 and 11 support the requirement for owners to report non-operational elevators within 24-hours. Commenters 4 and 11 state that non-operational elevators can create life or death situations for residents during disasters by preventing people from being able to evacuate a property. They also provide examples when vulnerable residents do not have access to an operational elevator and that requiring the reporting will help ensure residents have safe and accessible housing.

Commenters 5 and 6 also support the reporting requirement because it is critical that inoperable elevators are repaired in a timely manner.

STAFF RESPONSE: The Department appreciates all comments and suggestions regarding reporting non-operable elevators. The purpose of implementing this administrative requirement is to be aware of any non-operational elevator(s) and work with owners collaboratively to ensure timely repairs. The Department acknowledges that owners and properties may have to work with vendor schedules; however, the Department wants to ensure that nonoperational elevator repairs are initiated immediately. The Department has accepted Commenter 7's suggestion of allowing 72-hours for properties to report non-operational elevators. This also aligns with the timeframe that all life-threatening and severe deficiencies must be reported as corrected within 72 hours (three Department business days).

Rule Section §10.622(m)

COMMENT SUMMARY: Commenter 1 opposes requiring a mandatory 60-day written notice for any rent increases and believes requiring a refund or credit if the 60-day notice is missed creates unnecessary risk of noncompliance. Commenter 1 suggests allowing for a grace period or exception before requiring a refund or credit. Commenter 3 has similar comments as Commenter 1 and states that rent increases are dictated by external factors and owners are also juggling tight deadlines and compliance requirements. Commenter 10 also does not support the addition of the 60-day rent notice increase requirement because Department rules already require a 75-day notice when the increase exceeds $74. Commenter 9 seeks clarification on if this revision applies when a 90-day notice of a utility allowance change, which is already required to be posted, covers this requirement.

STAFF RESPONSE: Staff did not accept suggestions from Commenter 10 because this requirement only pertains to Developments subject to this provision of the new 2025 HOME final rule where there are floating Units and Units subject to this provision of the 2025 HOME final rule where there are fixed Units. The requirement to provide a 60-day notice of a rent increase is a federal requirement in the new 2025 HOME Final Rule. To clarify Commenter 9 questions, the 90-day notice of a utility allowance change, which is federally required to be posted does not cover this new requirement. No change to the rule is made in response to this comment.

Rule Section §10.622(o)

COMMENT SUMMARY: Commenters 1, 2, 3 and 9 seeks clarification of the rule that an owner may not refuse to accept rental payment made on time and in full. Commenter 1 asks that the term "full rent" be clarified in this context as this could be misinterpreted. Commenters 2 and 3 agree with Commenter 1 and further state since "full rent" is not clearly defined, it creates uncertainty as to whether it refers solely to base rent or includes all charges due under the lease agreement, such as required fees, utilities, or other lease authorized charges. Commenter 9 seeks further explanation; does this requirement include all delinquent balances or just the current month. Commenter 11 supports the addition that rent must be accepted when payment is made on time and in full. Commenter 11 also suggests including a new requirement to limit rent increases to lease signing or renewal for §10.622(k). The reason for their suggestion is they have heard from tenants, advocates etc. that households are struggling with mid-lease rent increases which are permitted under some De-

partment programs. Commenter 11 also states that legislation has been introduced in the last four legislative sessions proposing new language at Tex. Gov't Code §2306.673(a), that would prevent an owner from increasing the rent paid by a household during the duration of the lease agreement.

STAFF RESPONSE: Department staff appreciates the question seeking to define "full rent". The requirement to accept full rent is only applicable when full rent is paid by the due date of the lease contract and there are no other outstanding prior rent balances past due. Department staff has updated the rule to make it clear that this provision is only applicable if the household does not have any outstanding rent balances due. Department staff did not include Commenter 11's suggestion that rent may only be increased at leasing signing or renewal. The rule already accounts that rent may not be raised more than once in a 12-month period and properties have to provide a 75-day notice if rent is going to increase by $75 or more. The Department programs are already rent restricted under federal and state regulations, and it is not the Department's role to implement further rent restrictions outside the underwriting process. However, if new statutory language goes into effect during or after the next legislative session, the Department will adopt rules to adhere to any new applicable provision(s).

Rule Section §10.622(p)

COMMENT SUMMARY: Commenter 11 supports the addition that an owner who controls utilities may not stop service on utilities during the longer of the required period identified by the applicable federal program or as defined by state law.

STAFF RESPONSE: Staff appreciates Commenter 11's support.

Rule Section §10.625 Events of Noncompliance

COMMENT SUMMARY: Commenters 5, 6 and 11 recommend that the table in §10.625 be updated to include a new event of noncompliance that failure to report an inoperable elevator is a noncompliance event and suggest that the Department do further rule updates to the Administrative Penalties rule in §2.302.

STAFF RESPONSE: Staff appreciates the recommendation and has updated Figure §10.625 to include a new event of noncompliance for an owner failing to report an elevator outage to the Department within the required timeframe. The Administrative Penalties rule in §2.302 is also going to the April Board meeting to propose provisions for elevator noncompliance.

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

Except as described herein the adopted amendment affects no other code, article, or statute.

§10.601. Compliance Monitoring Objectives and Applicability.

(a) The objectives of the Department in performing regular monitoring of affordable rental housing are:

(1) To provide for monitoring that meets applicable requirements of:

(A) The U.S. Department of Housing and Urban Development (HUD);

(B) The U.S. Department of the Treasury (Treasury);

(C) The Internal Revenue Service (the IRS); and

(D) Applicable state laws and rules;

(2) To enable the Department to report information to HUD, Treasury, the IRS, and the Governing Board, as required, regarding the condition and operations of such developments;

(3) To enable the Department to communicate with responsible persons regarding the condition and operation of their developments and understand clearly, with a documented record, how they are performing in meeting their obligations;

(4) To identify matters of noncompliance so that they can be appropriately addressed and to assist in targeting issues that may require compliance assistance education;

(5) To ensure that responsible persons understand the compliance status of their developments and the implications of such status;

(6) To articulate and communicate clear standards to promote the maintenance and operation of such developments in a manner that meets the high standards of the Department's affordable rental programs; and

(7) To provide a transparent system whereby all interested parties, including residents, community organizations, local governmental entities, and the affordable housing industry, may find accountability, consistency, and an awareness of the high quality standards of affordable housing in the State of Texas.

(b) This subchapter applies to the monitoring of affordable rental housing under the programs described in paragraphs (1) - (11) of this subsection:

(1) The Housing Tax Credit Program (HTC);

(2) The HOME Investment Partnerships Program (HOME), inclusive of HOME Match Units;

(3) The Tax Exempt Bond Program, inclusive of 501c3 bonds (Bond);

(4) The Texas Housing Trust Fund Program (HTF, SHTF, or THTF), inclusive of Preservation;

(5) The Tax Credit Assistance Program (TCAP);

(6) The Tax Credit Exchange Program (Exchange);

(7) The Neighborhood Stabilization Program (NSP);

(8) Section 811 Project Rental Assistance (811 PRA or 811) Program;

(9) Tax Credit Assistance Program Repayment Funds (TCAP RF);

(10) The National Housing Trust Fund (NHTF)

(11) HOME American Rescue Plan (HOME-ARP); and

(12) Emergency Rental Assistance (ERA).

(c) Monitoring activity evaluates the physical condition of the Developments and whether they are being operated in documented compliance with program requirements.

(d) The results of the Department's monitoring activities will be documented and, communicated to the owner in writing within 90 days of the monitoring visit.

(e) The Department may contract with an independent third party to monitor a Development during its construction or rehabilitation and during its operation for compliance with any conditions imposed by the Department in connection with the award of any Department funds, including allocations of housing tax credits, and appropriate state and federal laws, rules, regulations, orders, and other applicable legal requirements.

(f) The capitalized terms or phrases used herein are defined in this title. Any other capitalized terms in this subchapter shall have the meaning as defined in Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the HOME Final Rule, and other federal or Department rules, as applicable. Defined terms, when not capitalized, are to be read in context and construed according to common usage.

(g) A Development with one or more HOME, TCAP-RF or HOME Match Units is subject to the 2025 HOME Final rule if a Contract with the Department is executed by both Parties on or after April 30, 2026; a Development with HOME, HOME-ARP, TCAP-RF and HOME Match Units with a Contract or a LURA executed prior to April 30, 2026, that has executed the applicable amendment(s) to opt-in the entirety of rule (to the extent allowed under federal or state law determined by the Department's Legal Division) are also subject to the HOME Final Rule. A Development with one or more NSP Units with a Contract executed on or after April 30, 2026, may be subject to elements of the HOME Final rule as further described in the Department's Consolidated Plan Amendment, and as outlined in the Contract and the LURA. A Development with one or more NSP Units with a Contract executed prior to April 30, 2026, that also has one or more Units subject to the 2025 HOME Final Rule may be allowed to opt into elements of the HOME Final rule, as determined by the Department's Legal Division.

§10.607. Reporting Requirements.

(a) The Department requires reports to be submitted electronically through CMTS and in the format prescribed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be emailed to cmts.requests@tdhca.texas.gov for:

(1) 9% Housing Tax Credit Developments - no later than the 10% Test;

(2) 4% Housing Tax Credit Developments - no later than Post Bond Closing Documentation Requirements;

(3) For all other rental Developments - no later than September 1st of the year following the award; or

(4) For all rental Developments that have received Department approval of Ownership transfer - no later than 10 days following the completion of Ownership transfer.

(b) Each Development is required to submit an Annual Owner's Compliance Report (AOCR). Depending on the Development, some or all of the Report must be submitted. The first AOCR is due the second year following the award in accordance with the deadlines set out in subsection (e) of this section. Example 607(1): A Development was allocated Housing Tax Credits in July 2022. The first report is due April 30, 2024, even if the Development has not yet commenced leasing activities.

(c) The AOCR is comprised of four parts:

(1) Part A "Owner's Certification of Program Compliance." All Owners must annually certify compliance with applicable program requirements. The AOCR Part A shall include answers to all questions required by the U. S. Department of the Treasury to be addressed, including those required by Treasury Regulation 1.42-5(b)(1) or the applicable program rules;

(2) Part B "Unit Status Report." All Developments must annually report and certify the information related to individual household income, rent, certification dates and other necessary data to ensure compliance with applicable program regulations. In addition, Owners are required to report on the race and ethnicity, family composition, age, use of rental assistance, disability status, and monthly rental payments of individuals and families applying for and receiving assistance or if the household elects not to disclose the information, such election;

(3) Part C "Housing for Persons with Disabilities." The Department is required to establish a system that requires Owners of state or federally assisted housing Developments with 20 or more housing Units to report information regarding housing Units designed for persons with disabilities. The certified answers to the questions on Part C satisfy this requirement; and

(4) Part D "Form 8703." Tax exempt bond properties funded by the Department must file Form 8703 each calendar year of the qualified project period. The form is due to the IRS by March 31 after the close of the calendar year for which the certification is made. The Department requires Tax Exempt Bond Development Owners to submit a copy of the filed Form 8703 for the preceding calendar year.

(d) The Owner is required to report certain financial information to the Department electronically through CMTS. If supplemental information is required, it must be uploaded to the Development's CMTS account. "Annual Owner's Financial Certification" (formerly Part D of the AOCR). Developments funded by the Department must annually provide and certify to the data represented in the Annual Owner's Financial Certification (AOFC).

(e) Parts A, B, C, and D of the AOCR and the AOFC must be provided to the Department no later than April 30th of each year, reporting data current as of December 31st of the previous year (the reporting year).

(f) Periodic Unit Status Reports. All Developments must submit a Quarterly Unit Status Report to the Department through the Compliance Monitoring and Tracking System. Quarterly reports are due in January, April, July, and October on the 10th day of the month. The report must report occupancy as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the preceding month. The first quarterly report is due on the first quarterly reporting date after leasing activity commences. Failure to report occupancy timely will result in a finding of noncompliance.

(g) Owners are encouraged to continuously maintain current resident data in the Department's CMTS. Under certain circumstances, such as in the event of a natural disaster, the Department may alter the reporting schedule and require all Developments to provide current occupancy data through CMTS.

(h) All rental Developments funded or administered by the Department will be required to submit an accurate Unit Status Report prior to a monitoring review and/or a physical inspection.

(i) Housing Tax Credit and Tax Credit Exchange Developments must submit IRS Form(s) 8609 with Part II complete through CMTS by the second monitoring review. If an owner elects to group buildings together into one or more multiple building projects, the owner must attach a statement identifying the buildings within the project.

(j) Within six (6) months but at least 90 days prior to the end of the Affordability Period and/or the end of the Land Use Restriction Term, the Owner must provide written notice to the current tenants and applicants. If the Development Owner has been approved for new funding, through the Department, and/or awarded new credits such notice is not required. The Notice must contain the following: proposed new rents, any rehabilitation plans and information on how to access the Departments Vacancy Clearinghouse to locate other affordable housing options.

(k) For Developments subject to the 2025 HOME Final Rule, within five (5) Department business days of a change to the Development Owner or management company, the new Owner or management company shall issue a written notice to all households of such a change and contemporaneously update this information via the CMTS Attachment system.

§10.611. Determination, Documentation and Certification of Annual Income.

(a) For all rental programs administered by the Department, annual income shall be determined by the Development Owner consistent with the Section 8 Program administered by HUD, using the definitions of annual income described in 24 CFR §5.609 as further described in the HUD Handbook 4350.3, as amended from time to time. For the Housing Tax Credit program, where there is a conflict between the HUD Handbook 4350.3 and the IRS Guide for Completing IRS Form 8823, the IRS guidance will be controlling. For the BOND program, documentation of income and assets shall be determined in accordance with the HUD Handbook 4350.3 or the IRS guidance for the §42 Housing Tax Credit program (if applicable). At the time of program designation as a low income household, Owners must certify and document household income. In general, all low income households must be certified prior to move in. Certification and documentation of household income is an Owner's responsibility, even if the Owner is using the services of a manager or management company to handle tenant intake and leasing. Accordingly, Owners should ensure that they hire competent and properly trained managers or management companies and that they exercise appropriate oversight of any managers or management companies.

(b) For every certification, requiring verification of income and assets, of a household residing in a HOME, NHTF, NSP, TCAP RF, or HOME-ARP assisted Unit, Owners must examine at least two months (60 days) of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation). Qualified populations in HOME-ARP Units may not need to meet an income requirement upon move-in, but will have their income verified to determine rental portion of payment.

(c) Department administered programs are permitted to utilize the Section 8 Verification of income process, available on the Department website, for the verification of household income at initial or subsequent annual certifications for households currently utilizing a tenant based Housing Choice Voucher or project-based Housing Choice Voucher issued under 24 CFR Part 983. This permission is removed if any entity that is in the Control of the operation of the Development or is in any way associated with the certifying Housing Authority. No other means tested verifications are allowable.

(d) A household's lowest designation, as recorded on the Income Certification, at the time of move in, cannot be increased unless the household was found to never have income qualified for the Unit, no longer income qualifies for the Unit, or program rules required the change. In addition, a household's low income status cannot be removed because of an increase in income at recertification unless the increase causes the Unit to go over income as defined in §10.615 of this subchapter (relating to Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments), IRC §42(g), or the HOME Final Rule.

(e) For all programs, for every certification that requires verification of income and assets, those verifications must be dated within 120 days of the certification effective date. The only exceptions are lifetime benefits (e.g. pension, annuities, Social Security).

§10.613. Lease Requirements.

(a) Eviction and/or termination of a lease. HTC, TCAP, and Exchange Developments must specifically state in the lease or in an addendum attached to the lease that evictions or terminations of tenancy for other than good cause are prohibited. To terminate tenancy, the Owner must serve written notice to the tenant specifying the grounds for the action. For nonpayment of rent, HTC, TCAP, Exchange, and NHTF Developments require a thirty (30) day written notice. If the CARES Act is modified to eliminate the 30-day notice requirement, HUD or Treasury requirements will supersede this 30-day notice requirement for nonpayment of rent.

(b) HOME, ERA, TCAP RF, NHTF, NSP, and HOME-ARP Developments are prohibited from evicting low income residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, for completion of the tenancy period for Transitional Housing (if applicable), for households that were found to never have income qualified for the highest income designation under the program or for other good cause. It must be specifically stated in the lease or in an addendum attached to the lease that evictions or non-renewal of leases for other than good cause are prohibited (24 CFR §92.253 and 24 CFR §93.303). Owners must also comply with all other lease requirements and prohibitions stated in 24 CFR §92.253 or 24 CFR §93.303, as applicable. To terminate or refuse to renew tenancy in HOME, TCAP RF, NSP, and HOME-ARP Developments, the Owner must serve written notice to the tenant specifying the grounds for the action at least 30 days before the termination of tenancy. For HOME-ARP, Owners may not terminate the tenancy or refuse to renew the lease of the Qualifying Household in any Unit that is supported by capitalized operating costs because of the household's inability to pay rent of more than 30 percent of the qualifying household's income toward rent during the longer of the federal affordability period or the time period identified in the Contract.

(c) In accordance with the Violence Against Women Act, an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking against the documented victim of such actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of a lease or good cause for termination of tenancy of the victim(s). Additionally, it shall not be construed as a serious or repeated violation of a lease or action eligible for termination of tenancy if a person has opposed any act or practice made unlawful by the Violence Against Women Act 2022, or because that person testified, assisted, or participated in any matter covered by the Violence Against Women Act 2022.

(d) A Development must use a lease or lease addendum that requires households to report changes in student status; this does not apply for NHTF Units when NHTF Units are fixed and not layered with HTC or another program with a student rule, or when NHTF Units are floating but under the LURA cannot be layered with HTC or another program with a student rule.

(e) Owners of HTC, TCAP, Exchange Developments and Developments subject to the 2025 HOME Final Rule are prohibited from locking out or threatening to lock out any Development resident, except by judicial process, unless the exclusion is necessary for the purpose of performing repairs or construction work, or in cases of emergency. Owners are further prohibited from seizing or threatening to seize the personal property of a resident except by judicial process unless the resident has abandoned the premises. These prohibitions must be included in the lease or lease addendum.

(f) For HOME, TCAP, TCAP RF, NHTF, 811 PRA, NSP, ERA and HOME-ARP Developments, properties that were initially built for occupancy prior to 1978 must include in their lease or lease addendum a Lead Warning Statement. To demonstrate compliance, the Department

will monitor that all households at HOME, TCAP, TCAP RF, NHTF, NSP, ERA, and HOME-ARP Developments have signed the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards. (24 CFR §92.355, 24 CFR §93.361 and §570.487(c), and Section 1018 of Title X, as applicable). The addendum and disclosure are not required if all lead has been certified to have been cleared from the Development in accordance with 24 CFR §35.130, and the Owner has the required certification in its on-site records.

(g) An Owner may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the Unit or other affiliated individual as defined in the VAWA 2022 and as further described in 24 CFR §5.2003 or subsequent federal regulation, and also for HOME ARP QP households persons described under 22 U.S.C. 7102.

(h) All NHTF, TCAP RF, NSP, HOME, ERA, and HOME-ARP Developments for which the Contract is executed on or after December 16, 2016, must use the Department created VAWA lease addendum which provides the ability for the tenant to terminate the lease without penalty if the Department determines that the tenant qualifies for an emergency transfer under 24 CFR §5.2005(e). 811 PRA Units are prohibited from using the expired 2005 VAWA lease addendum. After OMB approval of a VAWA lease addendum, all 811 PRA households must have a valid and executed VAWA lease addendum. For the 811 PRA program certain addenda for the HUD model lease may be required such as Lead Based Paint Disclosure form, house rules, and pet rules. No other attachments to the lease are permissible without approval from the Department's 811 PRA staff.

(i) Leasing of HOME, TCAP RF, or NHTF Units to an organization that, in turn, rents those Units to individuals is not permissible for Developments with Contracts dated on or after August 23, 2013. Leases must be between the Development and an eligible household. NSP and HOME-ARP Developments may only utilize Master Leases, if specifically allowed in the Development's LURA.

(j) Housing Tax Credit, TCAP, and Exchange Units leased to an organization through a supportive housing program where the owner receives a rental payment for the Unit regardless of physical occupancy will be found out of compliance if the Unit remains vacant for over 60 days. The Unit will be found out of compliance under the Event of Noncompliance "Violation of the Unit Vacancy Rule."

(k) It is a Development Owner's responsibility at all times to know what it has agreed to provide by way of common amenities, Unit amenities, and services.

(l) A Development Owner shall post in a common area of the leasing office a copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

(1) Information about Fair Housing and tenant choice;

(2) Information regarding common amenities, Unit amenities, and services;

(3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure;

(4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received; and

(5) A Development Owner must state in the Tenant Rights and Resources Guide if part or all of the Development Site is located in the 100 year floodplain. Developments where all or part of the Development Site is located in a 100 year floodplain where the latest award from the Department is after 2019, under a Project-Based Voucher HAP Contract or 811 PRA Use Agreement with the Department, within any federal affordability period (including a HOME Match affordability period), that have a loan with the Department with an outstanding loan balance, or that has flood insurance as a contractual requirement or requirement in its LURA must maintain flood insurance, and provide evidence to the Department upon request.

(m) For Section 811 PRA Units, Owners must use the HUD Model lease, HUD form 92236-PRA.

(n) Except as identified in federal or state statute or regulation for Direct Loans, or as otherwise identified in this Chapter, the Department does not determine if an Owner has good cause or if a resident has violated the lease terms. Challenges to evictions or terminations of tenancy must be determined by a court of competent jurisdiction or an agreement of the parties (including an agreement made in arbitration), and the Department will rely on that determination.

(o) A Development subject to the 2025 HOME Final Rule must comply with all provisions outlined within this section and the following:

(1) Surety bonds, security deposit insurance, and instruments similar to surety bonds or security deposit insurance may not be used in lieu of or in addition to a security deposit for any Unit in a Development with floating Units or for fixed Units in the Designated Units. All security deposits must be fully refundable and may not be greater than two months' rent.

(2) A Designated Unit must use the HOME tenancy addendum published by HUD. If HUD does not publish a tenancy addendum, then the Department's version must be used.

(3) Leases for Designated Units:

(A) A copy of the lease template must be submitted to the Department prior to being implemented or upon any revision;

(B) The lease must provide more than one method to communicate directly with the Owner and the property management, including in person, by telephone, email, or through a web portal;

(C) For a Development with one or more floating Units, if the Development is not using the same lease template for all Units in the Development, the lease must provide the provisions that will go into effect upon the Unit becoming a Designated Unit; and

(D) The lease must provide the following Department contact information: mail: TDHCA P.O. Box 13941 Austin, Texas 78711 phone: (512) 475-3800 email:info@tdhca.texas.gov.

(4) All Notices to Vacate must be submitted to the Department no later than 14 days after the notice is issued (in the case of a 30-day notice). In cases where a shorter Notice to Vacate is issued due to imminent threats to other tenants, employees, or property, a copy of the notice must be provided to the Department upon issuance.

(p) For all Developments that have or had direct loan funds from the Department, surety bonds, security deposit insurance, and instruments similar to surety bonds or security deposit insurance may not be used in lieu of or in addition to a security deposit for any Unit in a Development with floating Units or for fixed Units in the Designated Units.

§10.614. Utility Allowances.

(a) Purpose. The purpose of this section is to provide the guidelines for calculating a Utility Allowance under the Department's multifamily programs. The Department will cite noncompliance and/or not approve a Utility Allowance if it is not calculated in accordance with this section. An Owner is required to comply with the provisions of this section as well as any existing federal or state program guidance.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. Other capitalized terms used in this section herein have the meanings assigned in Chapters 1, 2, 10, 11, 12, and 13 of this title.

(1) Building Type. The HUD Office of Public and Indian Housing (PIH) characterizes building and unit configurations for HUD programs. The Department will defer to the guidance provided by HUD found at: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11608.pdf (or successor Uniform Resource Locator (URL)) when making determinations regarding the appropriate building type(s) at a Development.

(2) Power to Choose. The Public Utility Commission of Texas database of retail electric providers in the areas of the state where the sale of electricity is open to retail competition: http://www.powertochoose.org/ (or successor URL). In areas of the state where electric service is deregulated, the Department will verify the availability of residential service through Power to Choose. If the Utility Provider is not listed as a provider of residential service in the Development's ZIP code for an area that is deregulated, the request will not be approved. It is the Owner's responsibility to ensure that a Development in a deregulated area, but within the boundaries of a regulated municipality, is using the appropriate provider.

(3) Component Charges. The actual cost associated with the billing of a residential utility. Each Utility Provider may publish specific utility service information in varying formats depending on the service area. Such costs include, but are not limited to:

(A) Rate(s). Any cost incurred for the actual unit of measure for the utility (e.g., base cost per kilowatt hour for electricity, TDU delivery charges, rate per gallon of water, etc.);

(B) Fees. The cost associated with a residential utility that is incurred regardless of the amount of the utility the household consumes (e.g., Customer Charge);

(C) Taxes. Taxes for electricity and gas are regulated by the Texas Comptroller of Public Accounts and can be found http://comptroller.texas.gov/ (or successor URL). Local Utility Providers have control of the tax structure related to water, sewer and trash. To identify if taxes are imposed for these utilities, obtain documentation directly from the Utility Provider.

(4) Multifamily Direct Loan (MFDL). Funds provided through the HOME, NSP, NHTF, TCAP RF, HOME-ARP, ERA, or other program available through the Department, local political subdivision, or administrating agency for multifamily development that require a Utility Allowance. MFDLs may also include deferred forgivable loans or other similar direct funding, regardless if it is required to be repaid. Housing Tax Credits, Tax Exempt Bonds, CDBG, and Project Based Vouchers are not MFDLs.

(5) Renewable Source. Energy produced from energy property described in IRC §48 or IRC §45(d)(1) through (4), (6), (9), or (11). The manner in which a resident is billed is limited to the rate at which the local Utility Provider would have charged the residents for the utility if that entity had provided it to them, and as may be further limited by the Texas Utilities Code or by regulation.

(6) Submetered Utility. A utility purchased from or through a local Utility Provider by the building Owner where the resident is billed directly by Owner of the building or to a third party billing company and the utility is:

(A) Based on the residents' actual consumption of that utility and not an allocation method or Ratio Utility Billing System (RUBS);

(B) The rate at which the utility is billed does not exceed the rate incurred by the building Owner for that utility; and

(C) Tenants receiving a tenant-based Housing Choice Voucher or residing in a Housing Tax Credit Development may not be charged a service fee for submetered utilities. For MFDL Developments where tenants are being charged a service fee for submetered utilities, the fee must either be included in the Utility Allowance or be included in the gross rent calculation as a mandatory fee.

(7) Utility Allowance. An estimate of the expected monthly cost of any utility for which a resident is financially responsible, other than telephone, cable television, or internet. A utility allowance is considered implemented once the Unit Status Report is updated and rents are restricted.

(A) For HTC, TCAP, Exchange buildings, Bonds, and THTF include:

(i) Utilities paid by the household directly to the Utility Provider;

(ii) Submetered Utilities; and

(iii) Renewable Source Utilities.

(B) For a Development with an MFDL, unless otherwise prescribed in the program's Regulatory Agreement, include all utilities regardless of how they are paid.

(8) Utility Provider. The company that provides residential utility service (e.g., electric, gas, water, wastewater, and/or trash) to the buildings. If the Utility Provider offers more than one rate plan, the plan selected must be available to all households in the building.

(c) Methods. The following options are available to establish a Utility Allowance for all programs except most Developments funded with MFDL funds, which are addressed in subsection (d) of this section. A Development with HOME-ARP Units or Units subject to the 2025 HOME Final Rule, and that does not have Units subject to the 2013 HOME Rule, may use methods in this subsection or subsection (d) of this section, but cannot combine two methods in one building.

(1) Rural Housing Services (RHS) buildings or buildings with RHS assisted residents. The applicable Utility Allowance for the Development will be determined under the method prescribed by the RHS (or successor agency). No other utility method described in this section can be used by RHS buildings or buildings with RHS assisted residents.

(2) HUD-Regulated buildings layered with any Department program. If neither the building nor any resident in the building receives RHS rental assistance payments, and the rents and the Utility Allowances of the building are regulated by HUD (HUD-regulated building), the applicable Utility Allowance for all rent restricted Units in the building is the applicable HUD Utility Allowance. No other utility method described in this section can be used by HUD-regulated buildings. Unless further guidance is received from the U.S. Department of Treasury or the Internal Revenue Service (IRS), the Department considers Developments awarded an MFDL (e.g., HOME) to be HUD-Regulated buildings.

(3) Other Buildings. For all other rent-restricted Units, Development Owners must use one of the methods described in subparagraphs (A) - (E) of this paragraph:

(A) Public Housing Authority (PHA). The Utility Allowance established by the applicable PHA for the Housing Choice Voucher Program. The Department will utilize the Texas Local Government Code, Chapter 392 to determine which PHA is the most applicable to the Development.

(i) If the PHA publishes different schedules based on Building Type, the Owner is responsible for implementing the correct schedule based on the Development's Building Type(s). Example 614(1): The applicable PHA publishes a separate Utility Allowance schedule for Apartments (5+ units), one for Duplex/Townhomes and another for Single Family Homes. The Development consists of 20 buildings, 10 of which are Apartments (5+ units) and the other 10 buildings are Duplexes. The Owner must use the correct schedule for each Building Type.

(ii) In the event the PHA publishes a Utility Allowance schedule specifically for energy efficient units, and the Owner desires to use such a schedule, the Owner must demonstrate that the building(s) meet the housing authority's specifications for energy efficiency once every five years.

(iii) If the applicable PHA allowance lists flat fees for any utility, those flat fees must be included in the calculation of the Utility Allowance if the resident is responsible for that utility.

(iv) If the individual components of a Utility Allowance are not in whole number format, the correct way to calculate the total allowance is to add each amount and then round the total up to the next whole dollar. Example 614(2): Electric cooking is $8.63, Electric Heating is $5.27, Other Electric is $24.39, Water and Sewer is $15. The Utility Allowance in this example is $54.00. If the PHA schedule reflects a rounded amount, then the PHA method of rounding should be used.

(v) If an Owner chooses to implement a methodology as described in subparagraph (B), (C), (D), or (E) of this paragraph, for Units occupied by Section 8 voucher holders, the Utility Allowance remains the applicable PHA Utility Allowance established by the PHA from which the household's voucher is received.

(vi) If the Development is located in an area that does not have a municipal, county, or regional housing authority that publishes a Utility Allowance schedule for the Housing Choice Voucher Program, Owners must select an alternative methodology, unless the building(s) is located in the published Housing Choice Voucher service area of:

(I) A Council of Government created under Texas Local Government Code, Chapter 303, that operates a Housing Choice Voucher Program;

(II) The Department's Housing Choice Voucher Program; or

(III) Another PHA which publishes a separate utility allowance schedule specific to the Development's location.

(B) Written Local Estimate. The estimate must come from the local Utility Provider, be signed by the Utility Provider representative, and specifically include all Component Charges for providing the utility service.

(C) HUD Utility Schedule Model. The HUD Utility Schedule Model and related resources can be found at http://www.huduser.gov/portal/resources/utilallowance.html (or successor URL). Each item on the schedule must be displayed out two decimal places. The total allowance must be rounded up to the next whole dollar amount. The Component Charges used can be no older than those in effect 60 days prior to the beginning of the 90 day period described in subsection (f)(3) of this section related to Effective Dates.

(i) The allowance must be calculated using the MS Excel version available at http://www.huduser.org/portal/resources/utilmodel.html (or successor URL), as updated from time to time, with no changes or adjustments made other than entry of the required information needed to complete the model.

(ii) In the event that the zip code for the Development is not listed in "Location" tab of the workbook, the Department will default to the PHA code from the PHA that is closest in distance to the Development using online mapping tolls (e.g. Google Maps). If neither the zip code nor the PHA code is listed, a zip code that borders the Development's zip code will be used The Department will obtain the PHA codes from https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_TX.pdf (or successor Uniform Resource Locator (URL)).

(iii) Green Discount. If the Owner elects any of the Green Discount options for a Development, documentation to evidence that the units and the buildings meet the Green Discount standard as prescribed in the model is required for the initial approval and every subsequent annual review. Energy Star certifications will require the certificates for each Unit at the time of the initial Utility Allowance review and a letter from a properly licensed engineer annually thereafter. The engineer letter will be accepted for a period of five (5) years and must be updated thereafter.

(I) In the event the allowance is being calculated for an application of Department funding (e.g., 9% Housing Tax Credits), upon request, the Department will provide both the Green Discount and the non-Green Discount results for application purposes.

(II) At lease up, the owner may use the utility allowance taking into consideration the green discount if they obtain written documentation from a qualified professional (e.g., a qualified energy efficiency consultant) indicating that the Units and buildings will meet the qualifications for the Green Discount within six months of the placed in service date or for MFDL within six months of the construction completion date.

(iv) Do not take into consideration any costs (e.g., penalty) or credits that a consumer would incur because of their actual usage. Example 614(3): The Electric Fact Label for ABC Electric Utility Provider provides a Credit Line of $40 per billing cycle that is applied to the bill when the usage is greater than 999 kWh and less than 2000 kWh. Example 614(4): A monthly minimum usage fee of $9.95 is applied when the usage is less than 1000 kWh in the billing cycle. When calculating the allowance, disregard these types of costs or credits.

(D) Energy Consumption Model. The model must be calculated by a properly licensed mechanical engineer. The license of the engineer must be submitted along with the model. The individual must not be related to the Owner within the meaning of §267(b) or §707(b) of the Code. The utility consumption estimate must, at minimum, take into consideration specific factors that include, but are not limited to, Unit size, building type and orientation, design and materials, mechanical systems, appliances, characteristics of building location, and available historical data. Component Charges used must be no older than those in effect 60 days prior to the beginning of the 90 day period described in subsection (f)(3) of this section related to Effective Dates; and

(E) An allowance based upon an average of the actual use of similarly constructed and sized Units in the building using actual utility usage data and Component Charges, provided that the Development Owner has the written permission of the Department. This methodology is referred to as the "Actual Use Method." For a Development Owner to use the Actual Use Method they must:

(i) Provide a minimum sample size of usage data for at least five Continuously Occupied Units of each Unit Type or 20% of each Unit Type, whichever is greater. If there are less than five Units of any Unit Type, data for 100% of the Unit Type must be provided; and

(ii) Upload the information in subclauses (I) - (IV) of this clause to the Development's CMTS account no later than the beginning of the 90 day period after which the Owner intends to implement the allowance, reflecting data no older than 60 days prior to the 90 day implementation period described in described in subsection (f)(3) of this section related to Effective Dates.

(I) An Excel spreadsheet listing each Unit for which data was obtained to meet the minimum sample size requirement of a Unit Type, the number of bedrooms, bathrooms and square footage for each Unit, the household's move-in date, the utility usage (e.g., actual kilowatt usage for electricity) for each month of the 12 month period for each Unit for which data was obtained, and the Component Charges in place at the time of the submission;

(II) All documentation obtained from the Utility Provider (or billing entity for the utility provider) and/or copies of actual utility bills gathered from the residents, including all usage data not needed to meet the minimum sample size requirement and any written correspondence from the utility provider;

(III) The rent roll showing occupancy as of the end of the month for the month in which the data was requested from the utility provider; and

(IV) Documentation of the current Utility Allowance used by the Development.

(iii) Upon receipt of the required information, the Department will determine if the Development Owner has provided the minimum information necessary to calculate an allowance using the Actual Use Method. If so, the Department shall calculate the Utility Allowance for each bedroom size using the guidelines described in subclauses (I) - (V) of this clause;

(I) If data is obtained for more than the sample requirement for the Unit Type, all data will be used to calculate the allowance;

(II) If more than 12 months of data is provided for any Unit, only the data for the most current 12 will be averaged;

(III) The allowance will be calculated by multiplying the average units of measure for the applicable utility (i.e., kilowatts over the last 12 months by the current rate) for all Unit Types within that bedroom size. For example, if sufficient data is supplied for 18 two bedroom/one bath Units, and 12 two bedroom/two bath Units, the data for all 30 Units will be averaged to calculate the allowance for all two bedroom Units;

(IV) The allowance will be rounded up to the next whole dollar amount. If allowances are calculated for different utilities, each utility's allowance will be rounded up to the next whole dollar amount and then added together for the total allowance; and

(V) If the data submitted indicates zero usage for any month, the data for that Unit will not be used to calculate the Utility Allowance.

(iv) The Department will complete its evaluation and calculation within 45 days of receipt of all the information requested in clause (ii) of this subparagraph;

(d) In accordance with 24 CFR §§92.252 and 93.302, for an MFDL in which the Department is the funding source, the Utility Allowance will be established in the following manner:

(1) For Developments with fixed MFDL Units, only one utility allowance may be used in buildings with MFDL units. For Developments with floating MFDL Units, only one utility allowance may be used for the entire Development.

(2) For Developments that, as a result of funding, must calculate the Utility Allowance under HUD Multifamily Notice H-2015-4, as revised from time to time, the applicable Utility Allowance for all rent restricted Units in the building is the applicable Utility Allowance calculated under that Notice. No other utility method described in this section can be used.

(3) Other Buildings. The Utility Allowance may be initiated by the Owner using the methodologies described in subsection (c)(3)(B), (C), (D), or (E) of this section related to Methods. Buildings for which the only source of MFDL funding is HOME-ARP and which contain no Units subject to the 2013 HOME Rule may calculate the Utility Allowance using the methodology described in subsection (c)(3)(A) of this section. A Development that is subject to the 2025 HOME Final Rule may also use the methodology described in subsection (c)(3)(A) of this section, if the Development does not also contain Units subject to the 2013 HOME rule. The methodology must be annually reviewed and approved by the Department.

(4) If a request is not received by October 1st, the Department will calculate the Utility Allowance using the HUD Utility Schedule Model. For property specific data, the Department will use:

(A) The information submitted in the Annual Owner's Compliance Report;

(B) Monitor Review Questionnaires submitted with prior monitoring reviews; or

(C) The owner may be contacted and required to complete the Utility Allowance Questionnaire. In such case, a five day period will be provided to return the completed questionnaire.

(D) Utilities will be evaluated in the following manner:

(i) For regulated utilities, the Department will contact the Utility Provider directly and apply the Component Charges in effect no later than 60 days before the allowance will be effective.

(ii) For deregulated utilities:

(I) The Department will use the Power to Choose website and search available Utility Providers by ZIP code;

(II) The plan chosen will be the median cost per kWh based on average price per kWh for the average monthly use of 1000 kWh of all available plans; and

(III) The actual Component Charges from the plan chosen in effect no later than 60 days before the allowance will be effective will be entered into the Model.

(E) The Department will notify the Owner contact in CMTS of the new allowance and, if requested, provide the backup for how the allowance was calculated. The owner will be provided a five day period to review the Department's calculation and note any errors. Only errors related to the physical characteristics of the building(s) and utilities paid by the residents will be reconsidered; the utility plan and Utility Provider selected by the Department and Component Charges

used in calculating the allowance will not be changed. During this five day period, the owner also has the opportunity to submit documentation and request use of any of the available Green Discounts.

(F) The allowance must be implemented for rent due in all program Units thirty days after the Department notifies the Owner of the allowance.

(5) Buildings in which there are Units under an MFDL program are considered HUD-Regulated buildings and the applicable Utility Allowance for all rent restricted Units in the building is the Utility Allowance calculated under the MFDL program. If the Department is the awarding entity, no other utility method described in this section can be used. If the Department is not the awarding jurisdiction, Owners are required to obtain, annually, the Utility Allowance established by the awarding jurisdiction, and to document all efforts to obtain such allowance to evidence due diligence in the event that the jurisdiction is nonresponsive. In such an event, provided that sufficient evidence of due diligence is demonstrated, the Department, in its sole discretion, may allow for the use of the methods described in subsection (c)(3)(B), (C), (D) or (E) of this section related to Methods to calculate and establish its utility allowance.

(e) Acceptable Documentation. For the Methods where utility specific information is required to calculate the allowance (e.g., base charges, cost per unit of measure, taxes) Owners should obtain documentation directly from the Utility Provider and/or Regulating State Agency. Any Component Charges related to the utility that are published by the Utility Provider and/or Regulating State Agency must be included. In the case where a utility is billed to the Owner of the building(s) and the Owner is billing residents through a third party billing company, the Component Charges published by the Utility Provider and not the third party billing company will be used.

(f) Changes in the Utility Allowance. An Owner may not change Utility Allowance methods, start or stop charging residents for a utility without prior written approval from the Department. Example 614(5): A Housing Tax Credit Development has been paying for water and sewer since the beginning of the Compliance Period. In year eight, the Owner decides to require residents to pay for water and sewer. Prior written approval from the Department is required. Any such request must include the Utility Allowance Questionnaire found on the Department's website and supporting documentation. Developments may not start or stop charging residents for a utility during a lease term.

(1) The Department will review all requests, with the exception of the methodology prescribed in subsection (c)(3)(E) of this section related to Methods, within 90 days of the receipt of the request.

(2) If the Owner fails to post the notice to the residents and simultaneously submit the request to the Department by the beginning of the 90 day period, the Department's approval or denial will be delayed for up to 90 days after Department notification. Example 614(6): The Owner has chosen to calculate the electric portion of the Utility Allowance using the written local estimate. The annual letter is dated July 5, 2022, and the notice to the residents was posted in the leasing office on July 5, 2022. However, the Owner failed to submit the request to the Department for review until September 15, 2022. Although the Notice to the Residents was dated the date of the letter from the utility provider, the Department was not provided the full 90 days for review. As a result, the allowance cannot be implemented by the owner until approved by the Department.

(3) Effective dates. If the Owner uses the methodology as described in subsection (c)(3)(A) of this section related to Methods, no posting is required, and any changes to the allowance can be implemented immediately, but must be implemented for rent due at least 90 days after the change. For methodologies as described in subsection (c)(3)(B), (C), (D) and (E) of this section related to Methods, the allowance cannot be implemented until the estimate is submitted to the Department and is made available to the residents by posting in a common area of the leasing office at the Development. This action must be taken by the beginning of the 90 day period in which the Owner intends to implement the Utility Allowance. Nothing in this section prohibits an Owner from reducing a resident's rent prior to the end of the 90 day period when the proposed allowance would result in a gross rent issue. Figure: 10 TAC §10.614(f)(3) (No change.)

(g) Requirements for Annual Review.

(1) RHS and HUD-Regulated Buildings. Owners must demonstrate that the utility allowance has been reviewed annually and in accordance with the RHS or HUD regulations.

(2) Buildings using the PHA Allowance. Owners are responsible for periodically determining if the applicable PHA released an updated schedule to ensure timely implementation. When the allowance changes or a new allowance is made available by the PHA, it can be implemented immediately, but must be implemented for rent due 90 days after the PHA published effective date.

(3) Written Local Estimate, HUD Utility Model Schedule and Energy Consumption Model. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than October 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review. At the same time the request is submitted to the Department, the Owner must post, at the Development, the Utility Allowance estimate in a common area of the leasing office where such notice is unobstructed and visible in plain sight. The Department will review the request for compliance with all applicable requirements and reasonableness. If, in comparison to other approved Utility Allowances for properties of similar size, construction and population in the same geographic area, the allowance does not appear reasonable or appears understated, the Department may require additional support and/or deny the request. With the exception of MFDL developments, if an Owner fails to submit for annual review during the calendar year, the Development's Utility Allowance will default to the applicable PHA allowance. If the Development is located in an area that does not have a PHA, the Development fails to have a properly calculated Utility Allowance. The Utility Allowance for MFDL Developments that fail to submit for annual review will be calculated pursuant to subsection (d) of this section.

(4) Actual Use Method. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than August 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review. With the exception of MFDL developments, if an Owner fails to submit for annual review during the calendar year, the Development's Utility Allowance will default to the applicable PHA allowance. If the Development is located in an area that does not have a PHA, the Development fails to have a properly calculated Utility Allowance. The Utility Allowance for MFDL Developments that fail to submit for annual review will be calculated using the HUD Utility Model Schedule.

(h) For Owners participating in the Department's Section 811 Project Rental Assistance (PRA) Program, the Department's 811 division staff will approve the Utility Allowance for all 811 Units. On an annual basis, the Owner is responsible for submitting a Utility Allowance to the Department's 811 division for review. Once approved, the 811 division will provide the Owner with a property-specific rent

schedule containing the approved Utility Allowance. The allowance listed on the rent schedule only applies to 811 PRA Units, not the entire building, and is the only allowance approved for use on 811 PRA Units. Failure to obtain an updated rent schedule for changes in utility allowances and gross rents will result in noncompliance and will require the Department to monitor tenant rents using the current approved rent schedule.

(i) Combining Methods. In general, Owners may combine any methodology described in this section for each utility service type paid directly by the resident and not by or through the Owner of the building (e.g., electric, gas). For example, if residents are responsible for electricity and gas, an Owner may use the appropriate PHA allowance to determine the gas portion of the allowance and use the Actual Use Method to determine the electric portion of the allowance. RHS and certain HUD-Regulated buildings (e.g., buildings with MFDL funds) are not allowed to combine methodologies.

(j) The Owner shall maintain and make available for inspection by the resident all documentation, including, but not limited to, the data, underlying assumptions and methodology that was used to calculate the allowance. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling Unit of the resident at the convenience of both the Owner and resident.

(k) Utility Allowances for Applications.

(1) If the application includes RHS assisted buildings or tenants, the utility allowance is prescribed by the RHS program. No other method is allowed.

(2) If the application includes HUD-Regulated buildings for HUD programs other than an MFDL program the applicable Utility Allowance for all rent restricted Units in the building is the applicable HUD Utility Allowance. No other utility method is allowed.

(3) If the application includes MFDL funds from the Department, Applicants may calculate the utility allowance in accordance with subsection (c)(3)(B), (C), (D) or (E) of this section related to Methods. A Development with HOME-ARP Units that is subject to the 2025 HOME Final Rule may use subsection (c)(3)(A) of this section, if the Development does not also contain one or more Units subject to the 2013 HOME Final Rule. Applicants must submit their utility allowance to the Compliance Division prior to full application submission. In the event that the application has an MFDL from the Department, and receives federal funds from a unit of local government, the Department will require the use of the allowance approved by the Department.

(4) If the application includes federal funds from a unit of local government but no MFDL from the Department, Applicants are required to request in writing the Utility Allowance from the awarding jurisdiction. If the awarding jurisdiction does not respond or requests the Department calculate the allowance, the Department will establish the initial Utility Allowance in accordance with subsection (d)(3) of this section.

(5) For all other applications, Applicants may calculate the utility allowance in accordance with subsection (c)(3)(A), (B), (C), (D), or (E) of this section related to Methods. If using the method described in subsection (c)(3)(B), (C), (D), or (E) of this section, applicants must submit their utility allowance to the Compliance Division prior to full application submission.

(A) Upon request, the Compliance Division will calculate or review an allowance for application. The request must be submitted to the Compliance Division no later than 21 days, but no earlier than 90 days, from when the application is due.

(B) Example 614(7): An application for a 9% HTC is due March 1, 2022. The applicant would like Department approval to use an alternative method by February 15, 2022. The request must be submitted to the Compliance Division no later than January 25, 2022, three weeks before February 15, 2022.

(C) Example 614(8): An Applicant intends to submit an application for a 4% HTC with Tax Exempt Bonds on August 11, 2022, and would like to use an alternative method. Because approval is needed prior to application submission, the request can be submitted no earlier than May 13, 2022, (90 days prior to August 11, 2022) and no later than July 21, 2022, (21 days prior to August 11, 2022).

(D) Any requests for new resources (either additional funds or tax credits) on a Development with an existing Department LURA must use the method that is in effect on the existing Development. If the Owner wishes to change or if for an MFDL application is required to change the methods for the purposes of the application, a request for the existing Development must first be submitted to the Compliance Division for approval.

(6) All Utility Allowance requests related to applications of funding must:

(A) Be submitted directly to UA-Application@tdhca.texas.gov. Requests not submitted to this email address will not be recognized.

(B) Include the "Utility Allowance Questionnaire for Applications" along with all required back up based on the method. If back-up is not submitted the Utility Allowance will be calculated using the HUD Utility Schedule Model as described in subsection (d)(3) of this section.

(l) If Owners want to change to a utility allowance other than what was used for underwriting the Owner must submit Utility Allowance documentation for Department approval, at minimum, 90 days prior to the commencement of leasing activities. The Owner is not required to review the utility allowances, or implement new utility allowances, until the building has achieved 90% occupancy for a period of 90 consecutive days or the end of the first year of the Credit Period (if applicable), whichever is earlier. Once a request to change the utility allowance is approved or implemented, the utility allowance used at underwriting is no longer valid.

(m) Department review and approval of Renewable Sources (e.g. solar):

(1) Methods outlined in subsection (c)(3)(A), (B), (C), (D) and (E) of this section are allowable if the Utility Provider or PHA publishes a rate plan or schedule specific to Renewable Sources. The method outlined in subsection (c)(3)(E) of this section is allowable only after occupancy is established as outlined in subsection (c)(3)(E) of this section;

(2) Only buildings benefitting from Renewable Sources can use a Renewable Source utility allowance;

(3) Tenants (not Owners) must benefit from the Renewable Source in a manner that is not a discount or credit. To evidence the benefit, 20% of current tenant bills must be submitted with the request; and

(4) An Owner must submit both the Renewable Source allowance and the non-Renewable Source allowance for approval regardless of methodology or current occupancy. If the Renewable Source is damaged or inoperable for more than 30 days, the non-Renewable Source allowance must be implemented. At the time of the first review or the first annual utility allowance review, whichever is first, the Owner must be able to demonstrate with tenant bills that the tenants are

benefitting from the Renewable Source; otherwise the non-Renewable allowance must be used.

(n) The Department reserves the right to outsource to a third party the review and approval of all or any Utility Allowance requests to use the Energy Consumption Model or when review requires the use of expertise outside the resources of the Department. In accordance with Treasury Regulation §1.42-10(c) any costs associated with the review and approval shall be paid by the Owner.

(o) All requests described in this subsection must be complete and uploaded directly to the Development's CMTS account using the "Utility Allowance Documents" in the type field and "Utility Allowance" as the TDHCA Contact. The Department will not be able to approve requests that are incomplete and/or are not submitted correctly.

§10.621. Property Condition Standards.

(a) All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the Affordability Period. The Department will use HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) to determine compliance with property condition standards. In addition, Developments must comply with all local health, safety, and building codes. Timelines for correcting deficiencies under the NSPIRE standards are as follows:

(1) Life-Threatening and Severe deficiencies must be corrected within 24 hours.

(2) Moderate deficiencies must be corrected within 30 days.

(3) Low deficiencies must be corrected within 60 days.

(b) HTC Development Owners are required by Treasury Regulation §1.42-5 to report (through the Annual Owner's Compliance Report) any local health, safety, or building code violations. HTC Developments that fail to comply with local codes shall be reported to the IRS.

(c) The Department is required to report any HTC Development that fails to comply with any requirements of the NSPIRE or local codes at any time during the compliance period to the IRS on IRS Form 8823. Accordingly, the Department will submit IRS Form 8823 for any NSPIRE violation.

(d) Acceptable evidence of correction of deficiencies is a certification from an appropriate licensed professional that the item now complies with the inspection standard or other documentation that will allow the Department to reasonably determine when the repair was made and whether the repair sufficiently corrected the violation(s) of NSPIRE standards. Acceptable documentation includes: copies of work orders (listing the deficiency, action taken or repairs made to correct the deficiency, date of corrective action, and signature of the person responsible for the correction), invoices (from vendors, etc.), or other proof of correction. Photographs are not required but may be submitted if labeled and only in support of a work order or invoice. The Department will determine if submitted materials satisfactorily document correction of noncompliance.

(e) Selection of Units for Inspection.

(1) Vacant Units will not be inspected (alternate Units will be selected) if a Unit has been vacant for fewer than 30 days.

(2) Units vacant for more than 30 days are assumed to be ready for occupancy and may be inspected. No deficiencies will be cited for inspectable items that require utility service, if utilities are turned off and the inspectable item is present and appears to be in working order.

(f) The Department will consider a request for review of a NSPIRE score using a process similar to the process established by the U. S. Department of Housing and Urban Development Real Estate Assessment Center. The request must be submitted in writing within 45 calendar days of receiving the initial NSPIRE inspection report and score. The request must be accompanied by evidence that supports the claim, which if corrected will result in a significant improvement in the overall score of the property. Upon receipt of this request from the Owner the Department will review the inspection and evidence. If the Department's review determines that an objectively verifiable and material error (or errors) or adverse condition(s) beyond the Owner's control has been documented and that it is likely to result in a significant improvement in the Development's overall score, the Department will take one or a combination of the following actions:

(1) Undertake a new inspection;

(2) Correct the original inspection; or

(3) Issue a new physical condition score.

(g) The responsibility rests with the Owner to demonstrate that an objectively verifiable and material error (or errors) or adverse conditions occurred in Department's inspection through submission of materials, which if corrected will result in a significant improvement in the Development's overall score. To support its request for a technical review of the physical inspection results, the Owner may submit photographic evidence, written material from an objective source with subject matter expertise that pertains to the item being reviewed such as a local fire marshal, building code official, registered architect, or professional engineer, or other similar third party-documentation.

(h) Examples of items that can be adjusted include, but are not limited to:

(1) Building Data Errors--The inspection includes the wrong building or a building that is not owned by the Development.

(2) Unit Count Errors--The total number of units considered in scoring is incorrect as reported at the time of the inspection.

(3) Non-Existent Deficiency Errors--The inspection cites a deficiency that did not exist at the time of the inspection.

(4) Local Conditions and Exceptions--Circumstances include inconsistencies between local code requirements and the NSPIRE inspection protocol, such as conditions permitted by local variance or license (e.g., child guards allowed on sleeping room windows by local building codes) or preexisting physical features that do not conform to or are inconsistent with the Department's physical condition protocol.

(5) Ownership Issues--Items that were captured and scored during the inspection that are not owned and not the responsibility of the Development. Examples include sidewalks, roads, fences, retaining walls, and mailboxes owned and maintained by adjoining properties or the city/county/state and resident-owned appliances that are not maintained by the Owner. However, if the Owner has an agreement with the city/county/state for the responsibility of maintenance on accessible routes including sidewalks, then the Owner will be responsible for any repairs.

(6) Modernization Work In Progress--Developments undergoing extensive modernization work in progress, underway at the time of the physical inspection, may qualify for an adjustment. All elements of the Unit that are not undergoing modernization at the time of the inspection (even if modernization is planned) will be subject

to the Department's physical inspection protocol without adjustment. Any request for a technical review process for modernization work in progress must include proof the work was contracted before any notice of inspection was issued by the Department.

(i) Examples of items that cannot be adjusted include, but are not limited to:

(1) Deficiencies that were repaired or corrected during or after the inspection; or

(2) Deficiencies recorded with no associated point loss (for example, inoperable smoke detectors) or deficiencies for survey purposes only (for example, fair housing accessibility).

(j) All Life-Threatening and Severe deficiencies must be corrected within 24 hours. Project Owner's Certification That All Life Threatening and Severe Deficiencies Have Been Corrected must be completed and uploaded to CMTS within 72 hours (three Department business days).

(k) An Owner must report to the Department any non-operable elevators within 72 hours (three Department business days) using the Department's form, which is posted on the website.

§10.622. Special Rules Regarding Rents and Rent Limit Violations.

(a) Rent or Utility Allowance Violations of the maximum allowable limit for the HTC, TCAP, and Exchange programs. Under the HTC, TCAP, and Exchange programs, the amount of rent paid by the household plus an allowance for utilities, plus any mandatory fees, cannot exceed the maximum applicable limit (as determined by the minimum set-aside elected by the Owner) published by the Department. If it is determined that an HTC Development, during the Compliance Period, collected rent in excess of the rent limit established by the minimum set-aside, the Owner must correct the violation by reducing the rent charged. The Department will report the violation as corrected on January 1st of the year following the violation. The refunding of overcharged rent does not avoid the disallowance of the credit by the IRS.

(b) Rent or Utility Allowance Violations of additional rent restrictions under the HTC, TCAP, and Exchange programs. If Owners agreed to additional rent and occupancy restrictions, the Department will monitor to confirm compliance. If noncompliance is discovered, the Department will require the Owner to refund or credit the affected residents the amount of rent that was overcharged. The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household's account. In the absence of a household's election, a full refund check must be presented to the household within thirty days.

(c) Rent Violations of the maximum allowable limit due to application fees. Under the HTC, TCAP, and Exchange programs, Owners may not charge tenants any overhead costs as part of the application fee. Owners must only charge the actual cost for application fees as supported by invoices from the screening company the Owner uses.

(1) The amount of time Development staff spends checking an applicant's income, credit history, and landlord references may be included in the Development's application fee. Development Owners may add up to $5.50 per Unit for their other out-of-pocket costs for processing an application without providing documentation. The $5.50 will be adjusted annually based on the Cost of Living increased published by the Social Security Administration. Example 622(1): A Development's out-of-pocket cost for processing an application is $17.00 per adult. The property may charge $22.50 for the first adult and $17.00 for each additional adult.

(2) Documentation of Development costs for application processing or screening fees must be made available during monitoring reviews or upon request. The Department will review application fee documentation during monitoring reviews. If the Development pays a flat monthly fee to a third party for credit or criminal background checks, Owners must calculate the appropriate fee to be charged applicants by using the total number of applications processed, not just approved applications. Developments that pay a flat monthly fee must determine the appropriate application fee at least annually based on the prior year's activity. If the Department determines from a review of the documentation that the Owner has overcharged residents an application fee or collected impermissible deposits, the noncompliance will be reported to the IRS on Form 8823 under the category "gross rent(s) exceeds tax credit limits." The noncompliance will be corrected on January 1st of the next year.

(3) Owners are not required to refund the overcharged fee amount. To correct the issue, Owners must reduce the application fee for prospective applicants. Once the fee is reduced for prospective applicants, the Department will report the affected Units back in compliance on January 1st of the year after they were overcharged the application fee or an impermissible deposit.

(4) Throughout the Affordability Period, Owners may not charge a deposit or any type of fee (other than an application fee) for a household to be placed on a waiting list.

(d) Rent or Utility Allowance Violations on MFDL programs. The amount of rent paid by the household plus an allowance for utilities, plus any mandatory fees and any rental assistance (unless otherwise described in the LURA) cannot exceed the designated applicable limit published by the Department. If it is determined that the Development collected rent in excess of the allowable limit, the Department will require the Owner to refund or credit the affected residents the amount of rent that was overcharged. The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household's account. In the absence of a household's election, a full refund check must be presented to the household within thirty days.

(e) Rent or Utility Allowance Violations on HTC, TCAP, and Exchange Developments after the Compliance Period, HTC, TCAP, and Exchange Developments for three years after the LURA is released as a result of a foreclosure or deed in lieu of foreclosure (as applicable), BOND Developments, and THTF Developments. The amount of rent paid by the household plus an allowance for utilities, plus any mandatory fees cannot exceed the designated applicable limit published by the Department. If it is determined that the Development collected rent in excess of the allowable limit, the Department will require the Owner to refund or credit the affected residents the amount of rent that was overcharged. The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household account. In the absence of a tenant election, a full refund check must be presented to the household within thirty days.

(f) Trust Account to be established. If the Owner is required to refund rent under subsection (b), (d) or (e) of this section and cannot locate the resident, the excess monies must be deposited into a trust account for the household. If the violation effects multiple households, the Owner may set up a single account with all of the unclaimed funds. The account must remain open for the shorter of a four year period, until all funds are claimed, or the expiration of the Extended Use Agreement. If funds are not claimed after the required period, the unclaimed funds must be remitted to the Texas Comptroller of Public Accounts Unclaimed Property Holder Reporting Section to be disbursed as required by Texas unclaimed property statutes. All unclaimed property remissions to the Comptroller must be broken out by individuals and particular amounts.

(g) Rent Adjustments for HOME, TCAP RF, and HOME-ARP Units:

(1) 100% HOME/TCAP-RF/HOME-ARP assisted Developments and that contain no HTC Units. If a household's income exceeds 80% at recertification, the Owner must charge a gross rent equal to 30% of the household's adjusted income;

(2) HOME/TCAP-RF/HOME-ARP Units in Developments with any Market Rate Units and where the Unit is not layered with HTC. If a household's income exceeds 80% at recertification, the Owner must charge a gross rent equal to the least of 30% of the household's adjusted income, the comparable Market rent, or the rent being charged for the same Unit Type on a Market Rate Unit; and

(3) HOME/TCAP-RF/HOME-ARP Units layered with HTC Units. If a household's income exceeds 80% at recertification, the Owner must charge a gross rent equal to or less than the applicable HTC limit.

(h) Rent Adjustments for HOME-ARP Qualified Populations:

(1) Units restricted for occupancy by Qualifying Populations with incomes equal to or less than 50% will have gross rents equal to the lesser of 30% of the adjusted income of the household, or the Low HOME rent limit with adjustments for number of bedrooms in the unit.

(2) Units restricted for occupancy by Qualifying Populations with incomes greater than 50% of median income but at or below 80% of the median income must pay rent not greater than the rent specified in 24 CFR §92.252(a), high HOME rent.

(3) Units restricted for occupancy by Qualifying Populations with incomes greater than 80% of median income will follow the rent adjustments of subsection (g) of this section.

(i) Employee Occupied Units (HTC, TCAP, Exchange, and HTF Developments). IRS Revenue Rulings 92-61, 2004-82 and Chief Counsel Advice Memorandum POSTN-111812-14 provide guidance on employee occupied units. In general, employee occupied units are considered facilities reasonably required for the project(s) and not residential rental units. Since the building's applicable fraction is calculated using the residential rental units/space in a building, employee occupied units are taken out of both the numerator and the denominator.

(j) Owners of HOME, NSP, TCAP-RF, NHTF, and HOME-ARP must comply with §10.403 of this chapter (relating to Review of Annual HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents) which requires annual rent review and approval by the Department's Asset Management Division or Department-procured vendor. Failure to do so will result in an Event of Noncompliance.

(k) Owners are not permitted to increase the household portion of rent more than once during a 12 month period, even if there are increases in rent limits or decreases in utility allowances, unless the Unit or household is governed by a federal housing program that requires such changes or the household transfers to a Unit with additional Bedrooms. If it is determined that the Development increases rent more than once in a 12-month period, the Department will require the Owner to refund or credit the affected household. The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household account. In the absence of a tenant election, a full refund check must be presented to the household.

(l) If an Owner is increasing a household's rent $75 or more per month, the Owner is required to provide the household a 75-day written notice of such increase, unless the Unit or household is governed by a federal housing program that allows for such a change. If an Owner increases the household's rent $75 or more without providing a 75-day notice, any amounts in excess of $75 per month must be refunded or credited to the affected household(s). The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household account. In absence of a tenant election, a full refund check must be presented to the household.

(m) A Development subject to the 2025 HOME Final Rule that contains one or more floating Units must provide all households a 60-day written notice before implementing any rent increase. A Development with Units subject to the 2025 HOME Final Rule with one or more fixed Units must provide a 60-day written notice to the Designated Units. If an Owner increases the household's rent without providing a 60-day notice, any increases must be refunded or credited to the affected household(s). The Owner must obtain in writing, from the household, the election to receive a full refund check or to have the entire overpaid amount credited to their household account. In absence of a tenant election, a full refund check must be presented to the household.

(n) An Owner must provide an option to pay rent in a manner that does not involve additional out of pocket costs to the household.

(o) An Owner may not refuse to accept rental payment made on time and in full if the household does not have any outstanding previous rent balances due.

(p) An Owner that controls utilities, may not stop service on utilities during the longer of the required period identified by the applicable federal program, or as directed by state law.

§10.625. Events of Noncompliance.

Figure: 10 TAC §10.625 lists events for which a multifamily rental Development may be found to be in noncompliance for compliance monitoring purposes. This list is not an exclusive list of events and issues for which an Owner may be subject to an administrative penalty, debarment or other enforcement action. The first column of the chart identifies the noncompliance event. The second column indicates to which program(s) the noncompliance event applies. The last column indicates whether the issue is reportable on IRS Form 8823 for HTC Developments.

Figure: 10 TAC §10.625

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 April 9, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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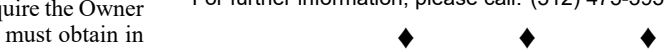
For further information, please call: (512) 475-3959



10 TAC §10.612

The Texas Department of Housing and Community Affairs (the Department) adopts the amendment of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.612 Tenant File Requirements, with changes to the proposed text as published in the January 23, 2026 issue of the *Texas Register* (51 TexReg 353). The rule will be republished.

The purpose of the amendment is to update the rule to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP, and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the United States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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 has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in the Department's HOME, HOME-ARP and NHTF properties.

2. The amendment will require additional work that creates one or more new employee positions. One position will be used to coordinate all issues surrounding PRWORA across multiple programs at the Department, including creating and providing training, developing forms and notices in collaboration with legal staff, providing vendor support if needed, updating and developing the documentation charts and checklists to be used by properties, assisting Compliance staff in developing monitoring tools, and setting up properties with access to the SAVE system. Additional staffing needs may vary depending on what portion of tenants requiring verification are submitted to the Department for verification and what portion are performed by properties. Per the rule, properties are required to perform the verifications themselves unless not permitted to do so (for instance if they have been federally debarred they may be precluded from accessing the SAVE system). Under that premise, it is anticipated that the Department will not have significant verifications to perform. In either case the costs of all new positions are federal eligibly reimbursable expenses under the applicable program grants (because PRWORA is now applicable to HOME, HOME-ARP, NHTF, ESG and CSBG, in addition to previous programs which were already subject to PRWORA, administrative funds may be utilized from those programs to support the staffing needs). The amendment does not generate a reduction in work that would eliminate any employee positions.

3. The amendment does not require additional future legislative appropriations; the added position(s) are absorbed with existing appropriated administrative funds.

4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amendment is creating a new regulation because it is necessary to receive a source of federal funds or to comply with federal law.

6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law.

7. The amendment does increase the number of individuals subject to the rule's applicability. Through this rule the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's rental portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit. Therefore, individuals not previously subject to this verification will now require verification of US Citizen, US National, or Qualified Alien status.

8. Effect on the state's economy. Public comment received on the rule suggests that the rule action creates measurable operational costs that can affect property performance at scale. They believe that even modest increases in unit vacancies or turnover across the affected portfolio (approximately 391 properties) can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. The comments suggest that those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections. Additionally, commenters suggest that requiring verification of eligible status for households will force mixed status families to choose between staying together or being evicted and when families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school. Commenters suggest both of these issues create immediate and long-term economic impacts on the state.

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 the amendment and received comment that the amendment will create an economic effect on small or micro-businesses or rural communities. Comment suggests that the rule requirements are not reduced for small operators or rural properties and that in fact, they may be faced with more household verifications because they tend to more frequently utilize the programs that are applicable. Small operators and rural properties often have limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment 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 amendment as to its possible effects on local economies and has received public comment

that there may be an economic effect on local employment. As noted above, comment suggests that requiring verification of eligible status will force mixed status families to choose between staying together or being evicted and if families lose access to housing, the adult's ability to maintain stable employment is compromised. Further, commenters noted that for tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. When verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers.

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 amendment is in effect, the public benefit anticipated as a result of the changed sections would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

Comment was also received that denotes public costs. They suggest that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. Because of the new requirements there also may be reduced owner participation in the programs. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

One of the costs commenters noted was the impacts expected on mixed-status households and the resulting harm to eligible members. According to commenters, HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70% of members are eligible and 30% are ineligible, and that among eligible members, 65% are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children.

As a further cost, a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has determined that for each year of the first five years the amendment is in effect, enforcing or administering the amendment may have some costs to the Department, to the extent that the Department will be adding one or more staff members as described more fully earlier in this preamble.

One of the commenters applied HUD's Paperwork Reduction Act benchmark to this rule and concluded that there would be significantly increased property and portfolio costs. They noted that the property costs will include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements. If this rule is applied not only to units assisted with the applicable federal program funds, but all units in those properties, those costs will be more significant. There may also be downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held January 30 to March 3, 2026, to receive input on the proposed action. Comment was received from 20 commenters: 1) Accolade Property Management; 2) American Civil Liberties Union - Texas; 3) Roger Arriaga (hearing commenter); 4) Representative John Bryant; 5) Children's Defense Fund- Texas; 6) City of El Paso, Department of Human and Community Development; 7) Every Texan (hearing commenter); 8) Foundation Communities and New Hope Housing; 9) Brian Gamble (hearing commenter); 10) Representative Barbara Gervin-Hawkins; 11) Representative Mary Gonzalez; 12) Laredo Immigrant Alliance; 13) Whitney Parra (hearing commenter); 14) Kathleen Petty (hearing commenter); 15) City of Pharr, Grants Management and Community Development; 16) Texas Affiliation of Affordable Housing Providers and Texas Apartment Association; 17) Texas House Democratic Caucus; 18) Texas Housers; 19) US Hispanic Contractor's Association; and 20) Maria Watkins (hearing commenter).

The comments from the Texas House Democratic Caucus (Commenter 17), reflect the input from the following 29 Texas House Representative Members: Gene Wu; Donna Howard; Ramón Romero, Jr.; Joe Moody; Suleman Lalani; Jessica González; Mihaela Plesa; Ron Reynolds; Senfronia Thompson; Ray Lopez; Lulu Flores; Erin Zwiener; Josey Garcia; Christina Morales; Vikki Goodwin; Jolanda Jones; Armando Martinez; Armando Walle; Jon Rosenthal; Diego Bernal; John Bucy III; Toni Rose; Alma Allen; Rafael Anchía; Ana Hernandez; Chris Turner; Cassandra Garcia Hernandez; Salman Bhojani; and Linda Garcia.

In the following summary of comment, the numbers denote the commenters who made comments on that topic. For instance, if a comment is followed by five numbers, the five noted commenters that match those numbers are the entities or individuals who made those comments.

Comments on Preamble and Required Rule Analysis (5)(13)(16)(18)

Government Growth Impact Statement: Commenter 16 suggests that TDHCA should reconcile staffing assumptions - one preamble provided indicated that there were no staffing needs, while the other preamble anticipated 1 to 2 positions. They requested that the preamble specify whether TDHCA will absorb the work or add staffing and provide detail on the federal administrative funds that will support the position. They also requested that TDHCA address training, standardized forms/notices, secure submission methods, vendor support and monitoring tools. Commenter 13 also brought up this issue in the public hearing.

Adverse Economic Impact on Small Businesses and Rural Communities: Commenter 16 suggests that the Department's 'no economic effect' determination should be reconsidered. The rule requirements do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

Effect on State's Economy, Local Employment Impact Statement: Commenter 16 feels TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections.

Commenter 5 also disagrees with the preamble of the rule that said the rule actions would not affect the state's economy. They suggest that the rules will force mixed status families to choose between staying together or being evicted and it will make children that are US citizens at risk of homelessness. When families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school; both of these issues create immediate and long-term economic impacts on the state.

Commenter 16 suggests TDHCA should also acknowledge foreseeable local employment impacts. For tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion. Commenter 18 also states that contrary to the Department's assertion, there will clearly be economic costs for households to comply with these sections.

Public Benefit/Cost: Commenter 16 indicates that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. The fiscal note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Commenter 16 also asks that TDHCA acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note: The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

Commenter 16 has applied HUD's Paperwork Reduction Act benchmark to support how this rule has costs. As part of that comment they estimate significantly increased property and portfolio costs. They specifically request that TDHCA should acknowledge this cost in its fiscal note.

Staff Response: Staff has revised the rule preambles in response to the feedback provided.

§10.612 and §10.628 - Overall Opposition and Request to Withdraw or Delay the Rules (2)(4)(5)(6)(7)(10)(11) (12)(17)(18)(19)

Multiple commenters suggest that because more guidance is expected from HUD, it is premature to proceed with the rules; particularly, that since HUD has indicated that it will release more guidance so the Department should wait until that occurs (5)(12)(18). Commenter 12 believes the Department is overcomplying by preceding HUD guidance. Commenter 5 and 18 suggests that the rulemaking should be paused until further HUD guidance is available. They suggest that the Department acting prior to additional federal guidance may create legal liability for the state.

Commenter 2 believes the rule as written raises preemption concerns and would result in the wrongful denial of eligible tenants. They also raised concerns that landlords and public housing authorities will have to collect information that could potentially expose individuals to enforcement and the ability for immigrant communities to access safe and affordable housing.

Commenter 2 asserts that the rule fails to adhere to Section 401(a) of PRWORA and may cause eligible families to be excluded. The guidance from TDHCA provides no information on the verification process nor indicates any acceptable documentation from tenants who are qualified aliens, while only accepting proof of US citizenship as valid documentation. If the current documentation list is used, individuals may have their applications erroneously denied or be wrongfully evicted.

Commenter 7 also noted that one in four children live in mixed status families and they will be affected by this policy and the rule rollout is premature. They note that according to a 2024 Texas kids count, Hispanic or Latino children in Texas are 36% more likely to live in households facing high cost of living burdens.

Commenters 4, 6, 10 , 11, 17 and 18 were strongly opposed to the rules and urged TDHCA to withdraw them. The rule will have

a chilling effect on mixed-status households which will discourage entire households from seeking the housing stability they are legally entitled to receive. The rule will cause fear and confusion statewide. U.S. citizen children in mixed status households will be left without stable homes, violence survivors will be forced to choose between safety and status, elderly immigrants will be severed from their safety net, and working families will be pushed into greater housing insecurity.

Commenters 4, 7 and 18 believe that the rules will erode trust between immigrant communities and public institutions. Commenters 4 and 10 also noted that the rule contradicts the Department's fundamental mission. Commenter 6 felt that the rule will undermine efforts to prevent homelessness and maintain housing stability.

Commenter 11 indicates that eligibility for federal subsidized housing has never been restricted to US citizens and embedding immigration enforcement into state housing rules undermines legislative intent and misdirects limited state resources. Commenter 11 believes through this rule the Department jeopardizes an estimated 9,000 to 28,000 units statewide.

Commenters 4, 10 and 17 urged that the Department discuss these concerns with affected communities and advocates prior to taking further rule actions.

Commenter 19 feels the rule changes cause a cascading effect on Texas Communities, workplaces, schools, healthcare and individual security and safety. There will be a direct impact on lawful DACA recipients. They also feel that the rule changes will cause economic destabilization as DACA workers facing loss of housing will cripple industries relying on lawful DACA workers. There will be widespread evictions and forced displacement. These restrictions will affect mixed-status households most significantly, and ultimately affect landlords when there are losses to housing and workforce.

Commenters 5 and 8 suggest that TDHCA should clarify that nonprofit charitable housing providers are exempt from PRWORA verification requirements, but they also acknowledge that the Notice creates confusion because it does not relieve states from ensuring all programs are compliant with PRWORA. They feel that this ambiguity is a reason that the rulemaking should be delayed until further guidance is released. They think that it will be very difficult for the Department to provide clarity without HUD having provided that clarity first.

Staff Response: Per the HUD notice of November 26, 2025, and the 2025 federal funding agreements states are not relieved from the requirements to ensure that all relevant programs are in compliance with PRWORA. HUD places the burden on TDHCA to ensure compliance with PRWORA, even before "new guidelines" are issued by HUD. Therefore, staff does not recommend withdrawing or deferring the rule. TDHCA does not believe it is 'overcomplying' but rather fully complying. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly adhere to that guidance. The TDHCA rule changes are specific enough to reflect adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. No change is recommended to the rule in response to this topic of comment.

As it relates to the comment that eligible families may be excluded because the guidance from the Department relating to allowable documentation does not indicate acceptable documentation from tenants who are qualified aliens, but only US citizens, the document includes US Citizenship and US national Department is consistently looking to improve and update the guidance. Commenter 2 is encouraged to contact Gavin Reid (gavin.reid@tdhca.texas.gov) at the Department to provide specific suggested additions or revisions to the guidance.

The Department does not interpret enforcement of federal requirements as contradictory to its mission. Safeguarding the state's ability to access HOME, NHTF, and HOME-ARP funds through compliance with federal requirements is essential to keeping these funds available to qualified Texans.

As it relates to the impact on households, effects are associated with PRWORA, not necessarily the Department's applicability of PRWORA. By pushing the effective date of the rule to August 1, 2026, more notice is provided for households.

As it relates to the comments that the Department should discuss issues of the rule and its implementation with affected communities and advocates, TDHCA hosted a public hearing and a public comment period which was announced through the Department's email distribution groups. The Department will continue to seek input as documentation guidance is developed.

As it relates to the suggested exemption for nonprofit organizations, because the Department is still accountable for ensuring the PRWORA requirements as satisfied, the Department will clarify in the rule that in the case of properties in which the ownership entity is a nonprofit organization the property will have the option of either performing verifications themselves under §10.628(f)(2)(A), or gathering the required documentation and having the Department perform the verification under §10.628(f)(2)(B).

Concerns with the SAVE System (2)(5)(18)

Commenters 2, 5 and 18 indicate that the rule mandates the use of SAVE; however they believe the SAVE system is faulty, raises privacy and security concerns, increases risk of datamining, and has errors that render it an unreliable source for legal status. According to one source it has an error rate of at least 14%. Commenter 18 also raises concerns that SAVE is inaccurate, constantly changing and generates unclear reports. They are concerned also that federal employees and federal immigration enforcement officials may use SAVE to track individuals. The SAVE system's reliance on social security data does not provide definitive status information and is prone to inaccuracies. Commenter 18 is also concerned that SAVE error rates will result in eligible Texans losing access to housing.

Commenters 5 and 18 believes that the use of SAVE where additional verification is needed may cause excessive wait times up to 3 weeks for a household awaiting housing assistance, adding to precarious housing situations or adding additional housing costs.

Staff Response: When verification is unable to be satisfied using the documents provided by a household, the only system available to the Department for verification, and therefore available to properties, is the SAVE system. No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Administrative and Cost Burden (4)(6)(7)(11)(12)(15)(17)(18)

Commenters noted two primary categories of costs and burden-those on property owners and providers, and those on households.

Commenters 4, 7 and 18 noted that the rules will create administrative burdens and costs for property owners and providers, including costs associated with reduced occupancy. Commenter 6 also thinks the rule requirements will increase staffing, training and monitoring responsibilities that will divert resources away from direct service delivery. Commenters 11, 12, 15 and 17 noted that the verification process will impose steep burdens on local governments and program administrators.

Commenter 18 feels that the requirements are an unfunded mandate that will significantly impact developments across the state. There will be unavoidable delays and costs related to document collection, internal review, errors and appeals. Having to check for legal status will be an entirely new process for most properties. There will also be costs associated with creating new processes, staff training, ensuring system compatibility. These steps will be particularly difficult for smaller owners many of which are located in rural areas.

Commenter 18 also thought that costs would be significant because properties would not have access to SAVE through the existing Memorandum of Agreement between TDHCA and Department of Homeland Security. If they can't access SAVE themselves, properties would have to submit their household verifications to TDHCA for processing. The system and method they would need to use would likely be substantial and fall more on small or micro-businesses and rural communities.

Commenter 12 also notes the administrative burden on Texans who will have to sacrifice work hours to obtain these benefits. Commenters 4, 7 and 18 note that the rule will create delays and increase costs for tenants. Commenters 7 and 18 also note the delays and costs for tenants as they seek to procure the correct documentation, which is disproportionately difficult for the low-income vulnerable populations served by these funding sources. Households may not have the funds or free time to get to government offices to secure the needed documentation.

Staff Response: To clarify the comments that reference cost to service providers, program administrators and local governments, this rule applies only to a specific portfolio of multifamily properties. The rule is not applicable to local service providers, administrators or local governments. The preamble of this rule has been expanded to reflect some of the commenter's concerns with the costs and burdens noted.

As it relates to the incidental costs that will be borne by the properties or households, it is not within the Department's authority to simply not apply the federal requirements. The Department will assist properties in training their staff on documentation requirements and SAVE access in an effort to minimize the work added for properties and to ease the experience for households.

It should be noted that in response to Commenter 18, their suggestion that properties will not have access to SAVE is incorrect; multifamily properties will have access to SAVE through the Department's Memorandum of Agreement and are required to use SAVE rather than submit households to the Department for verification. System updates and transmittal methods are anticipated to be minimal because of this.

No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Overcompliance (12)

Commenter 12 suggests that passing the responsibility for verifying immigration documentation to development owners and managers will lead to overcompliance as properties ensure they follow the guidelines.

Staff Response: While the Department is taking no action to promote properties' 'overcompliance' it does expect properties to fully comply. No changes to the rule are made in response to this comment.

§10.612 and §10.628 - Evolving Federal Direction (16)

Commenter 16 states that pending litigation and evolving federal direction are also relevant to this rule's rollout. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. They note that TDHCA has treated federal notices as effective immediately, while other states are delaying rule changes until litigation is resolved. They believe this creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transitional instructions.

Staff Response: To ensure federal compliance the Department is implementing the rule promptly and is not waiting on litigation resolution in other states. If additional federal guidance is released, the Department will remain compliant and disseminate clear instructions or propose any necessary rule adjustments. No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Increased Legal and Compliance Exposure, Concerns of Discrimination and Eviction (5)(6)(8)(15)(18)

Commenters 5 and 15 suggest that the rule may cause discriminatory assumptions to be made about tenants or their guests, in violation of the Fair Housing Act. Commenter 6 believes that requiring housing providers to collect and verify immigration documentation may cause Owners and local governments to face fair housing complaints or legal liability if documentation practices are not applied consistently.

Commenter 18 references the National Housing Law Project's brief on immigration requirements and believes that if PRWORA is applied improperly the Department could be subject to discrimination claims under federal civil rights laws.

Commenter 8 also believes it is critical in issuing a rule that touches on issues of race and national origin that the rule is narrowly tailored to ensure its obligation to not discriminate. Their suggested revisions (relating to narrowing the verifications only to the funded units in the property and limiting it to only new properties) will help address that concern. Commenter 8 also feels that the Department's duty to not make housing unavailable based on race and national origin is not met because the rule does not address enforcement and implies that residents should be evicted based on their national origin.

Commenter 8 specifically suggests that the following sentence be added: "Owners are not required to evict tenants or refuse to renew leases of tenants pursuant to this rule. Owners may be required to ensure that occupants who are not qualified aliens are moved to Units that are not receiving HOME, HOME-ARP Rental or NHTF funding."

Staff Response: The Department denies any direct or indirect allegation of illegal race or national origin discrimination. Properties are expected to use documentation requested from households in all covered units, regardless of race or national origin,

to objectively verify those documents against guidance provided by the Department. If that documentation requested does not allow a property to confirm legal status, then the property will enter the household in the SAVE system. In response to Commenter 8, the Department cannot say that properties will not be required to evict tenants or refuse to renew leases under this rule; if a household at lease renewal is unable to be confirmed for legal status, the property will be in a position to not renew the lease for good cause because the household will not meet a HOME, HOME-ARP Rental, or NHTF requirement. No changes to the rule are made in response to these comments.

§10.612(a)(6) - Rule Prohibiting "harboring" of non-qualified aliens (5)(16)(18)

Commenters 5 and 18 noted that the rule prohibiting harboring of an unqualified alien was not required by federal law, nor in federal guidance, and as such should be removed from the rule to avoid having a chilling effect on access to housing for eligible families. Commenter 5 noted that they saw a similarly chilling effect in 1996 and 2019 when similar policy changes occurred. They note that the Department has not provided any reason or justification for the inclusion of this clause in the rule, and that it is unclear what provision in the Department's enabling statute allows it to impose such a requirement.

Commenters 5 and 18 also noted the term 'harboring' is vague and that without the rule explaining what conduct would meet the definition of 'harboring,' it will create fear and confusion that will increase homelessness and housing instability for children, youth and mixed status households. The vagueness of this section, noted by Commenter 18, leaves too much interpretation for developments, property owners and residents who are not legal experts which could lead to wrongful evictions or denial of housing. Commenter 5 notes that simply hosting an undocumented visitor in one's home or even living with an undocumented family member would not constitute harboring under 8 U.S.C. §1324. They strongly urge that this requirement be removed from the rule.

Commenter 18 notes that harboring an alien in the US is already a violation of law under 8 USC §1324, so it is not necessary to require tenants to sign a lease attesting that they will follow one specific law.

Commenter 16 states that this requirement imports an undefined criminal-law concept into a lease without an objective monitorable compliance standard. It will be explained and applied inconsistently across properties, increase fair housing and other liability risk, and create tenant confusion about ordinary lawful conduct. They suggest alternatively that lease signers certify that the information and documentation submitted for verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.

Staff Response: To address some of the concerns raised, this section of the rule has been revised to remove reference to "harboring" specifically since that may be perceived as triggering the federal definition for harboring at 8 USC Section 1324. The rule now references that if a household member is staying in the unit, to the extent that they would need to be added to the lease under the property's rules or terms of the lease (typically more than five days), then the lease must be updated to include such individuals, and any further required analysis of household income and legal status must be promptly performed by the property. The signers of the lease must attest that such household member has legal status. The Department will provide the lease attestation form for Owners to provide to tenants.

Other Comments - Lack of Accessible Information (18)

Commenter 18 was concerned that the information about the new requirements is inaccessible. The HUD grant agreements which TDHCA references in its materials are not publicly available. HHS and HUD notices reference future guidance that is also not yet available. They note that it is unclear who will be training developments.

Staff Response: Information has been made public as allowable. Documents that are in TDHCA's possession and not subject to exception or exemption may be requested through an open records request.

Other Comments - Creating New Law (19)

Commenter 19 suggests that by formulating these rules, TDHCA is surpassing its authority and superseding the law-making legislative body.

Staff Response: TDHCA is authorized by Tex. Gov't Code §2306.053 to adopt rules governing the administration of the Department and its programs.

Other Comments (3)(13)(14)

Commenter 14 attended the hearing and sought information on how to access TDHCA grants and assistance for a proposed property concept, and also requested a list of existing assisted properties.

Commenter 13 asked whether the household verification form and other guidance around documentation has been created and made available yet for the multifamily properties. They note that they would like to make comment on those and wanted to know when that would be available.

Commenter 13 asked if the plan was to give SAVE access to all 391 properties subject to this rule.

Commenter 3 asked in the hearing if HUD's release of 214 guidance would prompt the Department to align with that guidance going forward.

Staff Response: Commenter 14 was individually contacted to assist them with their interest in the Department. The household verification form and other documents will be made available and their input will be sought as those are crafted. Yes, other than federally debarred entities, the intent is to provide SAVE user access to all properties subject to the rule. HUD's release of 214 guidance is not applicable to these programs or properties unless otherwise triggered for a property by other layered funding on that property.

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

Except as described herein the amendment affects no other code, article, or statute.

§10.612. Tenant File Requirements.

(a) At the time of program designation as a low income household (or Qualified Population for HOME-ARP Rental), typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

(1) A Department approved Income Certification form signed by all adults. At the time of program designation as a low

income household or Qualified Population, Owners must certify and document household income. In general, all low-income households and Qualified Populations for HOME-ARP Rental must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the Development also participates in the USDA - Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;

(2) Documentation to support the Income Certification form including, but not limited to, applications (one per adult or married couple), first hand or third party verification of income and assets, and documentation of student status (if applicable). The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Air Force, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at https://veterans.portal.texas.gov/";

(3) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents;

(4) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this subchapter (relating to Lease Requirements);

(5) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 of this subchapter (relating to Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) documentation to support that legal status of all persons signing the lease has been verified; and

(6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 of this subchapter, an attestation, as provided by the Department for use by Developments, signed by all parties signing the lease that to their knowledge there are no occupants of the Unit that would be required to be included on the lease under the property's lease stipulations, that do not have qualified legal status under PRWORA.

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

(1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP, and Exchange Developments must collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, student status, and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification form, the Income Certification form, HUD Income Certification form, USDA-Rural Development Income Certification form (as applicable).

(2) During the Compliance Period for all Housing Tax Credit, TCAP, and Exchange Developments and throughout the Affordability Period for all Bond Developments and HOME, TCAP RF, and HOME-ARP Units Owners must collect and maintain current student status data for each low-income household. This information must be collected within 120 days before the anniversary of the effective date of the original Income Certification and can be collected on the Department's Annual Eligibility Certification or the Department's Certification of Student Eligibility form or the Department's Income Certification form. Throughout the Compliance Period for HTC, TCAP, and Exchange developments, low-income households comprised entirely of full-time students must qualify for a HTC program exception, and supporting documentation must be maintained in the household's file. For Bond Developments, if the household is not an eligible student household, it may be possible to re-designate the full-time student household to an Eligible Tenant (ET). For HOME, TCAP RF, and HOME-ARP Units an individual does not qualify as a low income or very low income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

(3) The types of Developments described in subparagraphs (A) - (D) of this paragraph are required to recertify annually the income of each low-income household using a Department approved Income Certification form and documentation to support the Income Certification (see subsection (a)(1) - (2) of this section):

(A) Mixed income Housing Tax Credit, TCAP and Exchange projects (as defined by line 8(b) of IRS Form(s) 8609 and accompanying statements, if any) that have not completed the 15 year Compliance Period.

(B) All Bond Developments with less than 100% of the Units set aside for households with an income less than 50% or 60% of area median income. If subsequent legislation allows for the use of the Average Income minimum set aside for the Bond program, the income threshold will increase to 80% area median income.

(C) THTF Developments with Market Rate Units. However, THTF Developments with other Department administered programs will comply with the requirements of the other program.

(D) HOME, TCAP RF, NHTF, and HOME-ARP Developments. Refer to subsection (c) of this section.

(c) Ongoing tenant file requirements for HOME, TCAP RF, NHTF, and HOME-ARP Developments:

(1) HOME, TCAP RF, NHTF, and HOME-ARP Developments must complete a recertification with verifications of each assisted Unit every sixth year of the Development's Affordability Period. The recertification is due on the anniversary of the household's move-in date. For purposes of this section the beginning of a HOME, TCAP RF, NHTF, HOME-ARP Development Affordability Period is the effective date in the HOME, TCAP RF, NHTF, and HOME-ARP LURA. Example 612(1): A HOME Development with a LURA effective date of May 2020, will have the following years of the affordability period:

(A) Year 1: May 15, 2020 - May 14, 2021;

(B) Year 2: May 15, 2021 - May 14, 2022;

(C) Year 3: May 15, 2022 - May 14, 2023;

(D) Year 4: May 15, 2023 - May 14, 2024;

(E) Year 5: May 15, 2024 - May 14, 2025;

(F) Year 6: May 15, 2025 - May 14, 2026;

(G) Year 7: May 15, 2026 - May 14, 2027;

(H) Year 8: May 15, 2027 - May 14, 2028;

(I) Year 9: May 15, 2028 - May 14, 2029;

(J) Year 10: May 15, 2029 - May 14, 2030;

(K) Year 11: May 15, 2030 - May 14, 2031; and

(L) Year 12: May 15, 2031 - May 14, 2032.

(2) In the scenario described in paragraph (1) of this subsection, all households in HOME, TCAP RF, NHTF, and HOME-ARP Units must be recertified with source documentation during the sixth and twelfth years or between May 15, 2025, to May 14, 2026, and between May 15, 2031, and May 14, 2032.

(3) In the intervening years the Development must collect a self-certification within 120 days before the anniversary of the effective date of the original Income Certification from each household that is assisted with HOME, TCAP RF, NHTF, and HOME-ARP funds. The Development must use the Department's Income Certification form, unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's Income Certification form will be accepted. If the household reports on their self-certification that their annual income exceeds the current 80% applicable income limit or there is evidence that the household's written statement failed to completely and accurately provide information about the household's characteristics and/or income, then an annual income recertification with verifications is required.

(d) Tenant File requirements for HOME-ARP Qualified Populations Units. Files for households assisted under the HOME-ARP program as Qualified Population must document evidence that the households meet the definition of:

(1) Homeless as defined in 24 CFR §91.5;

(2) At-risk of homelessness as defined in 24 CFR §91.5;

(3) Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined in CPD Notice 21-10;

(4) Other Families Requiring Services or Housing Assistance to Prevent Homelessness, which are households who have previously been qualified as homeless, are currently housed due to temporary, or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness;

(5) At Greatest Risk of Housing Instability as cost burdened, which are households who have an annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e. is paying more than 50% of monthly household income toward housing costs.); or

(6) At Greatest Risk of Housing Instability, which meets the definition of at-risk of homelessness as defined in 24 CFR §91.5, but with an income up to 50% AMI.

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 April 9, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §10.628

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F Compliance Monitoring, §10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental and NHTF Developments, with changes to the proposed text as published in the January 23, 2026 issue of the *Texas Register* (51 TexReg 355). The rule will be republished.

The purpose of the rule is to is to provide clarity with how adherence to Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it is subject to the exception under §2001.0045(c)(4) which excepts rules that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this 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 has determined that, for the first five years the rule would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in the Department's HOME, HOME-ARP and NHTF properties.

2. The rule will require additional work that creates one or more new employee positions. One position will be used to coordinate all issues surrounding PRWORA across multiple programs at the Department, including creating and providing training, developing forms and notices in collaboration with legal staff, providing vendor support if needed, updating and developing the documentation charts and checklists to be used by properties, assisting Compliance staff in developing monitoring tools, and setting up properties with access to the SAVE system. Additional staffing needs may vary depending on what portion of tenants requiring verification are submitted to the Department for verification and what portion are performed by properties. Per the rule, properties are required to perform the verifications themselves unless not permitted to do so (for instance if they have been federally debarred they may be precluded from accessing the SAVE system). Under that premise, it is anticipated that the Department will not have significant verifications to perform. In either case the costs of all new positions are federal eligibly reimbursable expenses under the applicable program grants (because PRWORA is now applicable to HOME, HOME-ARP, NHTF, ESG and CSBG, in addition to previous programs which were already subject to PRWORA, administrative funds may be utilized from those programs to support the staffing needs). The amendment does not generate a reduction in work that would eliminate any employee positions.

3. The rule does not require additional future legislative appropriations; the added position(s) are absorbed with existing appropriated administrative funds.

4. The rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The rule is creating a new regulation because it is necessary to receive a source of federal funds or to comply with federal law.

6. The rule does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law.

7. The rule does increase the number of individuals subject to the rule's applicability. Through this rule the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) will be implemented for multifamily HOME, HOME-ARP Rental and National Housing Trust Fund properties in the Department's rental portfolio as required by the federal direction provided in the 2025 grant agreements issued by the Unites States Department of Housing and Urban Development (HUD). PRWORA provides that an alien who is not a qualified alien is not eligible for any federal public benefit. Therefore, individuals not previously subject to this verification will now require verification of US Citizen, US National, or Qualified Alien status.

8. Effect on the state's economy. Public comment received on the rule suggests that the rule action creates measurable operational costs that can affect property performance at scale. They believe that even modest increases in unit vacancies or turnover across the affected portfolio (approximately 391 properties) can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. The comments suggest that those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections. Additionally, commenters suggest that requiring verification of eligible status for households will force mixed status families to choose between staying together or being evicted and when families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school. Commenters suggest both of these issues create immediate and long-term economic impacts on the state.

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 the rule and received comment that the amendment will create an economic effect on small or micro-businesses or rural communities. Comment suggests that the rule requirements are not reduced for small operators or rural properties and that in fact, they may be faced with more household verifications because they tend to more frequently utilize the programs that are applicable. Small operators and rural properties often have limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The 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 received public comment that there may be an economic effect on local employment. As noted above, comment suggests that requiring verification of eligible status will force mixed status families to choose between staying together or being evicted and if families lose access to housing, the adult's ability to maintain stable employment is compromised. Further, commenters noted that for tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. When verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers.

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 rule is in effect, the public benefit anticipated as a result of the rule would be ensuring compliance with federal guidance and ensuring that federal public benefits are only being received by qualified aliens, US Nationals or US citizens.

Comment was also received that denotes public costs. They suggest that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. Because of the new requirements there also may be reduced owner participation in the programs. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

One of the costs commenters noted was the impacts expected on mixed-status households and the resulting harm to eligible members. According to commenters, HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70% of members are eligible and 30% are ineligible, and that among eligible members, 65% are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children.

As a further cost, a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson has determined that for each year of the first five years the rule is in effect, enforcing or administering the rule may have some costs to the Department, to the extent that the Department will be adding one or more staff members as described more fully earlier in this preamble.

One of the commenters applied HUD's Paperwork Reduction Act benchmark to this rule and concluded that there would be significantly increased property and portfolio costs. They noted that the property costs will include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements. If this rule is applied not only to units assisted with the applicable federal program funds, but all units in those properties, those costs will be more significant. There may also be downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held January 30 to March 3, 2026, to receive input on the proposed action. Comment was received from 20 commenters: 1) Accolade Property Management; 2) American Civil Liberties Union - Texas; 3) Roger Arriaga (hearing commenter); 4) Representative John Bryant; 5) Children's Defense Fund - Texas; 6) City of El Paso, Department of Human and Community Development; 7) Every Texan (hearing commenter); 8) Foundation Communities and New Hope Housing; 9) Brian Gamble (hearing commenter); 10) Representative Barbara Gervin-Hawkins; 11) Representative Mary Gonzalez; 12) Laredo Immigrant Alliance; 13) Whitney Parra (hearing commenter); 14) Kathleen Petty (hearing commenter); 15) City of Pharr, Grants Management and Community Development; 16) Texas Affiliation of Affordable Housing Providers and Texas Apartment Association; 17) Texas House Democratic Caucus; 18) Texas Housers; 19) US Hispanic Contractor's Association; and 20) Maria Watkins (hearing commenter).

The comments from the Texas House Democratic Caucus (Commenter 17), reflect the input from the following 29 Texas House Representative Members: Gene Wu; Donna Howard; Ramón Romero, Jr.; Joe Moody; Suleman Lalani; Jessica González; Mihaela Plesa; Ron Reynolds; Senfronia Thompson; Ray Lopez; Lulu Flores; Erin Zwiener; Josey Garcia; Christina Morales; Vikki Goodwin; Jolanda Jones; Armando Martinez; Armando Walle; Jon Rosenthal; Diego Bernal; John Bucy III; Toni Rose; Alma Allen; Rafael Anchía; Ana Hernandez; Chris Turner; Cassandra Garcia Hernandez; Salman Bhojani; and Linda Garcia.

In the following summary of comment, the numbers denote the commenters who made comments on that topic. For instance, if a comment is followed by five numbers, the five noted commenters that match those numbers are the entities or individuals who made those comments.

Comments on Preamble and Required Rule Analysis (5)(13)(16)(18)

Government Growth Impact Statement: Commenter 16 suggests that TDHCA should reconcile staffing assumptions - one preamble provided indicated that there were no staffing needs, while the other preamble anticipated 1 to 2 positions. They requested that the preamble specify whether TDHCA will absorb the work or add staffing and provide detail on the federal administrative funds that will support the position. They also requested that TDHCA address training, standardized forms/notices, secure submission methods, vendor support and monitoring tools. Commenter 13 also brought up this issue in the public hearing.

Adverse Economic Impact on Small Businesses and Rural Communities: Commenter 16 suggests that the Department's 'no economic effect' determination should be reconsidered. The rule requirements do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of findings. When verifications escalate to nonrenewal and a household will not vacate, properties can incur foreseeable enforcement costs for court and attorney fees, staff time and the costs of turning over a unit.

Effect on State's Economy, Local Employment Impact Statement: Commenter 16 feels TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and a potential decrease in local property tax collections.

Commenter 5 also disagrees with the preamble of the rule that said the rule actions would not affect the state's economy. They suggest that the rules will force mixed status families to choose between staying together or being evicted and it will make children that are US citizens at risk of homelessness. When families lose access to housing the adult's ability to maintain stable employment is compromised as well as the children's ability to stay in school; both of these issues create immediate and long-term economic impacts on the state.

Commenter 16 suggests TDHCA should also acknowledge foreseeable local employment impacts. For tenants having to handle document retrieval, notices, follow-up, and dispute resolution, it can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That potentially increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion. Commenter 18 also states that contrary to the Department's assertion, there will clearly be economic costs for households to comply with these sections.

Public Benefit/Cost: Commenter 16 indicates that this rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. The fiscal note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Commenter 16 also asks that TDHCA acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section

214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note: The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

Commenter 16 has applied HUD's Paperwork Reduction Act benchmark to support how this rule has costs. As part of that comment they estimate significantly increased property and portfolio costs. They specifically request that TDHCA should acknowledge this cost in its fiscal note.

Staff Response: Staff has revised the rule preambles in response to the feedback provided.

§10.612 and §10.628 - Overall Opposition and Request to Withdraw or Delay the Rules (2)(4)(5)(6)(7)(10)(11) (12)(17)(18)(19)

Multiple commenters suggest that because more guidance is expected from HUD, it is premature to proceed with the rules; particularly, that since HUD has indicated that it will release more guidance so the Department should wait until that occurs (5)(12)(18). Commenter 12 believes the Department is overcomplying by preceding HUD guidance. Commenter 5 and 18 suggests that the rulemaking should be paused until further HUD guidance is available. They suggest that the Department acting prior to additional federal guidance may create legal liability for the state.

Commenter 2 believes the rule as written raises preemption concerns and would result in the wrongful denial of eligible tenants. They also raised concerns that landlords and public housing authorities will have to collect information that could potentially expose individuals to enforcement and the ability for immigrant communities to access safe and affordable housing.

Commenter 2 asserts that the rule fails to adhere to Section 401(a) of PRWORA and may cause eligible families to be excluded. The guidance from TDHCA provides no information on the verification process nor indicates any acceptable documentation from tenants who are qualified aliens, while only accepting proof of US citizenship as valid documentation. If the current documentation list is used, individuals may have their applications erroneously denied or be wrongfully evicted.

Commenter 7 also noted that one in four children live in mixed status families and they will be affected by this policy and the rule rollout is premature. They note that according to a 2024 Texas kids count, Hispanic or Latino children in Texas are 36% more likely to live in households facing high cost of living burdens.

Commenters 4, 6, 10, 11, 17 and 18 were strongly opposed to the rules and urged TDHCA to withdraw them. The rule will have a chilling effect on mixed-status households which will discourage entire households from seeking the housing stability they are legally entitled to receive. The rule will cause fear and confusion statewide. U.S. citizen children in mixed status households will be left without stable homes, violence survivors will be forced to choose between safety and status, elderly immigrants will be severed from their safety net, and working families will be pushed into greater housing insecurity.

Commenters 4, 7 and 18 believe that the rules will erode trust between immigrant communities and public institutions. Commenters 4 and 10 also noted that the rule contradicts the Department's fundamental mission. Commenter 6 felt that the rule will undermine efforts to prevent homelessness and maintain housing stability.

Commenter 11 indicates that eligibility for federal subsidized housing has never been restricted to US citizens and embedding immigration enforcement into state housing rules undermines legislative intent and misdirects limited state resources. Commenter 11 believes through this rule the Department jeopardizes an estimated 9,000 to 28,000 units statewide.

Commenters 4, 10 and 17 urged that the Department discuss these concerns with affected communities and advocates prior to taking further rule actions.

Commenter 19 feels the rule changes cause a cascading effect on Texas Communities, workplaces, schools, healthcare and individual security and safety. There will be a direct impact on lawful DACA recipients. They also feel that the rule changes will cause economic destabilization as DACA workers facing loss of housing will cripple industries relying on lawful DACA workers. There will be widespread evictions and forced displacement. These restrictions will affect mixed-status households most significantly, and ultimately affect landlords when there are losses to housing and workforce.

Commenters 5 and 8 suggest that TDHCA should clarify that nonprofit charitable housing providers are exempt from PRWORA verification requirements, but they also acknowledge that the Notice creates confusion because it does not relieve states from ensuring all programs are compliant with PRWORA. They feel that this ambiguity is a reason that the rulemaking should be delayed until further guidance is released. They think that it will be very difficult for the Department to provide clarity without HUD having provided that clarity first.

Staff Response: Per the HUD notice of November 26, 2025, and the 2025 federal funding agreements states are not relieved from the requirements to ensure that all relevant programs are in compliance with PRWORA. HUD places the burden on TDHCA to ensure compliance with PRWORA, even before "new guidelines" are issued by HUD. Therefore, staff does not recommend withdrawing or deferring the rule. TDHCA does not believe it is 'overcomplying' but rather fully complying. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly adhere to that guidance. The TDHCA rule changes are specific enough to reflect adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. No change is recommended to the rule in response to this topic of comment.

As it relates to the comment that eligible families may be excluded because the guidance from the Department relating to al-

lowable documentation does not indicate acceptable documentation from tenants who are qualified aliens, but only US citizens, the document includes US Citizenship and US national Department is consistently looking to improve and update the guidance. Commenter 2 is encouraged to contact Gavin Reid (gavin.reid@tdhca.texas.gov) at the Department to provide specific suggested additions or revisions to the guidance.

The Department does not interpret enforcement of federal requirements as contradictory to its mission. Safeguarding the state's ability to access HOME, NHTF, and HOME-ARP funds through compliance with federal requirements is essential to keeping these funds available to qualified Texans.

As it relates to the impact on households, effects are associated with PRWORA, not necessarily the Department's applicability of PRWORA. By pushing the effective date of the rule to August 1, 2026, more notice is provided for households.

As it relates to the comments that the Department should discuss issues of the rule and its implementation with affected communities and advocates, TDHCA hosted a public hearing and a public comment period which was announced through the Department's email distribution groups. The Department will continue to seek input as documentation guidance is developed.

As it relates to the suggested exemption for nonprofit organizations, because the Department is still accountable for ensuring the PRWORA requirements as satisfied, the Department will clarify in the rule that in the case of properties in which the ownership entity is a nonprofit organization the property will have the option of either performing verifications themselves under §10.628(f)(2)(A), or gathering the required documentation and having the Department perform the verification under §10.628(f)(2)(B).

Concerns with the SAVE System (2)(5)(18)

Commenters 2, 5 and 18 indicate that the rule mandates the use of SAVE; however they believe the SAVE system is faulty, raises privacy and security concerns, increases risk of datamining, and has errors that render it an unreliable source for legal status. According to one source it has an error rate of at least 14%. Commenter 18 also raises concerns that SAVE is inaccurate, constantly changing and generates unclear reports. They are concerned also that federal employees and federal immigration enforcement officials may use SAVE to track individuals. The SAVE system's reliance on social security data does not provide definitive status information and is prone to inaccuracies. Commenter 18 is also concerned that SAVE error rates will result in eligible Texans losing access to housing.

Commenters 5 and 18 believes that the use of SAVE where additional verification is needed may cause excessive wait times up to 3 weeks for a household awaiting housing assistance, adding to precarious housing situations or adding additional housing costs.

Staff Response: When verification is unable to be satisfied using the documents provided by a household, the only system available to the Department for verification, and therefore available to properties, is the SAVE system. No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Administrative and Cost Burden (4)(6)(7)(11)(12)(15)(17)(18)

Commenters noted two primary categories of costs and burden - those on property owners and providers, and those on households.

Commenters 4, 7 and 18 noted that the rules will create administrative burdens and costs for property owners and providers, including costs associated with reduced occupancy. Commenter 6 also thinks the rule requirements will increase staffing, training and monitoring responsibilities that will divert resources away from direct service delivery. Commenters 11, 12, 15 and 17 noted that the verification process will impose steep burdens on local governments and program administrators.

Commenter 18 feels that the requirements are an unfunded mandate that will significantly impact developments across the state. There will be unavoidable delays and costs related to document collection, internal review, errors and appeals. Having to check for legal status will be an entirely new process for most properties. There will also be costs associated with creating new processes, staff training, ensuring system compatibility. These steps will be particularly difficult for smaller owners many of which are located in rural areas.

Commenter 18 also thought that costs would be significant because properties would not have access to SAVE through the existing Memorandum of Agreement between TDHCA and Department of Homeland Security. If they can't access SAVE themselves, properties would have to submit their household verifications to TDHCA for processing. The system and method they would need to use would likely be substantial and fall more on small or micro-businesses and rural communities.

Commenter 12 also notes the administrative burden on Texans who will have to sacrifice work hours to obtain these benefits. Commenters 4, 7 and 18 note that the rule will create delays and increase costs for tenants. Commenters 7 and 18 also note the delays and costs for tenants as they seek to procure the correct documentation, which is disproportionately difficult for the low-income vulnerable populations served by these funding sources. Households may not have the funds or free time to get to government offices to secure the needed documentation.

Staff Response: To clarify the comments that reference cost to service providers, program administrators and local governments, this rule applies only to a specific portfolio of multifamily properties. The rule is not applicable to local service providers, administrators or local governments. The preamble of this rule has been expanded to reflect some of the commenter's concerns with the costs and burdens noted.

As it relates to the incidental costs that will be borne by the properties or households, it is not within the Department's authority to simply not apply the federal requirements. The Department will assist properties in training their staff on documentation requirements and SAVE access in an effort to minimize the work added for properties and to ease the experience for households.

It should be noted that in response to Commenter 18, their suggestion that properties will not have access to SAVE is incorrect; multifamily properties will have access to SAVE through the Department's Memorandum of Agreement and are required to use SAVE rather than submit households to the Department for verification. System updates and transmittal methods are anticipated to be minimal because of this.

No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Overcompliance (12)

Commenter 12 suggests that passing the responsibility for verifying immigration documentation to development owners and managers will lead to overcompliance as properties ensure they follow the guidelines.

Staff Response: While the Department is taking no action to promote properties' 'overcompliance' it does expect properties to fully comply. No changes to the rule are made in response to this comment.

§10.612 and §10.628 - Evolving Federal Direction (16)

Commenter 16 states that pending litigation and evolving federal direction are also relevant to this rule's rollout. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. They note that TDHCA has treated federal notices as effective immediately, while other states are delaying rule changes until litigation is resolved. They believe this creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transitional instructions.

Staff Response: To ensure federal compliance the Department is implementing the rule promptly and is not waiting on litigation resolution in other states. If additional federal guidance is released, the Department will remain compliant and disseminate clear instructions or propose any necessary rule adjustments. No changes to the rule are made in response to these comments.

§10.612 and §10.628 - Increased Legal and Compliance Exposure, Concerns of Discrimination and Eviction (5)(6)(8)(15)(18)

Commenters 5 and 15 suggest that the rule may cause discriminatory assumptions to be made about tenants or their guests, in violation of the Fair Housing Act. Commenter 6 believes that requiring housing providers to collect and verify immigration documentation may cause Owners and local governments to face fair housing complaints or legal liability if documentation practices are not applied consistently.

Commenter 18 references the National Housing Law Project's brief on immigration requirements and believes that if PRWORA is applied improperly the Department could be subject to discrimination claims under federal civil rights laws.

Commenter 8 also believes it is critical in issuing a rule that touches on issues of race and national origin that the rule is narrowly tailored to ensure its obligation to not discriminate. Their suggested revisions (relating to narrowing the verifications only to the funded units in the property and limiting it to only new properties) will help address that concern. Commenter 8 also feels that the Department's duty to not make housing unavailable based on race and national origin is not met because the rule does not address enforcement and implies that residents should be evicted based on their national origin.

Commenter 8 specifically suggests that the following sentence be added: "Owners are not required to evict tenants or refuse to renew leases of tenants pursuant to this rule. Owners may be required to ensure that occupants who are not qualified aliens are moved to Units that are not receiving HOME, HOME-ARP Rental or NHTF funding."

Staff Response: The Department denies any direct or indirect allegation of illegal race or national origin discrimination. Properties are expected to use documentation requested from households in all covered units, regardless of race or national origin, to objectively verify those documents against guidance provided by the Department. If that documentation requested does not allow a property to confirm legal status, then the property will enter the household in the SAVE system. In response to Commenter 8, the Department cannot say that properties will not be required to evict tenants or refuse to renew leases under this rule; if a household at lease renewal is unable to be confirmed for legal status, the property will be in a position to not renew the lease for good cause because the household will not meet a HOME, HOME-ARP Rental, or NHTF requirement. No changes to the rule are made in response to these comments.

§10.628(b) - Relating to Applicability of the Rule to Existing Properties (8)(9)

Commenter 8 requests that the rule only be applicable to future properties funded with NHTF, HOME and HOME-ARP. The commenter also requests that the rule clarify that the reference to HOME developments is limited to TDHCA HOME funds, not local. Commenter 9 also asked for clarity around what was meant by saying that properties subject to 214 satisfied the rule's verification requirements.

Staff Response: While not revising the rule to only apply to future properties, the rule has been clarified to reflect that it only applies to Department-funded HOME activities. Also, clarity has been added to the rule for properties subject to 214 that the individual does not require further verification if they have been verified using the 214 screening process.

§10.628(b) - Relating to Floating Units (1)(5)(8)(16)(18)

Commenters 1, 5, 8, 16 and 18 requested that the rule be amended to clarify that verification requirements are only applicable to lease signers on units designated as assisted with HOME, HOME-ARP, or NHTF, not to all units in the property. Unit designations are clearly established through Department systems, and it is readily identifiable which households are benefiting from these programs. Commenter 1, 16 and 18 state that applying this requirement to all Units within a property, particularly on a retroactive basis, could have significant unintended consequences, will increase workload and cause tenant-facing disruption. Commenter 5 states that voluntarily extending these new verification procedures to many more households who happen to live in buildings where other tenants receive federally funded housing assistance will unnecessarily increase the financial and administrative burden for both housing providers and for low-income families. It may also result in the displacement of a substantial number of households statewide. Commenter 16 suggests specific documentation to place in the file to affirm that the unit is a designated assisted units, including the effective date of each unit designation and the household occupying the unit as of that date.

Commenter 16 applies HUD's Paperwork Reduction Act benchmark to support why this rule should be applied only to units with those programs and not all units in the property. They estimate that there will be approximately 11,408 staff hours and more than $590,000 for a one-time cycle of checking status on only the 9,126 assisted units. This increases to 36,118 hours and an estimated $1.8 million cost when applied to all units in affected developments. Commenter 16 provided a property-level example of this.

Commenter 16 further notes that rural properties tend to have higher assisted-unit shares and are overwhelmingly funded with HOME, meaning many rural sites will be more affected even under a narrower application of the rule; they have fewer

staff resources to absorb fixed per-lease requirements. Urban properties are larger and more layered, including more NHTF and HOME-ARP, which increases operational complexity and the likelihood of administrative error if the rule is not explicit.

Staff Response: Currently the rule states that if a property has received HOME, HOME-ARP or NHTF funds ("program units"), and has floating units, all units in the property will be required to have PRWORA verification performed. It is not totally accurate for commenters to suggest that the requirements are not applicable to all units in the property. As with other federal requirements applicable to floating units, requirements are made applicable to all units to ensure that all residential floating units have the capacity to be HOME, NHTF, or HOME-ARP Rental units because a Development Owner must have the legal ability to swap designations with an equivalent sized unit in the Development if a household becomes noncompliant per specific program rules, such as going over the income designation or violating the student rule. If the rule were revised to only be applicable to the program units, there is a risk to the Department that HUD will determine that the Department is not appropriately administering the requirements for floating units.

§10.628(e) - Implementation Timing (7)(16)(18)(20)

Commenter 16 requests that this section be revised to provide a specific date as the effective date for the rule rather than just referencing 'the effective date' as without a specific date this may be interpreted differently.

Commenter 16 also asks that TDHCA specifically address when the rule is triggered for renewals because some leases are renewed months prior to their lease expiration. Without a clear standard, owners will face conflicting expectations about whether finalized lease files must be reopened or whether verification can wait until the next renewal cycle. Without this specificity there will be inconsistent tenant treatment and inconsistent monitoring outcomes. For HOME units, a formal lease renewal may not occur because leases can continue month to month, and full income recertification can be less frequent than annual. In those cases, owners need a defined recurring compliance touchpoint, such as the annual HOME review or annual household certification event, so "recertification or renewal" is not a null trigger.

Commenter 16 suggests that the triggering event be the fully executed lease document (when the last required signature is executed) that implements the assisted designation for that specific Unit not the lease term start or occupancy. Their suggestion is the objective file-based event TDHCA can monitor. Commenter 18 supports the need for greater specificity in how this rule applies in relation to leases being signed.

Commenter 18 and Commenter 7 recommends that the rule not apply to tenants who signed their leases prior to the rule going into effect but only those households that move in after the rule becomes effective. Commenter 18 and 20 also wanted to clarify that household members do not need to be re-qualified at every recertification, but only once.

Staff Response: To ensure adequate time for Owners to sign agreements relating to SAVE access, further develop forms and attestations, provide training, and improve the guidance from the Department as it relates to documentation, the Department is making the rule effective August 1, 2026. The rule also now adds clarity for when a unit recertification/renewal is effective for purposes of this rule and in relation to when a lease renewal may be signed. The rule has been clarified to specify that household members who have been verified once do not have to be reverified at lease renewal. Only any new signers of the lease will need to be verified.

§10.628(f)(2)(D) - Transmittal, Security, and Record Retention (16)

Commenter 16 suggests that as drafted, §10.628(f)(2)(D) relies on discretionary standards such as "sufficient" transmittal systems and "sufficient" evidence that verification occurred. In practice, that invites inconsistent implementation across Owners and vendors, encourages over collection and over retention of sensitive personal information, and makes monitoring subjective because TDHCA staff will be left to decide case by case what was "sufficient." This is especially risky because the rule authorizes three different verification pathways that generate different records and involve different parties. A single, vague record-keeping standard will not produce consistent files.

Commenter 16 suggests that the tenant file standard should instead be objective and method specific. Owners need to know exactly what must be kept for each method of verification, and TDHCA needs a uniform checklist that can be applied consistently during monitoring. Clear minimum documentation requirements reduce rework, reduce disputes and findings driven by missing or inconsistent paperwork, and better protect confidentiality by limiting retention to what is necessary to confirm compliance. Commenter 16 made specific suggested file documentation items for each category.

Staff Response: The Department agrees that clarity around "sufficiency" and clearer documentation requirements are beneficial for properties and monitoring staff. Revisions have been made to the rule.

§10.628(f)(2)(F) - (K) Pending, delayed, or disputed verification; appeals (9)(16)(18)

Commenter 16 notes that the proposed rule does not provide a uniform statewide process for cases in which verification does not immediately yield a confirmed result, which is a material gap because delayed, manual, and inconclusive outcomes are foreseeable. Under SAVE, the turnaround time is often outside an Owner's control under Department, vendor, or third-party workflows. HUD's proposed Section 214 framework similarly anticipates secondary verification and time extensions, confirming that non-instant results are a normal feature of verification administration. Without uniform statewide rules for notices, escalation, timelines, and file documentation, Owners will develop inconsistent site-level practices, applicants will be treated differently across properties, and TDHCA monitoring will become subjective, increasing disputes, vacancy friction, and avoidable compliance findings. They recommend specific additions to the rule to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, establish a dispute and cure process with roles and timeframes, and include a compliance safe harbor so an Owner is not cited solely because results are delayed when the Owner timely initiated verification, provided required notices, followed TDHCA procedures, and maintained required documentation.

They reference that the Texas Tribune reported that in the voting context, more than 5% of people flagged by SAVE as noncitizens were ultimately confirmed to be U.S. citizens in counties that conducted follow-up review. They suggest that in some small counties, most people flagged turned out to be eligible. Because veri-

fication is more complex than a binary citizenship check, making clear statewide procedures is essential. Commenter 16 requests that uniform standards be applied for non-confirmed results, including required written notices, timelines and extension criteria, documentation requirements, a dispute/cure process, and a compliance safe harbor when an Owner timely initiates verification and follows the TDHCA procedures, but results are delayed outside the Owner's control.

Commenter 16 recommends adding new sections §10.628(f)(2)(F) through (K), as submitted with their comment, to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, and establish a dispute and cure process with roles and timeframes.

Commenter 18 also noted that the rule does not address the need for notice to households when denied based on SAVE status, but that the Memorandum of Agreement does require that. So the rule being silent on this is problematic. Commenter 18 also feels that an appeal process would be beneficial. They estimate that up to 1,440 appeals may be generated from SAVE appeals. Commenter 9 also questions the lack of specificity around an appeal process when a property is appealing a SAVE determination.

Staff Response: The Department agrees that notice to tenants is required. There is also a need for more clear processes for delayed verifications, inconclusive verifications, timeframes for households submitting more information to Department disputes and appeals. These items will be addressed in forthcoming revisions to 10 TAC §10.802, Written Policies and Procedures, which will be presented to the Board in May 2026.

Other Comments - Lack of Accessible Information (18)

Commenter 18 was concerned that the information about the new requirements is inaccessible. The HUD grant agreements which TDHCA references in its materials are not publicly available. HHS and HUD notices reference future guidance that is also not yet available. They note that it is unclear who will be training developments.

Staff Response: Information has been made public as allowable. Documents that are in TDHCA's possession and not subject to exception or exemption may be requested through an open records request.

Other Comments - Creating New Law (19)

Commenter 19 suggests that by formulating these rules, TDHCA is surpassing its authority and superseding the law-making legislative body.

Staff Response: TDHCA is authorized by Tex. Gov't Code §2306.053 to adopt rules governing the administration of the Department and its programs.

Other Comments (3)(13)(14)

Commenter 14 attended the hearing and sought information on how to access TDHCA grants and assistance for a proposed property concept, and also requested a list of existing assisted properties.

Commenter 13 asked whether the household verification form and other guidance around documentation has been created and made available yet for the multifamily properties. They note that they would like to make comment on those and wanted to know when that would be available.

Commenter 13 asked if the plan was to give SAVE access to all 391 properties subject to this rule.

Commenter 3 asked in the hearing if HUD's release of 214 guidance would prompt the Department to align with that guidance going forward.

Staff Response: Commenter 14 was individually contacted to assist them with their interest in the Department. The household verification form and other documents will be made available and their input will be sought as those are crafted. Yes, other than federally debarred entities, the intent is to provide SAVE user access to all properties subject to the rule. HUD's release of 214 guidance is not applicable to these programs or properties unless otherwise triggered for a property by other layered funding on that property.

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

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

§10.628. Verification of Occupant Legal Status for HOME, HOME ARP Rental, and NHTF Developments.

(a) Purpose. The purpose of this section is to provide uniform Department guidance on the applicability and implementation of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which provides that an alien who is not a Qualified Alien is not eligible for any federal or state public benefit.

(b) Applicability. This rule is effective beginning on August 1, 2026. This rule applies to existing and future National Housing Trust Fund, TDHCA HOME-ARP Rental and TDHCA HOME Developments for their state and federal affordability periods. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section. Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

(c) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined or assigned by federal or state law.

(1) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) or (c).

(2) State--The State of Texas or the Department, as indicated by context.

(3) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of program applicants.

(d) Owners must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section for all residents that will be signing the lease.

(e) Implementation Timing.

(1) For All HOME, HOME ARP Rental, and NHTF Developments the Owner must confirm qualified legal status for each person signing the lease at initial lease-up of the Unit.

(2) For All HOME, HOME ARP Rental, and NHTF Developments that have Units occupied on or after August 1, 2026, the Owner must confirm qualified legal status for each person signing the lease at the time of the first Unit recertification or lease renewal after the effective date of this rule. For purposes of this section, Unit recertification or lease renewal is defined as the effective date of the renewed lease.

(3) After verification has occurred under paragraphs (1) or (2) of this subsection, verification does not need to be reconfirmed thereafter for a household member at subsequent Unit recertification or lease renewal if there is no change to the household members having signed the lease. Any new lease signatories at the time of subsequent Unit recertification or lease renewal must be confirmed to have qualified legal status.

(4) To the extent that a household is denied tenancy or that an existing household no longer qualifies to reside in the Unit, notification requirements as provided for in §10.613 of this title (relating to Lease Requirements), must be met. To the extent that denial of a lease or nonrenewal of a lease is based solely or in part of the SAVE response, the household must be provided adequate written notice of the denial and the information necessary to contact the Department of Homeland Security (DHS) so that the household may have the opportunity to correct their immigration records in a timely manner, if necessary, as provided for in 10 TAC §10.802 Written Policies and Procedures.

(f) Verification Process Under PRWORA.

(1) Owners must first attempt to verify the legal status of each person signing the lease using the acceptable documents and procedures described in subparagraph (A) of this paragraph. If the Owner cannot verify legal status through the acceptable documentation and verification is not satisfied under subparagraph (B) of this paragraph relating to Section 214 verification, the Owner must complete verification under paragraph (2) of this subsection.

(A) The Owner must verify the legal status of each person signing the lease by reviewing the documentation and following the documentation checklist or flowchart provided by the Department.

(B) If a household member has been verified in accordance with the screening process required by Section 214 of the Housing and Community Development Act of 1980, as amended, that verification satisfies the requirement of this section for that household member.

(2) If the Owner is unable to verify legal status for any person signing the lease through the methods described in paragraph (1) of this subsection the Owner must complete verification using one of the methods described in subparagraph (A), (B) or (C). Owners authorized to utilize the SAVE system are required to complete verification through the SAVE system as provided for in subparagraph (A) of this paragraph, except that in the case of Development Owners that are private nonprofit organizations, the Owner has the option of verification through subparagraph (A), (B) or (C) of this paragraph. If an Owner is not authorized to utilize the SAVE system, Owners must select an option under subparagraph (B) or (C) of this paragraph. Records must be maintained as required by each subparagraph of this paragraph.

(A) The Owner electing to perform the verifications through the SAVE system, and is authorized to use SAVE, in which case the Owner must maintain the SAVE case number for each person verified, complete any forms required by the Department, retain the initial SAVE response, and retain documentation of any request for additional verification and the subsequent SAVE response(s) on final result;

(B) Owner requesting that verification be performed by the Department or a party contracted by the Department. Owner must collect from the household and transmit to the Department the appropriate information and documentation using the method and system required by the Department so that the Department or its vendor can perform such verification and provide a determination to the Owner. The Owner must maintain proof of submission including the date of submission and the subsequent response or determination returned by the Department, vendor or its contracted party; or

(C) Owner electing to procure an eligible qualified organization or service to perform such verifications on its behalf, subject to Department approval. The Owner or its procured provider must maintain the SAVE case number for each person verified, complete any forms required by the Department, retain the initial SAVE response, and retain documentation of any request for additional verification and the subsequent SAVE response(s) on final result.

(D) Notification of Election of method under subparagraph (B) or (C) of this paragraph by Owners must be provided to the Department as specified in this subparagraph.

(i) For existing Developments not permitted to access the SAVE system, no later than July 1, 2026, an Owner shall submit their election under subparagraph (B) or (C) of this paragraph in writing to the Compliance division.

(ii) For newly constructed/reconstructed Developments, an Owner must make their election under subparagraph (B) or (C) of this paragraph in its Application, or if there is no Application prior to the issuance of certificates of occupancy.

(iii) For an incoming Owner, an election must be made as part of the Ownership Transfer Notification, as part of 10 TAC §10.406.

(iv) Once an election is made under this subsection it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Owner notifies the Department otherwise in writing at least one month prior to the implementation of the change at the Development.

(E) Owners must execute an agreement with the Department that authorizes the Development's delegation of access to the SAVE system. Owners must follow that agreement relating to providing notice to tenants about how their documentation will be used and data privacy requirements.

(g) The Department may further describe an Owner's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract or in further guidance. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

(h) Regardless of method of verification, the results of the verification performed or received by the Owner must be utilized by the Owner in determining household eligibility.

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 April 9, 2026.

TRD-202601555
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: January 23, 2026
For further information, please call: (512) 475-3959

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SUBCHAPTER G. AFFIRMATIVE MARKETING REQUIREMENTS AND WRITTEN POLICIES AND PROCEDURE

10 TAC §10.802

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 10, Subchapter G, Section 10.802 Written Policies and Procedures without changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 501). The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule and replace it simultaneously with a new rule that addresses new federal HOME regulations.

The Department has analyzed this 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 has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the administration of the HOME Program.

2. The repeal does not require a change in work that creates new employee positions nor does it create savings that would allow for a reduction in employee positions.

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

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

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

6. The repeal is not considered to expand an existing regulation.

7. The repeal does not increase the number of individuals subject to the rule's applicability.

8. The 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 the repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENT. The public comment period for the rule was held January 30, 2026 to March 3, 2026, to receive input on the proposed repealed section. No comments were received on the proposed repeal of §10.802.

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

Except as described herein the repeal affects no other code, article, or statute.

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 April 9, 2026.

TRD-202601551
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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10 TAC §10.802

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 10, Subchapter G, §10.802 Written Policies and Procedures with changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 501). The rule will be republished. The purpose of the new section is to bring the rule up to date by including updates from the new federal HOME final rule and clarifying and correcting language.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no additional costs associated with this action. No additional funds will be needed to implement this rule.

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

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

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

The rule does not create or eliminate a government program but relates to changes to an existing activity: the administration of the HOME Program.

The rule does not require a change in work that creates new employee positions nor does it create savings that would allow for a reduction in employee positions.

The new section will not require additional future legislative appropriations.

The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

The new section is not creating a new regulation.

The new section does expand on an existing regulation.

The new section does not increase the number of individuals subject to the rule's applicability.

The new section will not negatively or positively affect the state's economy.

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 the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

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

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

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section 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.

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 new section is in effect, the public benefit anticipated as a result of the new section would be a rule compliant with the federal regulations for the HOME Program. There will not be economic costs to individuals required to comply with the new section.

FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the sections will have no economic costs.

SUMMARY OF PUBLIC COMMENT. The public comment period for the proposed new rule was held between January 30, 2026 to March 3, 2026. Written comments were accepted by email and mail. Comment was received from one commentor as follows (1) Scott A. Marks, P.C. on behalf of Foundation Communities and New Hope Housing.

Comment on the addition of language to 10.802(b)(2)(A) and 10.802(b)(2)(B):

Commentor 1 urged the Department to add language to the above referenced sections, to include "or written agreement" language to these sections to allow for preferences and limitations to be accepted by the Department, but that they not be required to be recorded in a LURA. Commentors state that in their opinion "A written agreement is all that is required by federal law and state law, and would require significantly less TDHCA staff and nonprofit staff time to prepare."

Staff Response: Federal and State law requires preferences and limitations be enforceable by both TDHCA and tenants, and TDHCA monitors development compliance through the terms of the LURA. Adding a separate "written agreement" to contain some preferences and limitations will not require less staff time to prepare because it will only be adding an additional source of enforceable obligations in addition to the required LURA obligations, and only for properties that choose to utilize such a written agreement. A new system for providing notice to TDHCA and tenants of changing preferences and limitations, adding a reference to the existing or contemplated LURA that references that a separate source for enforceable obligations exists, and allowing TDHCA to approve preferences and limitations as being legally appropriate, will need to be created in order to operationalize such a system. That said, TDHCA is agreeable to finding a solution to this concern but believes that further discussion is necessary between the Department and Commentor before a permanent change can be made to the rule. Additionally, the suggested change does not align with other places in the Texas Administrative Code and state statute where certain limitations, such as Elderly, are required to be in the LURA. Furthermore, the term "written agreement," while used federally, does not correspond with the TDHCA term Contract that is used elsewhere in the Texas Administrative Code to describe the Written Agreement required under certain federal programs. No changes to the rule are recommended at this time in response to this comment.

STATUTORY AUTHORITY. The rule action is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

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

§10.802. Written Policies and Procedures.

(a) The purpose of this section is to outline the policies and/or procedures of the Department (also called tenant section criteria) that are required to have written documentation. If an Owner fails to have such Written Policies and Procedures, or fails to follow their Written Policies and Procedures it will be handled as an Event of Noncompliance as further provided in §10.803 of this subchapter (relating to Compliance and Events of Noncompliance).

(1) Owners must inform applicants/tenants in writing, at the time of application, or at the time of other actions described in this section, that such policies/procedures as described in this section are available, and that the Owner will provide copies upon request to applicants/tenants or their representatives.

(2) The Owner must have all policies and related documentation required by this section and the TDHCA form based on HUD

form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation" available in the leasing office and anywhere else where applications are taken; Developments that accept electronic applications must maintain on their website these Written Policies and Procedures and the same noted forms.

(3) All policies must have an effective date. Any changes made to the policies require a new effective date, and a notice regarding the availability of new policies must be communicated to tenants in writing. Acceptable forms of notification in writing are:

(A) Written notice to each household through an active communications portal or online rental payment portal, if either are used at the Development;

(B) written notice via hard copy placed on the door to each occupied Unit;

(C) a notice online on the Development's website, if the Development has one; or

(D) a hard copy notice posted in the leasing office's public area for at least 30 calendar days.

(4) In general, policies addressing credit, criminal history, and occupancy standards cannot be applied retroactively. Tenants who already reside in the Development or applicants on the waitlist at the time new or revised tenant selection criteria are applied, and who are otherwise in good standing under the lease or waitlist, must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria or be passed over on the waitlist. However, criteria related to program eligibility may be applied retroactively when a market rate development receives a new award of tax credits, federal, or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.

(b) Tenant Selection Criteria. A Development Owner must maintain current and prior versions of the written Tenant Selection Criteria, for the longer of the records retention period that applies to the program, or for as long as tenants who were screened under the historical criteria are occupying the Development.

(1) The criteria identified by a Development must be reasonably related to an applicant's ability to perform under the lease (for a Development with MFDL funding this means to pay the rent, not to damage the housing, and not to interfere with the rights and quiet enjoyment of other tenants) and include at a minimum:

(A) Requirements that determine an applicant's basic eligibility for the Development, including any preferences, restrictions (such as the Occupancy Standard Policy), the Waitlist Policy, Changes in Housing Designation Policy, low income unit designations utilized, and any other tenancy requirements. Any restrictions on student occupancy and any exceptions to those restrictions, as documented in the tenant file as provided for in 10 TAC §10.612(b)(2) of this chapter (relating to Tenant File Requirements) must be stated in the policies;

(B) Applicant screening criteria, including what applicant attributes are screened and what scores or findings would result in ineligibility;

(C) The following statement: Screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and TDHCA's rules;

(D) Specific age requirements if the Development is operating as an Elderly Property either under the Housing for Older Persons Act of 1995 as amended (HOPA), or the age related eligibly criteria required by its use of federal funds.

(2) The criteria must not:

(A) Include preferences for admission, unless it is in a recorded LURA which has been approved by the Department (preferences are required to be in a LURA when a Development has federal or state funding, except for the preference allowed by paragraph (3) of this subsection), is required by a program in which the Owner is participating which requires the preference, or is allowed by paragraph (3) of this subsection. Owners that include preferences in their leasing criteria due to other federal financing must provide to the Department either written approval from HUD, USDA, or VA for such preference, or identify the statute, written agreement, or federal guidance documentation that permits the adoption of this preference;

(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. If an Owner adopts a minimum income standard for households participating in a voucher program, it is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount or $2,500 annually; or

(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(3) If the Development is funded with HOME, HOME ARP, TCAP RF, NHTF, or NSP funds, in accordance with 24 CFR §93.356 and 24 CFR §92.359, the criteria may have a preference for persons who have experienced domestic violence, dating violence, sexual assault, or stalking.

(4) Occupancy Standard Policy.

(A) If the Development restricts the number of occupants in a Unit in a more restrictive manner than found in Section 92.010 of the Texas Property Code, the Occupancy Standard Policy must allow at least two persons per Bedroom plus one additional person per Unit. An Efficiency Unit that is greater than 600 square feet, must also have an Occupancy Standard Policy of at least three persons per Unit. In an SRO or in an Efficiency that is less than 600 square feet, the Occupancy Standard Policy must allow at least two persons per Unit. Supportive housing or transitional housing Developments where all Units in the Development are SROs or Efficiencies, are not required by the Department to have an Occupancy Standard Policy, except as required for the 811 PRA Program or as reflected in the Development's LURA.

(B) A Development may adopt a more restrictive standard than described in subparagraph (A) of this paragraph, if the Development is required to utilize a more restrictive standard by a local governmental entity, or a federal funding source. However, the Development must have this information available onsite for Department review.

(C) Except for an Elderly Development that meets the requirements of the Housing for Older Persons Act exception under the Fair Housing Act, the Occupancy Standard Policy must state that children that join the household after the start of a lease term will not cause a household to be in violation of the lease.

(c) Reasonable Accommodations Policy. Owners must maintain a written Reasonable Accommodations policy. The policy must be maintained at the Development. Owners are responsible for ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.

(1) The policy must provide:

(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation;

(B) How transfers related to a reasonable accommodation will be addressed; and

(C) A timeframe in which the Owner will respond to a request that is compliant with §1.204(b)(3) and (d) of this title (relating to Reasonable Accommodations).

(2) The policy must not:

(A) Require a household to make a reasonable accommodation request in writing;

(B) Require a household whose need is readily apparent to provide third party documentation of a disability;

(C) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation;

(D) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or

(E) Require a household to rent a unit that has already been made accessible.

(d) Waitlist Policy. Owners must maintain a written waitlist policy, regardless of current Unit availability. The policy must be maintained at the Development. The policy must include procedures the Development uses in:

(1) Opening, closing, and selecting applicants from the waitlist, including but not limited to the requirements in §10.615(b) of this title (relating to Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments);

(2) Determining how lawful preferences are applied; and

(3) Procedures for prioritizing applicants needing accessible Units in accordance with 24 CFR §8.27, and Chapter 1, Subchapter B of this title (relating to Accessibility and Reasonable Accommodations).

(e) Changes in Household Designation Policy. This is applicable if a Development has adopted a policy in accordance with §10.611(c) of this subchapter (relating to Determination, Documentation and Certification of Annual Income).

(f) Denied Application Policies. Owners must maintain a written policy regarding the procedures they will follow when denying an application and when notifying denied applicants of their rights.

(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.

(2) Within seven days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:

(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based;

(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the Development. An appeals procedure is required for HOME Developments that are owned by Community Housing Development Organizations, and Units at Developments that lease Units under the Department's Section 811 PRA program. The appeals process must provide a 14-day period for the applicant to contest the reason for the denial, and comply with other requirements of the HUD Handbook 4350.3 4-9; and

(C) The TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."

(3) The Development must keep and may periodically be requested to submit to the Department a log of all denied applicants that completed the application process to include:

(A) Basic household demographic and rental assistance information, if requested during any part of the application process; and

(B) The specific reason for which an applicant was denied.

(4) If an 811 applicant is being denied, within three calendar days of the denial the Department's 811 PRA Program point of contact must be notified and provided with a copy of the written notice that was provided to the applicant.

(g) Non-renewal and/or Termination Notices. A Development Owner must maintain a written policy regarding procedures for providing households non-renewal and termination notices.

(1) The Owner must provide in any non-renewal or termination notice, a specific and lawful reason for the termination or non-renewal.

(2) The notification must:

(A) Be delivered as required under applicable program rules and the lease. For HOME, HOME ARP, TCAP RF, NHTF, NSP, HTC, TCAP, ERA, and Exchange Developments, see 10 TAC §10.613(a) - (b) of this chapter (relating to Lease Requirements). For Section 811 PRA, see 24 CFR §247.4(a) - (f);

(B) Include the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted;

(C) State how a person with a disability may request a reasonable accommodation in relation to such notice;

(D) Include information on the appeals process if one is used by the Development (this process is required under some LURAs, for HOME Developments that are owned or sponsored by Community Housing Development Organizations, and for 811 PRA units); and

(E) For Units subject to the 2025 HOME Final Rule as identified in §10.601(g), of this chapter relating to 2025 HOME Final Rule applicability,

(i) Such notice should be provided in a translated format when needed to ensure meaningful access for limited English proficient (LEP) persons; and

(ii) Be provided to TDHCA within the timeframe identified in §10.613(o)(4) if this chapter, relating to Notices to Vacate.

(h) At the time of application Owners must provide each adult in the household the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted.

(i) Policies and procedures will be reviewed periodically by the Department's Fair Housing staff, as a result of complaints, or through an owner initiated written policies and procedures review. Owners may request a review of the written policies and procedures for a portfolio of Developments by submitting a request to fair.housing@tdhca.state.tx.us. After review by the Department, an Owner may make non-substantive changes to the policies.

(j) A Development Owner must allow applicants to submit applications via mail and at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via email, website form, or fax. The Development's tenant selection criteria must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria.

(k) If the Development has ever been funded via Direct Loan or has HOME Match units, the Development's written policies and procedures must list at least two methods to contact the Development.

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 April 10, 2026.

TRD-202601580
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 30, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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CHAPTER 13. MULTIFAMILY DIRECT LOAN RULE

10 TAC §§13.1 - 13.13

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, §§13.1 - 13.13 without changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 506). The rule will not be republished. The purpose of the repeal is to provide for clarification of the existing rule through new rulemaking action.

The Department has analyzed this 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 repeal would be in effect, the 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 Multifamily Direct Loan Program.

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

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

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

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

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be increased clarity and improved access to the Multifamily Direct Loan funds. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from January 30, 2026, to March 3, 2026, to receive input on the proposed repealed section. No comments on the repeal were received.

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

Except as described herein the repealed sections affect no other code, article, or statute.

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 April 9, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

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10 TAC §§13.1 - 13.13

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 13, Multifamily Direct Loan Rule, §§13.1 - 13.3, 13.7, and 13.10, without changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 507). These rules will not be republished. Sections 13.4 - 13.6, 13.8, 13.9 and 13.11 - 13.13 are adopted with changes. These rules will be republished. The purpose of the new sections is to provide compliance with Tex. Gov't Code §2306.111 and to update the rule to: clarify program requirements in multiple sections, codify in rule practices of the division, and change citations to align with changes to other multifamily rules. In general, most changes are corrective in nature, intended to gain consistency with state or federal rules, delete duplicative language or provisions, correct or update rule references, and clarify language or processes to more adequately communicate the language or process.

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

The Department has analyzed this 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 new rule would be in effect:

1. The rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, administration of the Multifamily Direct Loan Program.

2. The 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 rule changes do not require additional future legislative appropriations.

4. The rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

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

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

8. The 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 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 rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures for multifamily direct loan applications and award through various Department fund sources. Other than in the case of a small or micro-business that is an applicant for such a loan product, no small or micro-businesses are subject to the rule. It is estimated that approximately 200 small or micro-businesses are such applicants; for those entities the new rule provides for a more clear, transparent process for applying for funds and does not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the rule because this rule is applicable only to direct loan applicants for development of properties, which are not generally municipalities. The fee for applying for a Multifamily Direct Loan product is $1,000, unless the Applicant is a nonprofit that provides supportive services or the Applicant is applying for Housing Tax Credits in conjunction with Multifamily Direct Loan funds, in which case the application fee may be waived. These fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing.

There are 1,363 rural communities potentially subject to the rule for which the economic impact of the rule is projected to be $0. 10 TAC Chapter 13 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for MFDL resources that are located in rural areas is approximately fifteen. In those cases, a rural community securing a loan will experience an economic benefit, including, potentially, increased property tax revenue from a multifamily Development.

3. The Department has determined that because there are rural MFDL awardees, this program helps promote construction ac-

tivities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive MFDL awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The 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 rule will be in effect the rule may provide a possible positive economic effect on local employment in association with this rule since MFDL Developments, layered with housing tax credits, often involve a typical minimum investment of $10 million in capital, and more commonly an investment from $20 million to $30 million. Such a capital investment has direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to predict during rulemaking where these positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to be quantified for any given community until MFDL awards and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas 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 significant construction activity is associated with any MFDL Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive MFDL awards.

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 new sections are in effect, the public benefit anticipated as a result of the new sections will be improved clarity of program requirements in multiple sections, codification in rule practices of the division, and change citations to align with changes to other multifamily rules. There will not be any economic cost to any individuals required to comply with the new sections because this rule does not have any new requirements that would cause additional costs to applicants.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because it does not have any new requirements that would cause additional costs to applicants.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from January 30, 2026, to March 3, 2026, to receive input on the proposed new sections. No comment was received.

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

Except as described herein the new sections affect no other code, article, or statute.

§13.4. Set-Asides, Regional Allocation, and NOFA Priorities.

(a) Set-Asides. Specific types of Activities or Developments for which a portion of MFDL funds may be reserved in a NOFA will be grouped in categories called Set-Asides. Not all Set-Asides will be available in every NOFA, and the Board may approve Set-Asides not described in this section. The amount of a single award may be credited to multiple Set-Asides, in which case the credited portion of funds may be repositioned into an oversubscribed Set-Aside prior to a defined collapse deadline. Applications under any and all Set-Asides may or may not be layered with other Department Multifamily programs except as provided in this section or as determined by the Board to address unique circumstances not addressed by these rules.

(1) General / Soft Repayment Set-Aside.

(A) Applicants seeking to qualify for NHTF under this set-aside must propose Developments in which all Units assisted with MFDL funds are available for households earning the greater of the poverty rate or 30% AMI, and have rents no higher than the rent limits for extremely low-income tenants in 24 CFR §93.302(b).

(B) Applicants seeking to qualify for HOME under this set-aside must propose Developments in which all Units assisted with MFDL funds are available to households earning no more than 80% AMI and have rents no higher than the rent limits under 24 CFR §92.2.

(C) A portion of the General / Soft Repayment Set-Aside may be reallocated into the CHDO Set-Aside in order to fully fund a CHDO award that exceeds the remaining amount in the CHDO Set-Aside.

(2) CHDO Set-Aside. Unless waived or reduced by HUD, a portion of the Department's annual HOME allocation will be set aside for eligible CHDOs meeting the requirements of the definition of Community Housing Development Organization in 24 CFR §92.2 and 10 TAC §13.2(2) of this chapter (relating to Definitions). Applicants under the CHDO Set-Aside must be proposing to develop housing on Development Sites located outside Participating Jurisdictions (PJ), unless the award is made within a Persons with Disabilities (PWD) Set-Aside, or the requirement under Tex. Gov't Code §2306.111(c)(1) has been waived by the Governor. A grant for CHDO operating expenses may be awarded in conjunction with an award of MFDL funds under this Set-Aside, if no other CHDO operating grants have been awarded to the Applicant in the same Calendar year, in accordance with 24 CFR §92.208. Applications under the CHDO Set-Aside may not have a for-profit special limited partner within the ownership organization chart.

(b) Regional Allocation and Collapse. All funds subject to Tex. Gov't Code §2306.111 or as described to HUD in planning documents will be allocated to regions and potentially subregions based on a Regional Allocation Formula (RAF) within the applicable Set-Asides (unless the funds have already been through a RAF of the annual NOFA and/or Special Purpose NOFA). The RAF methodology may differ by fund source. HOME funds will be allocated in accordance with Tex. Gov't Code Chapter 2306. The end date and Application Acceptance Date for the regionally allocated funds will be identified in the NOFA but in no instance shall it be less than 30 days from the date a link to the Board approved NOFA or NOFA Amendment is published on the Department's website.

(1) After funds have been made available regionally and the period for regional allocation has expired, remaining funds within

each respective Set-Aside may collapse and be pooled together on a date identified in the NOFA. All Applications received prior to these collapse dates will continue to hold their priority unless they are withdrawn, terminated, suspended, or funded.

(2) Funds remaining after expiration of the Set-Asides on the end date identified in the NOFA, which have not been requested in the form of a complete Application, may be collapsed and pooled together to be made available statewide on a first-come first-served basis to Applications submitted after the collapse dates, as further described in the NOFA.

(3) In instances where the RAF would result in regional or subregional allocations insufficient to fund an Application, the Department may use an alternative method of distribution, including an early collapse, revised formula or other methods as approved by the Board, and reflected in the NOFA.

(c) Notice of Funding Availability (NOFA). MFDL funds will be distributed pursuant to the terms of a published NOFA that provides the specific collapse dates and deadlines as well as Set-Aside and RAF amounts applicable to each NOFA, along with scoring criteria, priorities, award limits, and other Application information. Set-asides, RAFs, and total funding amounts may increase or decrease in accordance with the provisions herein without further Board action as authorized by the Board.

§13.5. Application and Award Process.

(a) Applications. MFDL Applicants must follow the applicable requirements in 10 TAC Chapter 11, Subchapter C (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules) and the Notice of Funding Availability for which the Application is submitted.

(b) Application Acceptance Date. Applications will be considered received on the business day of receipt, unless a different time period is described in the Department's rules or NOFA. If an Application is received after 5:00 p.m., Austin local time, it will be determined to have been received on the following business day. Applications received on a non-business day will be considered received on the next day the Department is open. Applications will be considered complete at the time all Application materials, required third party reports and application fee(s) are received by the Department. Within certain Set-Asides or priorities, the date of receipt may be fixed, regardless of the earlier actual date a complete Application is received, if so specified in the Department's rules or NOFA. If multiple Applications have the same Application Acceptance Date, in the same region or subregion (as applicable), within the same Set-Aside, and for 9%, then score and tiebreaker factors, as described in 10 TAC §11.7 of this title (relating to Tie Breaker Factors) will be used to determine the Application's rank, unless another priority is described in the NOFA.

(c) Market Analysis. Applications proposing Rehabilitation that request MFDL as the only source of Department funding may be exempted from the Market Analysis requirement in 10 TAC §11.205(2) (relating to Required Third Party Reports) if the Development's rent rolls for the most recent six months reflect occupancy of at least 80% of all Units.

(d) Required Site Control Agreement Provisions. All Applicants for MFDL funds must include the following provisions in the purchase contract or site control agreement if the subject property is not already owned by the Applicant:

(1) "Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until the Department has provided Purchaser and/or Seller with a written notification that: (A) It has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, (i) the purchase may proceed, or (ii) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or (B) It has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required."; and

(2) "The Buyer does not have the power of eminent domain relating to the purchase and acquisition of the Property. The Buyer may use federal funds from the U.S. Department of Housing and Urban Development (HUD) to complete this purchase. HUD will not use eminent domain authority to condemn the Property. All parties entered this transaction voluntarily and the Buyer has notified the Seller of what it believes the value of the Property to be in accordance with 49 CFR Part 24 Appendix A. If negotiations between both parties fail, Buyer will not take further action to acquire the Property."

(e) Oversubscribed Funds for Competitive HTC-Layered Applications. Should MFDL funds be oversubscribed in a Set-Aside or for a fund source that has geographic limitations within a Set-Aside, Applications concurrently requesting Competitive HTC will be notified and may amend their Application to accommodate another fund source and make changes that still meet threshold requirements in 10 TAC Chapters 11 and 13 of this title, if such changes do not impact scoring under 10 TAC §11.9 (relating to Competitive HTC Selection Criteria). The Department will provide notice to all impacted Applicants in the case of oversubscription, which will include a deadline by which the Applicant must respond to the Department. Multiple Applications from a single or affiliated Applicants do not constitute oversubscription, and the Applicant(s) will not be able to amend their Applications as described in this subsection. If MFDL funds become available between the Market Analysis Delivery Date, and the date of the Department's Board meeting at which final Competitive HTC awards are made, the MFDL funds will not be reserved for Competitive HTC-layered Applications, unless the reservation is described in the NOFA.

(f) Availability of funds for Non-Competitive HTC-layered Applications. If an Application requesting layered Non-Competitive HTC and Direct Loan funds is terminated under 10 TAC §11.201(2)(E) (relating to Withdrawal of Certificate of Reservation), the Application will receive a new Application Acceptance Date for purposes of Direct Loan funds upon submission to the Department of the new Certificate of Reservation if the Board has not made an award. Direct Loan funds will not be reserved for terminated Applications, and may not be available for the Application with a new Reservation.

(g) Eligibility Criteria and Determinations.

(1) The Department will evaluate Applications received under a NOFA for eligibility and threshold pursuant to the requirements of this chapter and Chapter 11 of this title (relating to the Qualified Allocation Plan). The Department may terminate the Application if there are changes at any point prior to MFDL loan closing that would have had an adverse effect on the score and ranking order of the Application that would have resulted in the Application not being recommended for an award or being ranked below another Application received prior to the subject Application.

(2) Applicants requesting MFDL as the only source of Department funds must be able to demonstrate that a Principal of the Developer, Development Owner, or General Partner has previously developed and placed into service a minimum of 50 multifamily housing units. It is the Applicant's responsibility to identify and submit sufficient evidence of this experience in the Application. If the Department determines that the evidence submitted is not substantial, ad-

ditional evidence may be submitted through the Administrative Deficiency process, if it is available. If the Applicant is unable to provide satisfactory evidence, the Applicant will be ineligible for funding.

(h) Effective rules and contractual terms. The contractual terms of an award will be governed by and reflect the rules in effect at the time of Application; however, any changes in federal requirements will be reflected in the contractual terms. Further provided that, if after award, but prior to execution of such Contract, there are new rules in effect, the Direct Loan awardee may elect to be governed by the new rules, provided the Application would continue to have been eligible for award under the rules and NOFA in effect at the time of Application.

§13.6. Scoring Criteria and Tie Breaker Factors.

(a) Scoring. The scoring items used to calculate the score for a Competitive HTC-Layered Application will be utilized for scoring for an MFDL Application, and evaluated in the same manner. For all other Applications, the Tie Breaker described below will be utilized to determine which Applications to recommend for an award if multiple Applications are given the same Application Acceptance Date within the same Set-Aside and with the same Priority as described in the NOFA.

(b) Tie Breaker. In the event that two or more Applications receive the same Application Acceptance Date, within the same Set-Aside and having the same Priority, staff will utilize the Tie Breaker Factors established in §11.7 of this title (relating to Tie Breaker Factors), unless another tie-breaker is described in the NOFA.

§13.8 Loan Structure and Underwriting Requirements.

(a) Loan Structures. Loan structures must meet the criteria described in this section and as further described in a NOFA. The interest rate, amortization period, and term for the loan will be approved by the Board at the time of award, and can only be amended prior to loan closing by the process in 10 TAC §13.12 (relating to Pre-Closing Amendments to Direct Loan Terms).

(b) Criteria for Construction-to-Permanent Loans. Direct Loans awarded through the Department must adhere to the criteria as identified in paragraphs (1) - (7) of this subsection if being requested as construction-to-permanent loans, for which the interest rate will be specified in the NOFA and approved by the Board:

(1) The construction term for MFDL loans shall generally be coterminous with any superior construction loans, but no greater than 36 months. In the event the MFDL loan is the only loan with a construction term or is the superior construction loan, the construction term may be up to 36 months. Shorter timeframes may be required to meet federal project completion or expenditure deadlines;

(2) No interest will accrue during the construction term; the Department may extend the Development Period without extending the construction term if the first lien permanent lender does not extend its loan term, or if the Development Period is approved by the Board to be over 36 months;

(3) The loan term shall be no less than 15 years and no greater than 40 years, and the amortization period shall be between 30 to 40 years. The Department's loan must mature at the same time or within six months of the shortest term of any senior debt, so long as neither exceeds 40 years. The permanent loan term generally commences following the end of the construction term;

(4) Loans shall be secured with a deed of trust with a lien position, and for loans with monthly or annual payment provisions, a repayment position that is superior to any other sources for financing including hard repayment debt that is in an amount less than or equal to the Direct Loan amount and superior to any other sources that have soft repayment structures, non-amortizing notes, have deferred forgivable provisions, or in which the lender has an identity of interest with any member of the Development Team. Parity liens may only be considered with federal loan funds from USDA Rural Development;

(5) In general, up to 50% of the MFDL loan may be advanced at loan closing, should there be sufficient eligible costs to reimburse that amount; however, this amount may be proportionally exceeded for a Development being awarded additional MFDL funds, if the Development is past 50% at loan closing, so long as the required Mid-Construction Inspection has been completed. In all cases, at least 10% of the funds will be reserved for the final Draw. Requests for funding at loan closing must be received by the Department at least 45 days prior to the closing.

(c) Criteria for Construction Only Loans. MFDL Loans through the Department must adhere to the following criteria as identified in paragraphs (1) - (2) of this subsection if being requested as construction only loans:

(1) The term of the construction loan shall generally be coterminous with any superior construction loan(s), but no greater than 36 months. In the event that the MFDL loan is the only construction loan or is the superior construction loan, the term may not exceed 36 months. Shorter timeframes may be required to meet federal project completion or expenditure deadlines; and

(2) Loans shall be secured with a deed of trust that is superior to any other sources for financing, including hard repayment debt that is in an amount less than or equal to the Direct Loan amount and superior to any other sources that have soft repayment structures, non-amortizing notes, have deferred forgivable provisions, or in which the lender has an identity of interest with any member of the Development Team.

(d) Criteria for Permanent Refinance Loans. If 90% of the Department's loan will repay existing debt, the first payment will be due the month after the month of loan closing; 90% of the loan may be advanced at loan closing, unless the Board approves another date.

(e) Evaluations. All Direct Loan Applicants in which third-party financing entities are part of the sources of funding must include a pro forma and lender approval letter evidencing review of the Development and the Principals, as described in 10 TAC §11.9(f)(1) of this title (relating to Competitive HTC Selection Criteria). Where no third-party financing exists, the Department reserves the right to procure a third-party evaluation which will be required to be prepaid by the Applicant.

(f) Pass-Through Loans. Department funds may not be used as pass-through financing. The Department's Borrower must be the Development Owner.

§13.9. Construction Standards.

All Developments financed with Direct Loans will be required to meet at a minimum the applicable requirements in Chapter 11 of this title (relating to the Qualified Allocation Plan). In addition, Developments must meet all applicable state and local codes, ordinances, and standards; the 2021 International Existing Building Code (IEBC) or International Building Code (IBC), as applicable. Should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC or IBC, as applicable. Developments must also meet the requirements in paragraphs (1) - (5) of this section:

(1) Third-Party Recommendations. Recommendations made in the Environmental Site Assessment (§11.305 of this title (relating to Environmental Site Assessment Rules and Guidelines)) and any Scope of Work and Cost Review (§11.306 of this title (relating

to Scope and Cost Review Guidelines) with respect to health and safety issues, life expectancy of major systems (structural support; roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented;

(2) Lead and Asbestos Testing. For properties originally constructed prior to 1978, the Scope of Work and Cost Review must be provided to the party conducting the lead-based paint and/or asbestos testing, and the Development Owner must implement the mitigation recommendations of the testing report;

(3) Broadband Infrastructure. The broadband infrastructure requirements described in 24 CFR §92.251(a)(2)(vi) or (b)(1)(x) for HOME, NSP, or TCAP RF; or 24 CFR §93.301(a)(2)(vi) or 24 CFR §93.301(b)(2)(vi) for NHTF, as applicable;

(4) Properties in Catastrophe Areas. Developments located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4012 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After April 1, 2020); and

(5) Minimum Construction Standards. Rehabilitation Developments funded with federal sources may also be required to meet Minimum Rehabilitation Standards, as required by HUD. Rehabilitation Developments funded by the National Housing Trust Fund are required to meet the Multifamily Minimum Rehabilitation Standards approved by HUD, as posted on the Department's website at https://www.tdhca.state.tx.us/multifamily/home/index.htm, in addition to the Department's rules and NOFA requirements.

§13.11. Post-Award Requirements.

(a) Direct Loan awardees must satisfactorily complete the Post-Award Requirements identified in this section after the Board approval date.

(b) If a Direct Loan award is declined by the Direct Loan awardee and returned after Board approval, or if the Direct Loan awardee or Affiliates fail to timely enter into the Contract, close the loan, begin and complete construction, or leave a portion of the Direct Loan award unexpended, penalties may apply under 10 TAC §11.9(f) (relating to Competitive HTC Selection Criteria), and/or the Department may prohibit the Applicant and all Affiliates from applying for MFDL funds for a period of two years.

(c) Benchmarks. Extensions to the benchmarks in paragraphs (1) - (8) of this subsection may only be approved by the Executive Director or authorized designee in accordance with §13.12 or §13.13 of this chapter (relating to Pre-Closing and Post-Closing Amendments), as applicable.

(1) Environmental Clearance. In order to obtain environmental clearance required by the National Environmental Policy Act (NEPA) and other related Federal and state environmental laws (if applicable), Direct Loan Applicants, including those previously awarded HTC, must submit a fully completed environmental review, including any applicable reports to the Department within 90 days of the Application Acceptance Date. This includes required environmental clearance for FHA and HUD funding. If the NOFA is still open, a new Application Acceptance Date may be given if this Benchmark is not met.

(2) Contract Execution. After a Development receives environmental clearance (if applicable), the Department will draft a Contract to be emailed to the Direct Loan awardee. Direct Loan awardees must execute and return a Contract to the Department within 30 calendar days after receipt of the Contract or the Department may terminate the award.

(3) Loan Closing and Construction Commencement. Loan closing must occur and construction must begin on or before the dates described in the Contract. If construction has not commenced within 12 months of the Contract Effective Date, the award may be terminated.

(4) Loan Closing. In preparation for closing any Direct Loan, the Development Owner must submit the items described in subparagraphs (A) - (F) of this paragraph. Providing incomplete documents, or not responding timely to subsequent Department requests for materials needed to facilitate closing, may significantly delay closing. Any request to change the financing structure of the Development, or the ownership structure, will in most cases extend the amount of time it will take for the Department to meet closing timelines, and may move prioritization of the closing below that of other Developments.

(A) Documentation of the prior closing or concurrent closing with all sources of funds necessary for the long-term financial feasibility of the Development.

(B) Due diligence items determined by the Department to be prudent and necessary to meet the Department's rules and to secure the interests of the Department, as requested by Staff.

(C) When Department funds have a first lien position during the construction term, or if the Development is a public work under state law, assurance of completion of the Development in the form of payment and performance bonds in the full amount of the construction contract or equivalent guarantee as allowable under state law in the sole determination of the Department is required. Development Owners utilizing the USDA §515 program for a Development that is not a public work are exempt from this requirement, but must meet the alternative requirements set forth by USDA.

(D) Documentation required for preparation of closing loan documents includes, but is not limited to:

(i) Substantially final information necessary for REA staff to reevaluate the transaction prior to loan closing, including but not limited to a substantially final development cost schedule, sources and uses, operating pro forma, annual operating expenses, rent schedule, updated written financial commitments or term sheets, and any additional financing exhibits that have changed since the time of Application;

(ii) Substantially final Draft Owner/General Contractor agreement and draft Owner/Architect agreement prior to closing with final executed copies required by the day of closing;

(iii) Survey of the Property that includes a certification to the Department, Development Owner, Title Company, and other lenders;

(iv) Plans and specifications for review by the Department's inspection staff. Inspection staff will issue a plan review letter that is intended to assist in identifying early concerns associated with the Department's final construction requirements; and

(v) If layered with Housing Tax Credits, a substantially final draft limited partnership agreement between the General Partner and the tax credit investor entity.

(E) If required by the fund source, prior to Contract Execution unless an earlier period is described in Chapters 10, 11, or 12 of this title, the Development Owner must provide verification of:

(i) Environmental clearance from the Department or HUD, as applicable;

(ii) Site and Neighborhood clearance from the Department;

(iii) Documentation necessary to show compliance with the Uniform Relocation Assistance and Property Act and any other relocation requirements that may apply;

(iv) Title Insurance Commitment or Policy showing the Department as Lender, with copies of all Schedule B documents; and

(v) Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.

(F) The Direct Loan Contract as executed, which will be drafted by the Department's counsel or its designee for the Department. No changes proposed by the Developer or Developer's counsel will be accepted unless approved by the Department's Legal Division or its designee.

(5) Loan Documents. The Development Owner is required to execute all loan closing documents required by and in the form and substance acceptable to the Department's Legal Division.

(A) Loan closing documents include but are not limited to a promissory note, deed of trust, construction loan agreement (if the proceeds of the loan are to be used for construction), LURA, Architect and/or licensed engineer certification of understanding to complete environmental mitigation if such mitigation is identified in HUD's environmental clearance or the Underwriting Report and assignment and security instruments whereby the Developer, the Development Owner, and/or any Affiliates (if applicable) grants the Department their respective right, title, and interest in and to other collateral, including without limitation the Owner/Architect agreement and the Owner/General Contractor agreement, to secure the payment and performance of the Development Owner's obligations under the loan documents. Additional loan terms and conditions may be imposed by the loan closing documents.

(B) Loan terms and conditions may vary based on the type of Development, Real Estate Analysis Underwriting Report, and the Set-Aside under which the award was made.

(6) Quarterly Construction Status Reports. The Development Owner is required to submit quarterly Construction Status Reports to the Asset Management Division as described and by the deadlines specified in 10 TAC §10.401(e) of this title (relating to Construction Status Report).

(7) Mid-Construction Development Inspection Letter. In addition to any other obligations required as the result of any other Department funding sources, the Development Owner must submit a Mid-Construction Development Inspection Request once the Development has met at least 25% construction completion as indicated on the G703 Continuation Sheet or HUD equivalent form. Department inspection staff will issue a Mid-Construction Development Inspection Letter that confirms work is being done in accordance with the applicable codes, the construction contract, and construction documents.

(8) Construction Completion. Construction must be completed, as reflected by the Development's certificate(s) of occupancy (if new construction and/or reconstruction) and Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 for instances in which a federally insured HUD loan is being utilized, within the construction term of any superior construction loan(s) or up to 36 months of the actual loan closing date if no superior construction loan(s) exists, unless a shorter timeline is necessitated by the federal funding source.

(9) Closed Final Development Inspection Letter. The Closed Final Development Inspection Letter must be issued by the Department within 36 months of loan closing, unless a shorter timeline is necessitated by the federal funding source. This letter will verify committed amenities have been provided and confirm compliance with all applicable accessibility requirements; this letter may include deficiencies that require resolution. The Closed Final Development Inspection may be conducted concurrently with a NSPIRE inspection. However, any letters associated with an NSPIRE inspection will not satisfy the Closed Final Development Inspection Letter required by this subsection.

(10) Initial Occupancy. Initial occupancy and for floating Units designation of NHTF Units by and for eligible households shall occur within 120 days, or for all other MFDL assisted Units or HOME Match Units, within six months of the final Direct Loan draw. Requests to extend the initial occupancy period must be accompanied by documentation of marketing efforts and a marketing plan. The marketing plan may be submitted to HUD for final approval, if required by the MFDL fund source.

(11) Per Unit Repayment. Repayment may be required on a per Unit basis for Units that have not been rented to eligible households within 120 days or 18 months of the final Direct Loan draw, depending on the fund source.

(12) Termination and Repayment for Failure to Complete. Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four years of the effective date of a Direct Loan Contract.

(13) Disbursement of Funds. The Borrower must comply with the requirements in subparagraphs (A) - (K) of this paragraph in order to receive a disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Borrower's compliance with these requirements is required with a request for disbursement:

(A) All requests for disbursement must be submitted using the MFDL draw workbook or such other format as the Department may require;

(B) Documentation of the total construction costs incurred and costs incurred since the last disbursement of funds must be submitted. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702/G703 or HUD equivalent form;

(C) Disbursement requests must include a down-date endorsement to the Direct Loan (mortgagee) title policy or Nothing Further Certificate that includes a title search through the date of the Architect's signature on AIA form G702 or HUD equivalent form. For release of retainage, the down-date endorsement to the Direct Loan title policy or Nothing Further Certificate must be dated at least 30 calendar days after the date of the completion as certified on the Certificate of Substantial Completion (AIA Form G704) with $0 as the work remaining to be completed. If AIA Form G704 or HUD equivalent form indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed. Disbursement requests for acquisition and closing costs are exempt from this requirement;

(D) Table Funding (the wiring of Direct Loan funds to the title company at loan closing) may be permitted at the time of closing, for disbursement of funds related to eligible acquisition costs and eligible soft costs incurred, and in an amount not to exceed 50% of the total funds. Table Funding must be requested in writing at least 30 calendar days prior to the anticipated closing date, and will not be considered unless the Direct Loan Contract has been executed and all necessary documentation has been submitted to and accepted by the

Department at least 10 calendar days prior to the anticipated closing date;

(E) At least 50% of Direct Loan funds (except as otherwise allowed for Permanent Refinance Loans described in 10 TAC §13.8(e) (relating to Loan Structure and Underwriting Requirements)) will be withheld from the initial disbursement of loan funds to allow for periodic disbursements;

(F) The initial draw request for the Development (excluding Table Funding) must be entered into the Department's Housing Contract System no later than 180 days after loan closing;

(G) Developer Fee disbursement shall be limited by subparagraph (I) of this paragraph and is further conditioned upon clauses (i) - (iii) of this subparagraph, as applicable:

(i) For Developments in which the loan is secured by a first lien deed of trust against the Property, 75% shall be disbursed in accordance with percent of construction completed. 75% of the total allowable fee will be multiplied by the percent completion, as documented by the construction contract and as may be verified by an inspection by the Department. The remaining 25% shall be disbursed at the time of release of retainage; or

(ii) For Developments in which the loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits, Developer Fees will not be reimbursed by the Department, except as follows. If all other lenders and the syndicator in a Housing Tax Credit Development (if applicable) provide written confirmation that they do not have an existing or planned agreement to govern the disbursement of Developer Fees and expect that Department funds shall be used to fund Developer Fees, they shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(iii) The Department may reasonably withhold any disbursement in accordance with the Loan Documents and if it is determined that the Development is not progressing as reasonably necessary to meet the benchmarks for the timely completion of construction of the Development as set forth in the loan documents, or that cost overruns have put the Development Owner's ability to repay its Direct Loan or complete the construction at risk in accordance with the terms of the loan documents and within budget. If disbursement has been withheld under this subsection, the Development Owner must provide evidence to the satisfaction of the Department that the Development will be timely completed and occupied in order to continue receiving funds. If disbursement is withheld for any reason, disbursement of any remaining Developer Fee will be made only after construction of the Development has been completed, and all requirements for expenditure and occupancy have been met;

(H) Expenditures must be allowable and reasonable in accordance with federal and state rules and regulations. The Department shall review each expenditure requested for reasonableness. The Department may request the Development Owner make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of Department funds to Development Owner as may be necessary or advisable for compliance with all program requirements;

(I) Following 50% construction completion, any funds will be released in accordance with the percentage of construction completion as documented on AIA Form G702/703 or HUD equivalent form. 10% of requested Hard Costs will be retained and will not be released until the final draw request. If the Development is receiving funds from more than one MFDL source, the retainage requirement will apply to each fund source individually.

(J) All of the items described in clauses (i) - (ix) of this subparagraph are required in order to approve the final draw request. The Executive Director or authorized designee may for good cause allow for the final draw to be released prior to the receipt of the items unless prohibited by state or federal statute. Such allowances are not guaranteed:

(i) Fully executed Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 (for instances in which a federally insured HUD loan is being utilized) with $0 as the cost estimate of work that is incomplete. If AIA Form G704 or Form HUD-92485 indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed;

(ii) A down date endorsement to the Direct Loan title policy or Nothing Further Certificate dated at least 30 calendar days after the date of completion as certified on the Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485;

(iii) For Developments not layered with Housing Tax Credits, a Closed Final Development Inspection Letter from the Department;

(iv) For NHTF Developments layered with HTCs, a separate, additional cost certification form completed by an independent, licensed, certified public accountant of all Development costs (including project costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract, commonly known as a cost certification;

(v) For Developments subject to the Davis-Bacon Act, written documentation that the Department's Notice to Proceed was sent and final wage compliance report was received and approved, or confirmation that HUD or other entity maintains Davis-Bacon oversight;

(vi) Certificate(s) of Occupancy (for New Construction or Reconstruction Units);

(vii) Development completion reports, which includes, but is not limited to, documentation of full compliance with the Uniform Relocation Act/104(d), Match Documentation requirements, and Section 3 of the Housing and Urban Development Act of 1968, as applicable to the Development, and any other applicable requirement;

(viii) If applicable to the Development, certification from Architect or a licensed engineer that all HUD environmental mitigation conditions have been met; and

(ix) evidence of Match being credited to the Development.

(K) No disbursement of funds will be approved without receipt of all closing documents in the form and substance required by the Department's Legal Division;

(L) The final draw request must be submitted within the Development Period;

(M) Annually, Borrowers must submit at least one draw, and may not submit more than four draws, unless previously approved by the Executive Director or designee for good cause; and

(N) If allowed by NOFA, requests for draws to be disbursed at the time of closing (i.e., table funding) must be received by the Department at least 45 days prior to the closing of the MFDL loan.

(14) Annual Audits and Cost Certifications under 24 CFR §93.406(b).

(A) Annual Audits under 24 CFR §93.406(b). Unless otherwise directed by the Department, the Development Owner shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under the Direct Loan Contract, subject to the conditions and limitations set forth in the executed Direct Loan Contract. All approved audit reports will be made available for public inspection within 30 days after completion of the audit.

(B) Cost Certifications under 24 CFR §93.406(b).

(i) Non-HTC-Layered Developments. Within 180 calendar days of the later of all title transfer requirements and construction work having been performed, as reflected by the Development's Certificate(s) of Occupancy (if New Construction) or Certificate of Substantial Completion (AIA Form G704 or HUD equivalent form), or when all modifications required as a result of the Department's Final Construction Inspection are cleared as evidenced by receipt of the Closed Final Development Inspection Letter, the Development Owner will submit to the Department a cost certification done by an independent licensed certified public accountant of all Development costs (including project NHTF eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

(ii) HTC-Layered Developments. With the Cost Certification required by the Low Income Housing Tax Credit Program, the Development Owner must submit to the Department a cost certification completed by an independent licensed certified public accountant of all Development costs (including NHTF project eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

§13.12. Pre-Closing Amendments to Direct Loan Terms.

(a) Closing Memo to Underwriting Report. Any changes to the total development cost, expenses, income, and/or other sources of funds from time of the publication of the initial Underwriting Report at the time of award to the time of loan closing, if the type or amount of the sources and uses have changed, must be reevaluated by the Real Estate Analysis division, which will typically publish a Closing Memo to the Underwriting Report. The Report may recommend changes to the principal amount and/or the repayment structure for the Multifamily Direct Loan pursuant to §11.302 of this title (relating to Underwriting Rules and Guidelines), except that the change must have been an available option in the rule or NOFA (as applicable), and may not be made to awards that were competitively scored to the extent that change would have caused the Development to lose points. This will allow the Department to uphold the competitive process, mitigate any increased risk, and to ensure that the Development is not oversubsidized. Where the Department determines such risk is not adequately mitigated, the award may be terminated or reconsidered by the Board. If the changes cause the total Debt Coverage Ratio (DCR) to no longer comply with 10 TAC §11.302 of this title, the award may be subject to termination. The Department may require the Closing Memo to be completed before providing a Contract to the Development Owner.

(b) Executive Approval Required Pre-Closing. The Executive Director or authorized designee may approve amendments to loan terms prior to closing as described in paragraphs (1) - (6) of this subsection. Under no circumstances may an amendment cause the Department to violate or be at risk of violating a federal requirement or deadline.

(1) Extensions to the loan closing date required in 10 TAC §13.11(c)(4) of this chapter (relating to Post-Award Requirements) may be approved prior to closing. An Applicant must submit sufficient evidence documenting good cause, including but not limited to, documented delays caused by circumstances outside the control of the applicant or constraints in arranging a multiple fund source closing.

(2) Changes to the construction term and/or loan maturity date to accommodate the requirements of other lenders or to maintain parity of term may be approved prior to closing.

(3) Extensions to the Construction Completion date or date of receipt of a Closed Final Development Inspection Letter required in 10 TAC §13.11(c)(10) of this chapter may be requested but generally are not approved prior to initial loan closing. Extensions under this paragraph are determined based on documentation that the extension is necessary to complete construction and that there is good cause for the extension.

(4) Only to the extent determined necessary by Real Estate Analysis to maintain financial feasibility, changes to the amortization period (not to exceed 40 years) or interest rate (to not less than the minimum specified in rule or NOFA) may be approved if such changes continue to meet all requirements of Chapter 11, Chapter 13, and the NOFA.

(5) Decreases in the Direct Loan amount, provided the decrease does not jeopardize the financial viability of the Development in the determination of Real Estate Analysis may be approved prior to closing, though the Development Owner may be subject to penalties as further described in 10 TAC §13.11 of this chapter (relating to Post-Award Requirements). Increases will not generally be approved unless the Applicant applies for the additional funding under an open NOFA.

(6) Changes to other loan terms or requirements that would not require a waiver, as necessary to facilitate the loan closing without exposing the Department to undue financial risk.

(c) Board Approval Required Pre-Closing. Board approval is necessary for any other changes prior to closing.

§13.13. Post-Closing Amendments to Direct Loan Terms.

(a) Good Cause Extensions. The Executive Director or authorized designee may approve extensions under 10 TAC §13.11(c)(1) - (8) of this chapter (relating to based on documentation that there is good cause for the extension and the extension would not cause the Department to violate or be at risk of violating a federal requirement or deadline.

(b) Amendments to MFDL Awards. Except in cases of Force Majeure, changes to terms of awards subject to mandatory HUD reporting requirements will only be processed after the Construction Completion is reported to the federal oversight entity as completed, and the last of the MFDL funds have been drawn.

(c) Executive Amendments. The Executive Director or authorized designee may approve amendments to loan terms post-closing as described in paragraphs (1) - (3) of this subsection. Board approval is necessary for any other changes post-closing.

(1) Changes in Terms. Changes to the amortization or maturity date to accommodate the requirements of other lenders or maintain parity of term may be approved post-closing, provided the changes result in the Direct Loan continuing to meet the requirements of 10 TAC §13.8(c)(1) and (3) of this chapter (relating to Loan Structure and Underwriting Requirements), and NOFA requirements.

(2) Post-Closing Subordinations or Re-subordinations of MFDL Liens where no Ownership Transfer is Occurring. Re-subordination of the Direct Loan in conjunction with refinancing may be approved post-closing, provided the conditions in subparagraphs (A) - (F) of this paragraph are met:

(A) The Borrower is current with loan payments to the Department, and no notice has been given of any Event of Default on any MFDL loan. Histories of late or non-payment on any other MFDL loan may result in denial of the request;

(B) The refinance does not propose payment to any of the Development Owner or Developer parties (including the Limited Partners);

(C) A proposal for partial repayment of the MFDL lien is made with the request, but this is not required if the Borrower is proposing to apply at least $35,000 a Unit to property improvements;

(D) The loan documents do not state that the MFDL lien is due upon refinance;

(E) The new superior lien is in an amount that is equal to or less than the original senior lien and does not negatively affect the financial feasibility of the Development.

(i) For purposes of this section, a negative effect on the financial feasibility of the Development shall mean a reduction in the total Debt Coverage Ratio (DCR) of more than 0.05, or if the DCR no longer meets the requirements of 10 TAC §11.302 of this title (relating to Underwriting Rules and Guidelines); and

(ii) Changes to accommodate refinancing with a new superior lien that is in an amount that exceeds the original senior lien and which will be directly applied to property improvements, as evidenced by the loan or security agreements (exclusive of fees associated with the refinance and any required reserves), will be considered on a case by case basis; and

(F) The subordination or re-subordination request does not include a request to subordinate or resubordinate any MFDL LURA, with the exception of partial subordination or re-subordination of receivership rights (subject to the proposed receiver entity or Affiliate not having been Debarred by the Department or on the Federal Suspended or Debarred Listing).

(3) Workout Arrangements. Changes required to the Department's loan terms or amounts that are part of an approved Asset Management Division workout arrangement may be approved after Construction Completion.

(d) Contract Assignments and Assumptions of MFDL Liens. The Executive Director or authorized designee may approve the Contract Assignment and Assumption of MFDL Liens following approval of an Ownership Transfer request if the conditions in paragraphs (1) - (3) of this subsection are met and the conditions in (c)(2) of this section are met:

(1) The assignment or assumption is not prohibited by the Contract, Loan Documents, or regulations and the loan documents do not state that the MFDL loan is due upon sale, transfer, or refinance;

(2) The assignment or assumption request is based on either subparagraph (A) or (B) of this paragraph:

(A) There are insufficient funds available in the transaction to fully repay the Direct Loan at the time of acquisition, for which Deferred Developer Fee, Development Owner or Affiliate Contributions, or other similar liabilities will not be considered in determining whether the Direct Loan could be repaid at the time of acquisition; or

(B) The new superior lien will be directly applied to property improvements as evidenced by the loan or security agreements, exclusive of fees associated with the new financing and any required reserves; and

(3) The corresponding Ownership Transfer has been approved in accordance with all requirements in 10 TAC §10.406 of this title (relating to Ownership Transfers), and no prospective Owner including any person, or affiliate, as those terms are defined in 2 CFR Part 180 and 2 CFR Part 2424, Subpart I, has been subject to state Debarment or are on the Federal Suspended or Debarred Listing. This includes Board Members and Limited Partners.

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 April 9, 2026.

TRD-202601554
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: January 30, 2026
For further information, please call: (512) 475-3959

CHAPTER 27. TEXAS FIRST TIME HOMEBUYER PROGRAM RULE

10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule, §§27.1 - 27.9 without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 674). The rules will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being repealed because there are no costs associated with the repeal.

The Department has analyzed this 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous proposed adoption making changes to the rule governing the Texas First Time Homebuyer Program Rule.

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

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

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

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

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Texas First time Homebuyer Program.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated rule that better protects the Department's liens on applicable properties. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment from February 6, 2026, to March 8, 2026. No public comment was received and the repeal is adopted without changes.

STATUTORY AUTHORITY. The repeal is adopted pursuant to TEX. GOV'T CODE §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repealed sections affect no other code, article, or statute.

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 April 9, 2026.

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959

10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule, §§27.1 - 27.9 without changes to the text previously published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 675). The rule will not be republished. The purpose of the rule is to make changes that address lien status for homes purchased under the program. There have recently been instances where the Department's lien status on loans in the portfolio has been jeopardized by lien holders with smaller liens; when those lien holders pursue foreclosure it puts the Department's larger loan at risk of non-repayment.

To prevent this from occurring a policy has been drafted in the rule that specifies that a loan made by the Department must be: 1) first lien if it is the largest loan; or 2) the Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans (however, liens related to other subsidized funds provided in the form of grants and non-amortizing mortgage loans, such as deferred payment or forgivable loans, must be subordinate to the Department's mortgage); and 3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted, because it meets the exceptions described under items (c)(4) and (9) of that section. The rules relate to a program through which the Department accesses federal bond authority to provide affordable housing opportunities to low income Texans under Treasury Regulations §143. The rule also ensures compliance with Tex. Gov't Code, Subchapter MM, Texas First-Time Homebuyer Program. Even though excepted, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern the Texas First Time Homebuyer Program.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rule does not increase or decrease the number of individuals to whom this rule applies; and

8. The 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.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the general program guidelines for the First Time Homebuyer Program. The beneficiaries of this program are individual households, therefore no small or micro-businesses are subject to the rule.

3. The Department has determined that because this rule relates only to a revision to a rule that applies to a program for which individual households are the beneficiaries, 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 new rule 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 rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates to homebuyer assistance to individual households, not limited to any given community or area within the state; therefore no local employment impact statement is required to be prepared for the rule.

Texas 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 the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

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 new sections are in effect, the public benefit anticipated as a result of the proposed new rule will be a more updated rule better protecting the Department's lien status. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department accepted public comment from February 6, 2026, to March 8, 2026. No public comment was received and the rule is adopted without changes.

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

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

Filed with the Office of the Secretary of State on April 9, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: April 29, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 475-3959

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CHAPTER 28. TAXABLE MORTGAGE PROGRAM

10 TAC §§28.1 - 28.9

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 28, Taxable Mortgage Program, without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 678). The rules will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with the repeal.

The Department has analyzed this 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous proposed adoption making changes to the rule governing the Taxable Mortgage Program.

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

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

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

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

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Taxable Mortgage Program.

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

8. The repeal will not negatively or positively affect this 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 repeal and determined that the 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 repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will 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 repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated rule that better protects the Department's liens on applicable properties. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the 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.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, to March 8, 2026. No public comment was received and the repeal is adopted without changes.

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

Except as described herein the repealed sections affect no other code, article, or statute.

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 April 9, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §§28.1 - 28.9

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 28, Taxable Mortgage Program Rule, without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 679). The rules will not be republished. The purpose of the new rules is to make changes that address lien status for homes purchased under the program. There have recently been instances where the Department's lien status on loans in the portfolio has been jeopardized by lien holders with smaller liens; when those lien holders pursue foreclosure it puts the Department's larger loan at risk of non-repayment.

To prevent this from occurring a policy has been drafted in the rule that specifies that a loan made by the Department must be: 1) first lien if it is the largest loan; or 2) the Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans (however, liens related to other subsidized funds provided in the form of grants and non-amortizing mortgage loans, such as deferred payment or forgivable loans, must be subordinate to the Department's mortgage); and 3) For real property encumbered by deed restrictions governed by a property owners' association or homeowners' association, the association shall subordinate its assessment liens in the deed restrictions to the Department's Mortgage Loan.

Tex. Gov't Code §2001.0045(b) does apply to the rule being adopted and no exceptions apply. However, no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this 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. Robert Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rules do not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern the Taxable Mortgage Program.

2. The new rules do not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.

3. The new rules changes do not require additional future legislative appropriations.

4. The new rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rules is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rules will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rules does not increase or decrease the number of individuals to whom this rule applies; and

8. The new rules 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.

1. The Department has evaluated these rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. These rules relates to the general program guidelines for the Taxable Mortgage Program. The beneficiaries of this program are individual households, therefore no small or micro-businesses are subject to the rule.

3. The Department has determined that because these rules relates only to a revision to a rule that applies to a program for which individual households are the beneficiaries, 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 new rules do 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 rules as to their possible effects on local economies and has determined that for the first five years the rules will be in effect the new rules have no economic effect on local employment because the rules relate to homebuyer assistance to individual households, not limited to any given community or area within the state; therefore no local employment impact statement is required to be prepared for the rules.

Texas 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 the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

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 new sections are in effect, the public benefit anticipated as a result of the proposed new rule will be a more updated rule reflecting transparent compliant regulations. There will be no economic cost to any individuals required to comply with the proposed new rules because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

SUMMARY OF PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. Public comment was accepted from February 6, 2026, to March 8, 2026. No public comment was received and the rules are adopted without further changes.

STATUTORY AUTHORITY. The rules are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new sections affect no other code, article, or statute.

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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Bobby Wilkinson
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Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 60. PROCEDURAL RULES OF THE COMMISSION AND THE DEPARTMENT

SUBCHAPTER C. LICENSE APPLICATIONS AND RENEWALS

16 TAC §60.39

The Texas Commission of Licensing and Regulation (Commission) adopts a new rule at 16 Texas Administrative Code (TAC), Chapter 60, Subchapter C, §60.39, regarding Procedural Rules of the Commission and the Department, without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 359). The rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

The rules under 16 TAC, Chapter 60, implement Texas Occupations Code, Chapter 51, Texas Department of Licensing and Regulation.

The adopted rule establishes a process for verifying an applicant's eligibility for licensure or license renewal under Title 8, Chapter 14 of the United States Code when the applicant is selected for verification. Federal law restricts eligibility for certain state and local public benefits, including professional and commercial licenses, based on an individual's citizenship or immigration status.

The adopted rule is necessary to ensure that the Department can verify applicant eligibility in a manner consistent with applicable federal requirements while maintaining the security and integrity of the licensing process. The adopted rule identifies acceptable

forms of documentation that may be used to establish eligibility and authorize the Department to require such documentation when verification is necessary, preserving flexibility and minimizing unnecessary burden on applicants. The adopted rule also clarifies the consequences of an applicant's failure to provide sufficient documentation.

SECTION-BY-SECTION SUMMARY

The adopted rule adds new §60.39, Verification of Applicant Eligibility.

Subsection (a) requires the Department to verify an applicant's eligibility for licensure or license renewal under Title 8, Chapter 14 of the United States Code when the applicant is selected for verification pursuant to Department procedures designed to protect the integrity of the licensing process.

Subsection (b) provides that an applicant selected for verification must submit documentation establishing eligibility before a license may be issued or renewed and identifies categories of documents that the Department may accept as evidence of eligibility, subject to verification as necessary.

Subsection (c) defines "certified birth certificate" for purposes of eligibility verification and specifies acceptable United States birth and birth-abroad documentation.

Subsection (d) clarifies that an applicant's failure to provide sufficient documentation of eligibility may result in denial of the application.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULE

The Department drafted and distributed the proposed rule to people internal and external to the agency. The proposed rule was published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 359). The Department requested public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. The public comment period closed on February 23, 2026. The Department received written comments from 433 interested parties on the proposed rule. The Department also received 16 oral comments at the public hearing on the proposed rule held on March 5, 2026, and 19 additional oral comments at the Commission meeting on March 24, 2026. In total, the Department received 468 public comments. The public comments are summarized below. Many comments addressed more than one issue; therefore, individual comments may be reflected in more than one summary category below.

Comment: Three hundred and twenty-five commenters opposed the proposed rule because they believe requiring verification of lawful presence for licensure or renewal could reduce the available workforce in industries regulated by the Department and negatively affect businesses and consumers. Commenters expressed concern that the proposed rule could contribute to labor shortages in industries such as cosmetology, barbering, electrical work, and other licensed occupations. Some commenters stated that reduced workforce availability could increase costs for consumers or reduce the availability of services. Organizations referenced in these comments include Arlington Beauty College; B1 Careers Beauty School; Colour Beauty School; KM Beauty Institute; RioMen Barber School; Riva Institute of Cosmetology; The Men Barber School (including Austin and Round Rock locations); Sloan Beauty Academy; Houston Brows & Beauty School; Torito & Liza Beauty Academy; Texas A&M University School of Law Entrepreneurship Legal Clinic; Curly Hues by Hayley; Zaide Beauty; Sleeping Beauty Lash Institute & Salon LLC; KC Beauty Salon and Barber Shop; Martha's Hair Salon; MV Salon; Culley Enviro LLC; and Castro and Legal.

Department Response: The Department disagrees that the proposed rule will significantly reduce the licensed workforce or harm the Texas economy. The proposed rule establishes procedures for verifying eligibility for licensure or license renewal consistent with existing federal law, specifically 8 U.S.C. §1621, which governs eligibility for certain state and local public benefits, including professional and commercial licenses. The proposed rule implements existing federal eligibility requirements and do not create new eligibility standards. The proposed rule does not impose a citizenship requirement. Individuals who are not U.S. citizens may still be eligible for licensure if they meet the eligibility criteria established under federal law, including individuals who are qualified aliens, nonimmigrants under the Immigration and Nationality Act, or otherwise authorized under federal law. The Department accepts a broad range of documentation demonstrating lawful presence or authorization to work in the United States, including identification or immigration-related documents, such as permanent resident cards, certificates of naturalization or citizenship, employment authorization documents, Forms I-94 reflecting lawful admission or parole, refugee documentation, and other immigration status documentation. Because the proposed rule implements existing federal law and does not change the professional qualifications required for licensure, the Department made no changes to the proposed rule in response to these comments.

Comment: Two hundred and one commenters opposed the proposed rule because they expressed concern about documentation requirements or administrative burdens associated with verifying lawful presence for licensure or license renewal. Commenters stated that obtaining or submitting immigration or other identity documentation could create additional procedural requirements for applicants or license holders. Some commenters expressed concern that individuals could encounter difficulty obtaining acceptable documentation or navigating the verification process. Organizations referenced in these comments include the Texas A&M University School of Law Entrepreneurship Clinic; Arlington Beauty College; B1 Careers Beauty School; Colour Beauty School; KM Beauty Institute; RioMen Barber School; Sloan Beauty Academy; Houston Brows & Beauty School; Lashing Out Ink Academy; Sleeping Beauty Lash Institute & Salon LLC; and The Men Barber School.

Department Response: The Department disagrees that the proposed rule imposes unreasonable documentation or administrative burdens. Verification of eligibility ensures that the Department issues licenses only to individuals who meet the eligibility criteria established by federal law. The Department accepts a broad range of documentation demonstrating lawful presence or authorization to work in the United States, including identification or immigration-related documents, such as permanent resident cards, certificates of naturalization or citizenship, employment authorization documents, Forms I-94 reflecting lawful admission or parole, refugee documentation, and other immigration status documentation. Because the proposed rule implements existing federal law and provide multiple options for documentation, the Department made no changes to the proposed rule in response to these comments.

Comment: One hundred fifty-eight commenters opposed the proposed rule because they believe the rule could negatively affect students and educational programs that prepare individuals

for licensed occupations, including barbering and cosmetology schools. Commenters stated that students invest significant amounts of time and financial resources to complete required training hours and examinations and expressed concern that some students could complete their education but later be unable to obtain a license due to documentation requirements. Some commenters also expressed concern that the proposed rule could affect enrollment at licensing schools or training programs. Organizations referenced in these comments include Sloan Beauty Academy; Advanced Barber College & Hair Design; Texas A&M University School of Law Entrepreneurship Clinic; KM Beauty Institute; Colour Beauty School; RioMen Barber School; The Men Barber School; Lashing Out Ink Academy; and Sleeping Beauty Lash Institute & Salon LLC.

Department Response: The Department disagrees that the proposed rule will prevent otherwise eligible students from obtaining licensure. The proposed rule reflects existing federal law and do not change licensing education or competency requirements. Individuals who satisfy federal eligibility requirements remain eligible to obtain a license after completing the applicable education and examination requirements. The Department made no changes to the proposed rule in response to these comments.

Comment: One hundred and fourteen commenters opposed the proposed rule because they stated that licensed occupations provide important employment opportunities and that the rule could affect individuals who rely on their licenses to support themselves and their families. Organizations referenced in these comments include Arlington Beauty College; B1 Careers Beauty School; Colour Beauty School; KM Beauty Institute; Texas A&M University School of Law Entrepreneurship Clinic; RioMen Barber School; Sloan Beauty Academy; Sleeping Beauty Lash Institute & Salon LLC; KC Beauty Salon and Barber Shop; Martha's Hair Salon; MV Salon; and Zaide Beauty.

Department Response: The Department understands that many individuals rely on licensed occupations for employment but disagrees that the proposed rule improperly restricts those opportunities. The proposed rule establishes procedures to verify eligibility for licensure consistent with federal law and do not modify professional competency requirements for licensure. The Department made no changes to the proposed rule in response to these comments.

Comment: Thirty-eight commenters opposed the proposed rule because they believe occupational licensing requirements should focus on professional competency, education, and public safety rather than immigration-related documentation requirements. Commenters stated that licensing standards should primarily address professional qualifications and consumer protection. Organizations referenced in these comments include Tha Nail Artistry LLC; Texas A&M University School of Law Entrepreneurship Clinic; and KM Beauty Institute.

Department Response: The Department disagrees with the comment that verification of eligibility under federal law falls outside the Department's regulatory authority. Federal law, specifically 8 U.S.C. §1621, restricts eligibility for certain state and local public benefits, including professional and commercial licenses. The proposed rule establishes procedures for verifying eligibility consistent with those federal requirements while maintaining the Department's existing professional competency standards and licensing requirements. The Department made no changes to the proposed rule in response to these comments.

Comment: Twenty-two commenters representing advocacy organizations, chambers of commerce, legal organizations, and public officials opposed the proposed rule and expressed concern that the rule could create barriers to licensure and employment opportunities. Some commenters stated that workforce participation and economic opportunity could be affected by additional documentation requirements. Organizations referenced in these comments include the Greater Austin Hispanic Chamber of Commerce; San Antonio Hispanic Chamber of Commerce; Texas Hispanic Chamber of Commerce Coalition; TAMACC - Texas Association of Mexican American Chambers of Commerce; LULAC; LULAC District 12 (Austin); Latina Policy Coalition; Texas A&M University School of Law Entrepreneurship Legal Clinic; the Texas House Democratic Caucus; the Office of Senator Sarah Eckhardt (District 14); and the Marquez Foundation.

Department Response: The Department appreciates the comments submitted by these organizations and individuals but disagrees that the proposed rule creates improper barriers to licensure. The proposed rule establishes procedures for verifying eligibility consistent with federal law under 8 U.S.C. §1621 and do not impose a citizenship requirement. Individuals who are not U.S. citizens may still be eligible for licensure if they meet the eligibility criteria established under federal law. Because the proposed rule implements existing federal law and do not alter professional competency requirements for licensure, the Department made no changes to the proposed rule in response to these comments.

Comment: Twenty commenters supported the proposed rule. Commenters generally stated that the proposed rule is necessary to ensure compliance with federal law governing license eligibility and that verifying eligibility promotes fairness, integrity, and consistency in the licensing system. Organizations referenced in these comments include FACT Ed- Texas Barber & Cosmetology Educators; and H. Smith Electric.

Department Response: The Department appreciates the comments submitted in support of the proposed rule. The Department made no changes to the proposed rule in response to these comments.

Comment: Eight commenters submitted comments that did not clearly indicate whether they supported or opposed the proposed rule. These commenters generally requested clarification regarding documentation requirements, the verification process, or the potential effects of the proposed rule on applicants and license holders.

Department Response: The Department appreciates these comments and notes that the proposed rule is intended to clarify the process the Department uses to verify eligibility for licensure or license renewal. The proposed rule identifies categories of documentation that may be accepted to verify eligibility and are designed to ensure that the Department can verify eligibility in a manner consistent with applicable federal law while minimizing unnecessary burden on applicants. Because the Department determined that the proposed rule already provides sufficient clarity regarding the verification process, the Department made no changes to the proposed rule in response to these comments.

COMMISSION ACTION

At its meeting on March 24, 2026, the Commission adopted the proposed rule as published in the *Texas Register*.

STATUTORY AUTHORITY

The adopted rule is adopted under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The adopted rule is also adopted under Title 8, Chapter 14 of the United States Code.

The statutory provisions affected by the adopted rule are those set forth in Texas Occupations Code, Chapter 51, and the program statutes for all the Department programs: Agriculture Code, Chapter 301 (Weather Modification and Control); Education Code §51.308, §29.902, and Chapter 1001 (Driver Education and Safety); Government Code, Chapters 171 (Court-Ordered Programs); and 469 (Elimination of Architectural Barriers); Health and Safety Code, Chapters 401, Subchapter M (Laser Hair Removal); 754 (Elevators, Escalators, and Related Equipment); and 755 (Boilers); Labor Code, Chapter 91 (Professional Employer Organizations); Occupations Code, Chapters 202 (Podiatrists); 203 (Midwives); 401 (Speech-Language Pathologists and Audiologists); 402 (Hearing Instrument Fitters and Dispensers); 403 (Dyslexia Practitioners and Therapists); 451 (Athletic Trainers); 455 (Massage Therapy); 506 (Behavioral Analysts); 605 (Orthotists and Prosthetists); 701 (Dietitians); 802 (Dog or Cat Breeders); 1151 (Property Tax Professionals); 1152 (Property Tax Consultants); 1202 (Industrialized Housing and Buildings); 1302 (Air Conditioning and Refrigeration Contractors); 1304 (Service Contract Providers and Administrators); 1305 (Electricians); 1603 (Barbers and Cosmetologists); 1802 (Auctioneers); 1806 (Residential Solar Retailers); 1901 (Water Well Drillers); 1902 (Water Well Pump Installers): 1952 (Code Enforcement Officers); 1953 (Sanitarians); 1958 (Mold Assessors and Remediators); 2001 (Bingo); 2052 (Combative Sports); 2303 (Vehicle Storage Facilities); 2308 (Vehicle Towing and Booting); 2309 (Used Automotive Parts Recyclers); 2310 (Motor Fuel Metering and Quality); 2311 (Electric Vehicle Charging Stations); and 2402 (Transportation Network Companies); Transportation Code, Chapters 521 (Driver Education and Safety); 551A (Off-Highway Vehicle Training and Safety); and 662 (Motorcycle Operator Training and Safety); and Utilities Code, Chapter 42 (Electric Vehicle Charging Stations). No other statutes, articles, or codes are affected by the adopted rule.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Effective date: May 1, 2026
Proposal publication date: January 23, 2026
For further information, please call: (512) 475-4879

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CHAPTER 84. DRIVER EDUCATION AND SAFETY

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; Subchapter M, §84.500 and §84.504; Subchapter N, §84.600; and the Program Guides, regarding the Driver Education and Safety program, without changes to the proposed text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8133). These rules will not be republished.

The Commission also adopts an amendment to existing rules at 16 TAC Chapter 84, the Program of Organized Instruction in Driver Education and Traffic Safety, also known as the "POI-DE Program Guide" regarding the Driver Education and Safety program, with changes to the proposed text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8400). These rules will be republished. The POI-DE will be republished in the "In-Addition" section of the *Texas Register*.

The amendment to the POI-DE Program Guide is found at Section 1.1.5(Q) of that document.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The adopted rules under 16 TAC, Chapter 84, implement Senate Bill (SB) 1366, 89th Legislature, Regular Session (2025), and Texas Education Code, Chapter 1001, Driver and Traffic Safety Education.

The adopted rules are necessary to address the Legislature's driver training instruction changes for the implementation of SB 1366 for the DES program, which mandates that driver training course curriculum includes information relating to the dangers and penalties associated with violating traffic laws in construction and maintenance work zones. The DES Program Guides were amended to May 2026 to reflect the changes mandated by SB 1366 as well. The Program Guides will be published separately in the "In Addition" section of the *Texas Register.*

SECTION-BY-SECTION SUMMARY

The adopted rules amend §84.3, Materials Adopted by Reference, to reflect the change in the new edition dates for the DES Program Guides to "May 2026 Edition". The adopted rules include a change approved by the Driver Education and Traffic Safety Advisory Committee at its meeting on February 12, 2026, to correct a grammatical error by adding the word "and" at the end of the sentence at Section 1.1.5(Q).

The adopted rules amend §84.500, Courses of Instruction for Driver Education Providers, to include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as bodily injury, death, and property damage associated with the violation of traffic laws in construction and maintenance work zones be included in driver education course curriculum.

The adopted rules amend §84.504, Driving Safety Courses of Instruction, to include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as bodily injury, death, and property damage associated with the violation of traffic laws in construction and maintenance work zones be included in driving safety course curriculum.

The adopted rules amend §84.600, Program of Organized Instruction, to: (1) clarify that the educational objectives in §84.500 (Courses of Instruction for Driver Education Providers), and the Program Guides apply to exempt entities such as public schools, educational service centers, colleges and universities in their instruction; and (2) include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as

bodily injury, death, and property damage associated with violation of traffic laws in construction and maintenance work zones be included in their driver education course curriculum.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8133). The Department requested public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. The public comment period closed on January 20, 2026.

The Department received comments from two interested parties in response to the required summary of the proposed rules, which was posted on the Department's website and distributed on December 9, 2025, the same day that the proposed rules were filed with the Texas Register, but before the official publication of the proposed rules and the official start of the public comment period. The Department did not receive any comments from interested parties on the published proposed rules during the official public comment period. The public comments are summarized below.

Comments in Response to the Posted Summary

Comment: One commenter submitted a request to eliminate the observation instruction hours requirement from the driver education training since the reporting of such hours is not commonly accurate and can be done by the student from simply observing a parent, guardian, or other authorized person driving the vehicle in which the student occupies.

Department Response: The Department appreciates the public comment and notes that observation instruction is recognized by state law for driver education courses at Texas Education Code §1001.101 and cannot be amended by administrative rules. Moreover, observation instruction hours were not contemplated by SB 1366 and, as such, is outside of the scope of this rulemaking. The Department made no change to the proposed rules in response to this comment.

Comment: One commenter submitted a comment in support of the Department's changes as a result of SB 1366 and welcomed additional information be included in driver education curriculum regarding safe vehicle operation in construction and maintenance work zones.

Department Response: The Department appreciates the comment in support of the proposed rule changes. The Department made no change to the proposed rules in response to this comment.

ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Driver Training and Traffic Safety Advisory Board met on February 12, 2026, to discuss the proposed rules and the public comments received. The Advisory Board recommended that the Commission adopt the proposed rules as published in the *Texas Register* with the change to correct the grammatical error at Section 1.1.5(Q) in the POI-DE.

At its meeting on March 24, 2026, the Commission adopted the proposed rules and program guides as published in the *Texas Register* with the change in the POI-DE program guide as recommended by the Advisory Board.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §84.3

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes 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 adopted rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the adopted rules are to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601582
Deanne Rienstra
Interim General Counsel
Texas Department of Licensing and Regulation
Effective date: May 1, 2026
Proposal publication date: December 19, 2025
For further information, please call: (512) 463-7750

SUBCHAPTER M. CURRICULUM AND ALTERNATIVE METHODS OF INSTRUCTION

16 TAC §84.500, §84.504

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes 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 adopted rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the adopted rules are to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

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

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Deanne Rienstra
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Texas Department of Licensing and Regulation
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Proposal publication date: December 19, 2025
For further information, please call: (512) 463-7750

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SUBCHAPTER N. PROGRAM INSTRUCTION FOR PUBLIC SCHOOLS, EDUCATION SERVICE CENTERS, AND COLLEGES OR UNIVERSITIES COURSE REQUIREMENTS

16 TAC §84.600

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes 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 adopted rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the adopted rules are to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

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

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Interim General Counsel
Texas Department of Licensing and Regulation
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 51. EXECUTIVE
SUBCHAPTER G. NONPROFIT ORGANIZATIONS

31 TAC §51.164

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 22, 2026, adopted an amendment to 31 TAC §51.164, concerning Best Practices (Officers and Directors), without changes to the proposed text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8157). The rule will not be republished.

The amendment stipulates that the provisions of subsection (b)(3), which prohibit an employee of the department from serving as a member of a non-profit partner (NP), do not apply to the Texas Parks and Wildlife Mutual Association. The Texas Parks and Wildlife Mutual Association (Association) was founded in 1956 with the mission of providing financial assistance to the families/beneficiaries of deceased members (department employees and their spouses). Members receive no compensation from the Association and serve on a voluntary basis.

The Texas Parks and Wildlife Code authorizes the department to work with nonprofit organizations to carry out the mission of the department. The department has determined that the Association assists the department by providing bereavement benefits to employees who are members, including peace officers commissioned by the department, who are not infrequently in life-threatening situations in the line of duty. Similarly, Government Code, Chapter 2255, requires a state agency to adopt rules regarding the relationship between donors and the agency, including the agency's employees, if the agency is authorized to accept donations or if "a private organization exists that is designed to further the purposes and duties of the agency." Although the Association's relationship with the department is not pecuniary, it does exist to assist and support employees of the agency in times of need.

The amendment is necessary to allow the department to recognize the Association as a NP and explicitly acknowledge that a department employee may serve as an officer of the Association without affecting the Association's status as a NP.

The department received no comments opposing or supporting adoption of the rule as proposed.

The rule is adopted under Parks and Wildlife Code, Chapter 11, Subchapter J, which requires the commission to adopt rules governing best practices for nonprofit partners of the agency.

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

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TRD-202601512
James Murphy
General Counsel
Texas Parks and Wildlife Department
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Proposal publication date: December 19, 2025
For further information, please call: (512) 389-4775

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CHAPTER 57. FISHERIES
SUBCHAPTER C. INTRODUCTION OF FISH, SHELLFISH AND AQUATIC PLANTS

31 TAC §57.251, §57.252

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 22, 2026, adopted amendments to 31 TAC §57.251 and §57.252, concerning Introduction of Fish, Shellfish, and Aquatic Plants, without changes to the proposed

text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8171). The rules will not be republished. The rules will function in concert to explicitly acknowledge that macroalgae, as well as plants that reproduce only by spores or fragmentation and emergent aquatic plants, are included in the applicability of department rules governing the introduction of aquatic plants in public waters.

Under Parks and Wildlife Code, §12.015, the department is required to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state. Under Parks and Wildlife Code, §66.015, the department is required to adopt rules governing the issuance of permits for the introduction of fish, shellfish, and aquatic plants into public waters and stipulates that no person may place any species of fish, shellfish, or aquatic plant into the public water of the state without a permit issued by the department. Under Agriculture Code, §134.005, the department is required to adopt rules to carry out its duties under that chapter with respect to the regulation of aquaculture.

The department has recently been approached by external parties interested in conducting introductions of marine macroalgae in public water for private research purposes related to potential for aquaculture. In evaluating these inquiries, the department has identified what could be interpreted as a lacuna in the applicability of rules under which the department may authorize the introduction of aquatic plants, specifically, the sufficiency of the current regulatory definition of "aquatic plant" with respect to classes of aquatic plants such as macroalgae (and, in addition, plants that reproduce by means other than seeds, and emergent aquatic plants). The current definition has been in effect since the late 1970s and the department has determined that it should be restated to reflect the current status of botanical understanding of aquatic plants and clearly include macroalgae. The department has determined that any macroalgae introductions have the potential to adversely impact habitats and create user conflict and because oversight of such activities is necessary and warranted to protect native organisms and ecosystems, the definition should be amended to introduce greater clarity. The department emphasizes that if a prospective introduction to public water of any species is determined by the department to be problematic, it will not be authorized.

On this basis, the amendment to §57.251, concerning Definitions, replaces the current definition with a new definition that more completely encompasses the variety of aquatic plants to which the rules apply.

The amendment to §57.252, concerning General Provisions, provides for department waiver of permit requirements for introductions coordinated with or conducted under the direction of the department for purposes of mitigation or restoration (or any other environmentally beneficial reason). In cases such as the aftermath of major storms, flood events, or environmental incidents, restoration efforts can be large and concentrated. The department seeks to facilitate the rapid recovery of ecosystems in such cases and reasons that waiver of permit requirements, in the presence of department coordination or direction, is sensible.

The department received two comments opposing adoption of the rules as proposed. One of the comments was not germane to the rulemaking. The other commenter did not provide a reason or rationale for opposing adoption.

The department received five comments supporting adoption of the rules as proposed.

The amendments are adopted under Parks and Wildlife Code, §12.015, which requires the department to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state; §66.015(c), which requires the department to establish rules related to the issuance of permits for the introduction of fish, shellfish, or aquatic plants into the public water of the state; and Agriculture Code, §134.005, which requires the commission to adopt rules necessary to carry out its responsibilities under that chapter to regulate aquaculture.

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

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TRD-202601511
James Murphy
General Counsel
Texas Parks and Wildlife Department
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Proposal publication date: December 19, 2025
For further information, please call: (512) 389-4775

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CHAPTER 65. WILDLIFE
SUBCHAPTER F. PERMITS FOR AERIAL MANAGEMENT OF WILDLIFE AND EXOTIC SPECIES

31 TAC §65.151, §65.152

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 22, 2026, adopted amendments to 31 TAC §65.151 and §65.152, concerning Permits for Aerial Management of Wildlife and Exotic Species. The amendment to §65.152 is adopted with changes to the proposed text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8179) and will be republished. The proposed amendment to §65.151 is adopted without change and will not be republished.

The change to §65.152, concerning General Rules, removes "aoudad sheep" from the provisions of subsection (d)(3) as proposed because the commission does not have the statutory authority to exempt persons taking aoudad sheep from the hunting license requirements of Parks and Wildlife Code, Chapter 42. The change also inserts the word "than" in subsection (d)(3) for grammatical sense.

The amendments comport existing rules governing the take of wildlife and exotic animals from aircraft to reflect the provisions of Senate Bill 1245, enacted by the most recent session of the Texas Legislature. Senate Bill 1245 amended Parks and Wildlife Code, Chapter 43, Subchapter G, to allow a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department.

The amendments add "aoudad sheep" where necessary to make the provisions of the subchapter functional with respect to the management of aoudad sheep by means of aircraft. Such changes are made throughout the rules as necessary.

The department received nine comments opposing adoption of the rules as proposed. All nine commenters provided a reason

or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

Six commenters opposed adoption of the rules as proposed and stated that hunting from aircraft should not be allowed. The commenters variously stated that the practice is dangerous, landowners should be compensated, federal law prohibits shooting animals from aircraft, and that aoudad are unique animals. The department agrees with the comments and responds that the rules do not allow sport hunting from aircraft but do allow the take of aoudad from aircraft for management purposes, to wit, the eradication of aoudad in Texas, which compete with and pose a disease threat to native species of wildlife and their habitats. No changes were made as a result of the comments.

One commenter opposed adoption and stated that aoudad hunting from aircraft should be part of the department's hunter encouragement programs. The department disagrees with the comment and responds that the take of aoudad from helicopters is not sport hunting and the department neither supports nor encourages the sustainable management of aoudad populations for hunting purposes. No changes were made as a result of the comment.

One commenter opposed adoption of the rules as proposed and stated that the take of aoudad from helicopters is inhumane, indiscriminate, violative of the "fair chase" doctrine, could destabilize local ecosystems, displace other wildlife, and threaten the hunting economy by eliminating license sales and hunting opportunity. The commenter also stated that a thorough economic impact analysis should be conducted. The department disagrees with the comment and responds first, that because the take of aoudad from helicopters is not sport hunting, the "fair chase" doctrine does not apply, and second, that because aoudad are not indigenous and pose a direct threat to native wildlife and native ecosystems, additional flexibility for landowners to eliminate aoudad is desirable. The department further responds that aerial take is neither inhumane nor indiscriminate and is an accepted tool to manage invasive, exotic species including aoudad. The department also notes that ideally, "hunting opportunity" with respect to free-ranging exotic species means "eradication" because exotic species compete with, displace, and threaten indigenous species; therefore, any effects at the local or landscape scales resulting from the removal of aoudad are desirable. Finally, the department disagrees that any economic impact analysis is necessary, because the rule allows take of aoudad only under permits that grant a legal privilege -- the aerial management of wildlife for purposes that explicitly exclude sport hunting for profit. No changes were made as a result of the comment.

One commenter opposed adoption of the rules as proposed and stated that it is imperative that private landowners receive compensation for aerial management activities on their properties and that persons participating in such activities be allowed to retain the horns of animals killed. The department disagrees with the comment and responds that landowners are free to manage their properties as they see fit, including by engaging third parties to conduct aerial management activities, but sport hunting from aircraft is expressly prohibited by state and federal law. No changes were made as a result of the comment.

The amendments are adopted under the provisions of Senate Bill (S.B.) 1245, enacted by the 89th Texas Legislature (R.S.), which allows a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department, and Parks and Wildlife Code, Chapter 43, Subchapter G, which provides the commission with authority to make regulations governing the management of wildlife or exotic animals by the use of aircraft, including forms and procedures for permit applications; procedures for the management of wildlife or exotic animals by the use of aircraft; limitations on the time and the place for which a permit is valid; establishment of prohibited acts; rules to require, limit, or prohibit any activity as necessary to implement Parks and Wildlife Code, Chapter 43, Subchapter G.

§65.152. General Rules.

(a) A person who holds an AMP is authorized to engage in the management of wildlife and exotic animals by the use of aircraft only on the tract(s) of land specified in the LOA. The AMP must be carried in an aircraft when the aircraft is engaged in activities authorized by the AMP, unless the aircraft is a UAV, in which case the AMP shall be in possession of the operator.

(b) A pilot of an aircraft used for the management of wildlife or exotic animals must maintain, on a daily basis, a flight log and report. The daily flight log must be current and available for inspection by game wardens at reasonable times. Each AMP holder and pilot shall comply with all FAA regulations for the specific type of aircraft listed on their AMP.

(c) It is lawful for a person who holds an AMP to contract with a qualified Landowner, Agent, or Subagent to act as a gunner the taking of depredating feral hogs, aoudad sheep, or coyotes from a helicopter, provided:

(1) the contract is in writing and signed by the Landowner or Agent;

(2) a department-approved Subagent authorization form has been properly
executed and is in the physical possession of the Subagent during all AMP activities in which the Subagent participates; and

(3) the AMP holder possesses a valid, properly executed LOA.

(d) A person (which includes a pilot, applicant, gunner, observer, or Subagent) commits an offense if:

(1) the person counts, photographs, relocates, captures, hunts, or takes or attempts to count, photograph, relocate, capture, hunt, or take from an aircraft any wildlife or exotic animals other than wildlife or exotic animals authorized by the AMP and LOA;

(2) the person intentionally harasses any wildlife or exotic animals by the use of an aircraft other than wildlife or exotic animals authorized in an AMP and LOA;

(3) the person participates in the take or attempted take of any wildlife or exotic animals other than depredating feral hogs or coyotes without having on his or her person a valid hunting license issued by the department;

(4) the person pilots an aircraft to manage wildlife or exotic animals without a valid pilot's license as required by the FAA;

(5) the person pays, barters, or exchanges anything of value to participate as a gunner, observer, or Subagent except as may be otherwise provided in this subchapter;

(6) the person acting as a gunner or pilot under an AMP takes or attempts to take any wildlife or exotic animals for any purpose other than is necessary to protect or to aid in the administration of lands, water, wildlife, livestock, domesticated animals, human life, or crops, except that any wildlife or exotic animals, once lawfully taken pursuant to this subchapter may be sold if their sale is not otherwise prohibited;

(7) the person acting as a gunner or pilot takes or attempts to take wildlife or exotic animals during the hours between 1/2-hour after sunset and 1/2-hour before sunrise;

(8) the person operates an aircraft for the management of wildlife or exotic animals and is not named as an authorized pilot by an AMP;

(9) the person takes, kills, captures, or attempts to take, kill, or capture more wildlife or exotic animals on properties than are specified in the LOA;

(10) the person uses an AMP for the purpose of sport hunting;

(11) the person is engaging in AMP activities and pilots an aircraft over land for which the person has not received written permission to overfly, except as is necessary to gain initial access to the land described in the LOA prior to commencing AMP activities and to leave following the conclusion of AMP activities; or

(12) the person otherwise violates a provision of this subchapter.

(e) It is lawful for a pilot operating under a valid AMP or AMP holder to use a UAV at any time solely for the purpose of locating feral hogs; however, no person may take or attempt to take feral hogs from a UAV.

(f) These rules do not exempt any person from the requirement for other licenses or permits required by statute or rule of the commission.

(g) The department may waive the fee requirements of this subchapter for an employee of a governmental entity acting in the scope and course of official duties.

(h) The department will not approve an LOA for the take of feral hogs or aoudad sheep on a tract of land where feral hogs or aoudad sheep have been released or liberated by or with the approval of the Landowner or Agent for the purpose of being hunted.

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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James Murphy
General Counsel
Texas Parks and Wildlife Department
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For further information, please call: (512) 389-4775

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 20. STATEWIDE PROCUREMENT AND SUPPORT SERVICES

SUBCHAPTER B. PUBLIC PROCUREMENT AUTHORITY AND ORGANIZATION

DIVISION 2. PUBLICIZING PROCUREMENT: CMBL, ESBD, AND VPTS

34 TAC §20.115

The Comptroller of Public Accounts adopts amendments to §20.115, concerning the vendor performance tracking system, without changes to the proposed text as published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1031). The rule will not be republished. The amendments eliminate the potential for discrepancies between letter grades submitted by state agencies by calculating report grades based on the agency-selected performance factors rather than agency's assigning grades independently of the performance factor selections. The amendments establish a more objective vendor performance grading system.

These amendments remove language providing that vendor grades in the tracking system are submitted by state agencies. Section 20.115 now provides for vendor grades to be assigned based on vendor performance reports and is consistent with amendment of §20.509, concerning vendor performance reporting. The amendments revise subsections (a), (b), (d) and (e) to delete the requirement for state agencies to assign a grade to the tracking system and remove corresponding references. The amendments further revise subsection (d) to indicate the overall vendor performance letter grade for each vendor will be assigned based on performance evaluations provided by state agencies using the numerical value system provided. The amendments revise (2) to remove a description of how letter grades were calculated before February 5, 2001, which no longer serves a purpose.

The comptroller did not receive any comments regarding adoption of the amendment.

These amendments are adopted under Government Code, §2155.0012, which authorizes the comptroller to adopt rules to efficiently and effectively administer Government Code, Chapter 2155; §2156.0012, which authorizes the comptroller to adopt rules to efficiently and effectively administer Government Code, Chapter 2156; and §2262.056, which authorizes the comptroller to adopt rules to efficiently and effectively administer a vendor performance tracking system.

The amendments implement Government Code, §2155.089 and §2262.055.

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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Don Neal
General Counsel, Operations and Support Legal Services
Comptroller of Public Accounts
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Proposal publication date: February 20, 2026
For further information, please call: (512) 475-2220

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SUBCHAPTER F. CONTRACT MANAGEMENT

DIVISION 2. REPORTS AND AUDITS

34 TAC §20.509

The Comptroller of Public Accounts adopts amendments to §20.509, concerning vendor performance reporting, without changes to the proposed text as published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1033). The rule will not be republished. The amendments eliminate the potential for discrepancies between letter grades submitted by state agencies by calculating report grades based on the agency-selected performance factors rather than agency's assigning grades independently of the performance factor selections. The amendments establish a more objective vendor performance grading system.

These amendments remove language providing that a state agency shall submit a vendor performance report and grade to the tracking system, and these amendments are consistent with amendments of §20.115, concerning the vendor performance tracking system. Section 20.509 now requires a state agency to submit only a vendor performance report, and a grade will be calculated by the tracking system and published by the comptroller. These amendments revise subsections (a) through (e) to delete the requirement for a state agency to submit a grade to the tracking system. The amendments reorganize subsection (d) into paragraphs and further revise subsection (e) to require the grade assigned to a vendor to be based on a state agency's evaluation of the contract performance.

The comptroller did not receive any comments regarding adoption of the amendment.

These amendments are adopted under Government Code, §2155.0012, which authorizes the comptroller to adopt rules to efficiently and effectively administer Government Code, Chapter 2155; §2156.0012, which authorizes the comptroller to adopt rules to efficiently and effectively administer Government Code, Chapter 2156; and §2262.056, which authorizes the comptroller to adopt rules to efficiently and effectively administer a vendor performance tracking system.

The amendments implement Government Code, §2155.089 and §2262.055.

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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Don Neal
General Counsel, Operations and Support Legal Services
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 13. CONTROLLED SUBSTANCES

SUBCHAPTER G. FORFEITURE AND DESTRUCTION

37 TAC §§13.151, 13.153, 13.160, 13.161, 13.165

The Texas Department of Public Safety (the department) adopts amendments to §§13.151, 13.153, 13.160, 13.161, and 13.165, concerning Forfeiture And Destruction. These rules are adopted without changes to the proposed text as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 1275) and will not be republished.

The rule changes increase safety and efficiency of public safety personnel and property. Specifically, the addition of vape pens, a newer evidence type, to the excess quantity definition is added due to the fire hazard surrounding long-term battery storage. Other changes allow for the usage of courts' electronic records when making destruction authorization decisions. In addition, the amendments place clear inventory requirements on law enforcement personnel for controlled substance property prior to destruction or submission to a crime laboratory. It also clarifies that destruction may occur after laboratory analysis without further inventory if the repackaging and seal remain intact and clarifies destruction procedures with no laboratory analysis. Additional amendments remove an outdated requirement to submit a report to the department's Narcotics Regulation Bureau, which no longer exists, and updates the division's name.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Health and Safety Code, §481.003, which authorizes the director to adopt rules to administer and enforce Chapter 481 and §481.154(a)(1) which authorizes the director to adopt reasonable rules and procedures concerning summary forfeiture and summary destruction of controlled substance property or plants.

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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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: April 30, 2026
Proposal publication date: February 27, 2026
For further information, please call: (512) 424-5848

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CHAPTER 15. DRIVER LICENSE RULES

SUBCHAPTER D. DRIVER IMPROVEMENT

37 TAC §§15.82 - 15.85

The Texas Department of Public Safety (the department) adopts amendments to §§15.82 - 15.85, concerning Driver Improvement. These rules are adopted without changes to the proposed text as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 1277) and will not be republished.

The amendments align the rules with House Bill 4804, 89th Leg., R.S. (2025), which repealed Texas Transportation Code, §521.297(b) and §522.087(b). The amendments are necessary

to conform with statutory changes which were required for compliance with Federal Motor Carrier Safety Administration regulations necessitating the elimination of a hearing and appeal process for certain commercial driver license (CDL) disqualifications.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521, Driver's Licenses; Texas Transportation Code §521.291, which authorizes the department to adopt rules to administer Subchapter N, General Provisions Relating to License Denial, Suspension, or Revocation; Texas Transportation Code §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522, Commercial Driver's Licenses; and House Bill 4804, 89th Leg., R.S. (2025), which repeals Texas Transportation Code, §521.297(b) and §522.087(b).

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

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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 211. CRIMINAL HISTORY OFFENSE AND ACTION ON LICENSE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts revisions to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, by repealing §211.1 and §211.2, and adopting new §211.1. The department also adopts amendments to current 43 TAC Subchapter B, Criminal History Evaluation Guidelines and Procedures, by retitling Subchapter B, amending §211.11, and adding new §211.7 and §211.9. In addition, the department adopts new Subchapter C, Criminal Offense Guidelines: Motor Carriers; §211.23 and §211.25. These revisions concern the consequences of certain criminal convictions and imprisonment following certain criminal convictions or actions under Occupations Code, Chapter 53.

The department adopts the following rules without changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8521), and will not republish these rules: §§211.1, 211.9, 211.11, and 211.23. The department adopts §211.7 and §211.25 with changes at adoption to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8521), and will republish these rules. In conjunction with this adoption, the department is adopting the repeal of §211.1 and §211.2 concerning general provisions regarding actions on certain licenses, which is also published in this issue of the *Texas Register*.

REASONED JUSTIFICATION. New §211.1 and new Subchapter C are necessary to implement Senate Bill (SB) 1080, 89th Legislature, Regular Session (2025) regarding motor carriers. The revisions to Subchapters A and B are necessary to make conforming changes to Chapter 211 due to the addition of new Subchapter C.

Prior to the effective date of SB 1080 on May 27, 2025, Occupations Code, §53.021(b) automatically revoked licenses by operation of law without any action by the department following the license holder's imprisonment for any felony. SB 1080 amended Occupations Code, §53.021(b) to narrow the law so that a license is automatically revoked upon imprisonment only for specific felonies, including offenses that directly relate to the duties and responsibilities of the licensed occupation.

For purposes of Occupations Code, Chapter 53, a certificate of registration that the department issues to a motor carrier under Transportation Code, Chapter 643 is a license. Occupations Code, §53.001 and Government Code, §2001.003 define the word "license" as "the whole or a part of a state agency permit, certificate, approval, registration, or similar form of permission required by law." The department must therefore define in rule which offenses directly relate to the duties and responsibilities of a licensed motor carrier, so that the department will be able to determine which licenses are revoked by operation of law under Occupations Code, §53.021(b)(1)(A).

Subchapter A. General Provisions

The adoption of the repeal of §211.1 enabled the department to adopt new §211.1, which applies to the entire Chapter 211, including new Subchapter C regarding motor carriers.

Adopted new §211.1(a) states that the purpose of Chapter 211 is to implement Occupations Code, Chapter 53 regarding the consequences of a criminal conviction on a license that the department is authorized to issue. Adopted new §211.1(b) incorporates laws by reference to provide the applicable definitions regarding specific offenses referenced in Chapter 211. Occupations Code, §53.021 references "an offense that directly relates to the duties and responsibilities of the licensed occupation," and does not limit the language to offenses under Texas law. Adopted new §211.1(b) therefore incorporates definitions from federal laws, other states' laws, and the laws of foreign jurisdictions. Adopted new §211.1(c) defines "department" as the Texas Department of Motor Vehicles for clarity and consistency.

Subchapter B. Criminal History Evaluation Guidelines and Procedures: Motor Vehicle, Salvage Vehicle, and Trailer Industries

An adopted amendment retitles Subchapter B to only apply to the motor vehicle, salvage vehicle, and trailer industries because the department's adopted revisions to Chapter 211 include new Subchapter C regarding motor carriers.

The adopted repeal of §211.1 and §211.2 enabled the department to adopt modified versions of the prior text of these sections as new §211.7 and §211.9 to only apply to Subchapter B, regarding the motor vehicle, salvage vehicle and trailer industries, due to the adopted new Subchapter C regarding motor carriers.

Adopted new §211.7 modifies the language in the repealed version of §211.1 to only apply to Subchapter B, clarifies that the referenced statutes are Texas statutes, moves the definitions to subsection (a) so that they appear before the use of the defined terms in adopted new §211.7, and makes the format of the definitions consistent with the department's other administrative rules. The department adopts §211.7(a)(2) with a change at adoption to change the word "does" to "do" to correct a grammatical error. Adopted new §211.9 modifies the language in repealed §211.2 to only apply to Subchapter B and clarifies that the reference to the Occupations Code is a reference to the Texas Occupations Code. The text in adopted new §211.7 and §211.9 clarify that the statutory citations are to Texas law, and are necessary due to references to the laws in other jurisdictions in Chapter 211 and the adopted revisions to Chapter 211.

Adopted amendments to §211.11 update cross-references to adopted new §211.9, update the language to only apply to Subchapter B, and clarify that the statutory citations are to Texas law for the reasons stated above. Adopted amendments to §211.11 also modify the current citations to statutes for consistency with the citations to Texas law throughout Chapter 211.

Subchapter C. Criminal Offense Guidelines: Motor Carriers

Adopted new Subchapter C implements SB 1080 for motor carriers by defining which offenses directly relate to the duties and responsibilities of motor carriers for purposes of Occupations Code, §53.021(b)(1)(A). The department submitted an early draft of adopted new §211.23 and §211.25 to the Motor Carrier Regulation Advisory Committee (MCRAC) for review and feedback at the MCRAC meeting in October of 2025. The members of MCRAC did not have any formal advice or recommendations in the form of an approved motion. However, in response to a request from industry and a member of MCRAC, the department modified adopted new §211.23(a), prior to publication in the *Texas Register*, to limit the definition for the word "license" to a sole proprietor motor carrier for the reasons stated below.

Adopted new §211.23(a) provides the definition for the word "license" as used in adopted new Subchapter C to limit the term to a certificate of registration issued by the department under Texas Transportation Code, Chapter 643 to a sole proprietor motor carrier. This definition prevents confusion about the application of Occupations Code, §53.021(b)(1)(A) by excluding a legal entity because a legal entity as a whole cannot be imprisoned for an offense, even though a legal entity's employees or representatives can be imprisoned for an offense. Only an individual can be imprisoned. Adopted new §211.23(a) also clarifies that a license authorizes a motor carrier to engage in certain operations under Transportation Code, Chapter 643. Although the department issues one type of license under Transportation Code, Chapter 643, a licensed motor carrier may transport the following, subject to compliance with the applicable laws regarding that type of operation: cargo, passengers, household goods, or hazardous materials.

Occupations Code, §53.025 requires each state agency to issue guidelines that "must state the reasons a particular crime is considered to relate to a particular license." To fulfill that requirement, adopted new §211.23(b) states the reasons each offense referenced in adopted new §211.25 is considered to relate to the particular duties and responsibilities of a license for a motor carrier. Adopted new §211.23(b) explains why the different offenses listed in adopted new §211.25 relate to the different types of motor carrier operations that are authorized under a motor carrier license, depending on how the specific duties and responsibilities of each type of motor carrier operation provide a greater opportunity for an individual, who is predisposed to commit specific types of violations, to commit those offenses.

Adopted new §211.25 lists the felony offenses that directly relate to the duties and responsibilities of a licensed motor carrier under Occupations Code, §53.021(b)(1)(A). Adopted new §211.25(a) explains that under Occupations Code, §53.021(b)(1)(A), a license holder's license is automatically revoked by operation of law on the license holder's imprisonment after a conviction of a felony offense that directly relates to the duties and responsibilities of a license holder. Adopted new §211.25(b) explains that the department used the factors listed in Occupations Code, §53.022 to determine that the offenses detailed in adopted new §211.25(c) through (g) directly relate to the duties and responsibilities of a license holder under Transportation Code, Chapter 643. Adopted new §211.25(b) also clarifies that the listed offenses include offenses under the laws of the United States or another state of the United States if the offense contains elements that are substantially similar to the elements of an offense under the laws of Texas, except as stated otherwise in adopted new Subchapter C.

While the offenses listed in adopted new §211.25(c) apply to all licensed motor carriers, the offenses listed in adopted new §211.25(d) through (g) apply only to specific types of motor carrier operations due to the particular opportunities to commit certain offenses under a specific type of motor carrier operation. A licensed motor carrier controls, operates, or directs the operation of one or more motor vehicles that transport persons or cargo, which enables the license holder to commit certain offenses that involve the use of a motor vehicle. Also, a licensed motor carrier provides the department with certain information and documents that the department uses to administer and enforce Texas Transportation Code, Chapter 643 and that law enforcement uses to enforce certain laws, including Texas Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety adopted under Texas Transportation Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information on the department's website to determine whether to use the services of a particular licensed motor carrier, and the licensed motor carrier must provide the department with most of this information as part of a license application and any required updates. A licensed motor carrier is in a position of trust with the department because a licensed motor carrier must provide accurate information and documents to the department, so the department's records are reliable for the department, law enforcement, and potential shippers or passengers of the motor carrier.

The offenses that relate to all licensed motor carriers under adopted new §211.25(c) include offenses that involve the smuggling of a person, the use of a motor vehicle for trafficking or smuggling persons, bribery, perjury, obstructing a road, intoxication while operating a motor vehicle, delivery of a controlled substance, fraudulent emissions inspections, and knowingly operating a commercial motor vehicle in violation of an out-of-service order if the commercial motor vehicle was involved in a motor vehicle collision that resulted in bodily injury or death of a person. Some of these offenses, like the smuggling of a person, the use of a motor vehicle for trafficking or smuggling persons, and delivery of a controlled substance address Occupations Code, §53.022(3) because being a licensed motor carrier gives an individual an opportunity to engage in that sort of criminal activity again. Other offenses listed in adopted new §211.25(c), like intoxication while operat-

ing a motor vehicle, align with Occupations Code, §53.022(4) because intoxication inhibits a person from being able to fulfill the duties of a licensed motor carrier, including safe operation. Still other offenses such as those involving fraudulent emissions inspections, bribery, perjury, and knowingly operating a commercial motor vehicle in violation of an out-of-service order during which the commercial motor vehicle was involved in a motor vehicle collision that resulted in bodily injury or death of a person align with Occupations Code, §53.022(5) because they correlate with the duties and responsibilities of motor carriers to comply with safety laws, to remain safe on the road, and to cooperate with, provide accurate information to, and follow the orders of government officials, including law enforcement. The offenses listed in §211.25(c) are thus all equally relevant to all motor carriers, regardless of their specific type of operation. The department adopts §211.25(c) with changes at adoption to move the offense described by Texas Penal Code, §42.03 from §211.25(c)(3) to new §211.25(c)(4) and renumbered the remaining paragraphs under §211.25(c) because the offense of obstruction of a highway or other passageway under §42.03 does not fall within Penal Code, Title 8 regarding offenses against public administration.

Adopted new §211.25(d) sets out offenses that relate only to a passenger motor carrier due to the position of trust and close physical proximity between the motor carrier and its passengers. The offenses listed in adopted new §211.25(d) are in addition to the offenses listed in adopted new §211.25(c). A passenger loses some of their autonomy over themselves and their tangible personal property, documents, and cargo while they are in another person's motor vehicle. If the passenger is a child, there is even more risk of a crime involving the child or the child's tangible personal property, documents, or cargo. The offenses in adopted new §211.25(d) include offenses that harm or endanger another person as set out in Texas Penal Code, Title 5, such as criminal homicide, kidnapping, sexual offenses and assaultive offenses. The offenses in adopted new §211.25(d) also include offenses that endanger families or children, such as enticing a child from their parent's custody, violating a court protective order, selling or purchasing children, continuous family violence, using a minor to sell or display harmful material to a minor, employing a child to work in a sexually-oriented commercial activity, possessing child pornography, and any offense for which the person convicted must register as a sex offender. The listed offenses in adopted new §211.25(d) also include offenses against tangible personal property, a document, or cargo belonging to another person, such as the offenses of criminal mischief, robbery, and theft. All of these offenses fit within Occupations Code, §53.022(1) due to the nature and seriousness of the crimes, which involve the safety or well-being of a person. Also, most of these offenses fit within Occupations Code, §53.022(3) because a licensed motor carrier operating as a passenger carrier has an increased opportunity to engage in this sort of criminal activity again.

Adopted new §211.25(e) defines offenses that relate only to a for-hire motor carrier of cargo, including household goods and hazardous materials, due to the motor carrier's specific position of trust with the shipper and access to the shipper's cargo. A shipper and an individual associated with the shipper may interact with the motor carrier in person, which provides an opportunity for the motor carrier to commit an offense against the individual. Also, a shipper loses control over their cargo when the motor carrier has possession of the cargo. The offenses listed in adopted new §211.25(e) are in addition to the offenses listed in adopted new §211.25(c). These offenses include any offense for which the person must register as a sex offender, and the offenses set out in Texas Penal Code, Title 5, such as criminal homicide, kidnapping, sexual offenses, and assaultive offenses. In keeping with Occupations Code, §53.022(3), a motor carrier's contact with a shipper gives a licensed motor carrier an increased opportunity to engage in these offenses against the shipper and individuals associated with the shipper. The offenses listed in adopted new §211.25(e) also include offenses against tangible personal property, a document, or cargo belonging to another person, such as the offenses of criminal mischief, robbery, burglary of a vehicle, criminal trespass, theft, and fraud. Since a motor carrier of cargo is entrusted with a shipper's cargo for transport, the motor carrier has an increased opportunity to engage in these property crimes. In keeping with Occupations Code, §53.022(3), a motor carrier's contact with a shipper and the shipper's property gives a licensed motor carrier an increased opportunity to engage in these offenses against the shipper.

Adopted new §211.25(f) enumerates offenses that relate only to a household goods carrier because they are allowed access to the shipper's home, household goods, and household members, including children. These offenses are in addition to the offenses listed in §211.25(c) and (e). Adopted new §211.25(f) includes offenses related to real property, including arson, criminal mischief, and burglary. Household goods carriers are not just entrusted with personal property, but they also have access to and gain knowledge of the customer's home from or to which the customer is moving. A household goods carrier therefore has an increased opportunity to commit these offenses by virtue of their licensed profession, in accordance with Occupations Code, §53.022(3). The offenses listed in adopted new §211.25(f) also include using a minor to sell or display harmful material to a minor, employing a child to work in a sexually-oriented commercial activity, and possession of child pornography. These offenses align with Occupations Code, §53.022(3) because a household goods carrier has more access to children as the carrier moves a family's household goods from one home to another.

Adopted new §211.25(g) lists offenses that relate only to a motor carrier who transports hazardous materials, which create opportunities for those motor carriers to commit offenses that endanger the public and the environment. The offenses in adopted new §211.25(g) apply to these motor carriers in addition to the offenses listed in §211.25(c) and (e). These offenses include any offense related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offenses under Texas law, federal law, or the law of another state. For example, 49 U.S.C. §5124 provides for a criminal penalty of imprisonment for up to 10 years for a person who violates certain provisions of federal law regarding the transportation of hazardous materials. The offenses under adopted new §211.25(g) address Occupations Code, §53.022(3) because by virtue of having access to hazardous materials, a licensed motor carrier that transports hazardous materials has an increased opportunity to engage in environmental offenses, such as improper transportation, disposal, or discharge of those materials.

Adopted new §211.25(h) states that if a license holder's imprisonment occurs on or after May 1, 2026, for a conviction for any offense described by adopted new §211.25(c) through (g), the license holder's license is automatically revoked on the date of the imprisonment if at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described by adopted new §211.25(c) through (g). The department adopts

§211.25(h) with a change at adoption to clarify that the subsection is limited by the language in §211.25(c) through (g), which state the type of motor carrier operation to which subsections (c) through (g) apply. These adopted revisions to Chapter 211 will become effective on May 1, 2026. The department intends to apply the adopted revisions prospectively, so that the license of only those individuals who are imprisoned on or after May 1, 2026, will be automatically revoked by operation of law for an offense specified under adopted new §211.25(c) through (g) that applies to that license holder's type of operation. Adopted new §211.25(h) requires that at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described in adopted new §211.25(c) through (g) that applies to that license holder's type of operation because these new subsections identify the offenses that directly relate to the duties and responsibilities of a licensed motor carrier as required by Occupations Code, §53.021(b)(1)(A).

SUMMARY OF COMMENTS.

No comments on the proposed revisions were received.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §211.1, §211.2

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts the repeals under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted repeals implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

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

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43 TAC §211.1

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts the new section under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder in certain situations, such as if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new section implements Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503, 643, and 1002.

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

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SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES: MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRIES

43 TAC §§211.7, 211.9, 211.11

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts the new rules and revisions under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new rules and revisions implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

§211.7. Definitions and Purpose.

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

(1) License--Any license issued by the department under:

(A) Texas Transportation Code, Chapter 503;

(B) Texas Occupations Code, Chapter 2301; or

(C) Texas Occupations Code, Chapter 2302.

(2) Retail license types--Those license types which require holders to interact directly with the public, but do not include other license types that do not generally interact directly with the public, including manufacturers, distributors, and general distinguishing number holders for the following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

(b) The licenses issued by the department create positions of trust. License holder services involve access to confidential information; conveyance, titling, and registration of private property; possession of monies belonging to or owed to private individuals, creditors, and governmental entities; and compliance with federal and state environmental and safety regulations. License holders are provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to endanger the public through violations of environmental and safety regulations. Many license holders provide services directly to the public, so licensure provides persons predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these harms, the department shall review the criminal history of license applicants before issuing a new or renewal license and may take action on a license holder who commits an offense during the license period based on the guidelines in this subchapter.

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

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SUBCHAPTER C. CRIMINAL OFFENSE GUIDELINES: MOTOR CARRIERS

43 TAC §211.23, §211.25

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts new Subchapter C under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new subchapter implements Occupations Code, §53.021(b)(1)(A) and Transportation Code, Chapter 643.

§211.25. Criminal Offense Guidelines; Imprisonment.

(a) Under Texas Occupations Code, §53.021(b)(1)(A), a license holder's license is automatically revoked by operation of law on the license holder's imprisonment after a felony conviction for an offense that directly relates to the duties and responsibilities of the licensed occupation.

(b) The department has determined, under the factors listed in Texas Occupations Code, §53.022, that the offenses detailed in subsections (c) through (g) of this section directly relate to the duties and responsibilities of license holders under Texas Occupations Code, §53.021(b)(1)(A). Such offenses include offenses under the laws of the United States or another state of the United States if the offense contains elements that are substantially similar to the elements of an offense under the laws of this state, except as otherwise stated in this subchapter.

(c) The following offenses apply to a license:

(1) an offense involving the smuggling of a person, as described by Texas Penal Code, Chapter 20;

(2) an offense involving the use or intended use of a motor vehicle, as described by Texas Penal Code, §20.07;

(3) an offense against public administration, as described by Texas Penal Code, Chapters 36 or 37;

(4) an offense involving the obstruction of a highway or other passageway as described by Texas Penal Code, §42.03;

(5) an offense involving intoxication while operating a motor vehicle, as described by Texas Penal Code, Chapter 49;

(6) an offense involving the delivery or intent to deliver a controlled substance, simulated controlled substance, or dangerous drug, as described by Texas Health and Safety Code, Chapter 481, 482, or 483;

(7) an offense as described by Texas Transportation Code, §548.6035 or §644.151; and

(8) an offense of attempting or conspiring to commit any of the foregoing offenses.

(d) The following additional felony offenses apply to a motor carrier of passengers:

(1) an offense against the person, as described by Texas Penal Code, Title 5;

(2) an offense against the family, as described by Texas Penal Code, §§25.04, 25.07, 25.072, 25.08, or 25.11;

(3) an offense against tangible personal property, a document, or cargo belonging to another, as described by Texas Penal Code, Chapters 28, 29, or 31;

(4) an offense against public order and decency, as described by Texas Penal Code §§43.24, 43.251, or 43.262;

(5) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62 for which the person must register as a sex offender; and

(6) an offense of attempting or conspiring to commit any of the foregoing offenses.

(e) The following additional felony offenses apply to a for-hire motor carrier of any cargo, including household goods and hazardous materials:

(1) an offense against the person, as described by Texas Penal Code, Title 5;

(2) an offense against tangible personal property, a document, or cargo belonging to another, as described by Texas Penal Code, Chapters 28, 29, 30, 31, or 32;

(3) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62 for which the person must register as a sex offender; and

(4) an offense of attempting or conspiring to commit any of the foregoing offenses.

(f) The following additional felony offenses apply to a household goods carrier:

(1) an offense against real property belonging to another, as described by Texas Penal Code, Chapters 28 or 30;

(2) an offense against public order and decency, as described by Texas Penal Code §§43.24, 43.251, or 43.262; and

(3) an offense of attempting or conspiring to commit any of the foregoing offenses.

(g) The following additional felony offenses apply to a motor carrier who transports hazardous materials:

(1) an offense related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense under a Texas statute or administrative rule;

(2) a federal statute or regulation of the United States related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense; or

(3) the laws of another state of the United States related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense, if the offense contains elements that are substantially similar to the elements of an offense under Texas law or a law of the United States.

(h) If a license holder's imprisonment occurs on or after May 1, 2026, for a conviction for any offense described by subsections (c) through (g) of this section, the license holder's license is automatically revoked on the date of the imprisonment if at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described in subsections (c) through (g) of this section that applies to that license holder's type of operation.

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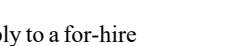

CHAPTER 218. MOTOR CARRIERS

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 218, Motor Carriers; Subchapter A, General Provisions, §218.2; and Subchapter B, Motor Carrier Registration, §218.13 regarding clarifications to the rule text and the requirement for a sole proprietor motor carrier to provide notice to the department when the sole proprietor is imprisoned after an event described by Occupations Code, §53.021(b) as amended by Senate Bill (SB) 1080, 89th Legislature, Regular Session (2025).

The department adopts §218.2 without changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8528), and will not republish §218.2. The department adopts §218.13 with changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8528), and will republish §218.13.

REASONED JUSTIFICATION. The adopted amendments are necessary to provide the department with information to update its records regarding the automatic revocation of a motor carrier's certificate of registration under Occupations Code, §53.021(b). An adopted amendment to §218.2 is necessary to add a definition for the term "for-hire motor carrier." Adopted amendments to §218.13 are also necessary to clarify the rule text regarding motor carriers that are required to provide updates to the department and the use of an authorized representative to file an application with the department or provide the department with any required information and updates.

An adopted amendment to §218.2 adds a definition for the term "for-hire motor carrier" for clarity and consistency because the term is included in current §218.2(b)(14) in the definition for "farm vehicle" and in adopted new §218.13(k). Adopted amendments to §218.2 also renumber the definitions due to the adoption of the new definition for the term "for-hire motor carrier."

An adopted amendment to §218.13(a)(3)(A) deletes a sentence that says, "An authorized representative of the applicant who files an application with the department on behalf of an applicant may be required to provide written proof of authority to act on behalf of the applicant." The deletion is necessary to prevent any conflict with the language in adopted new §218.13(j) and (l). As stated below, adopted new §218.13(l) expands this language for all applicants under Chapter 218 and for a motor carrier with a certificate of registration. A person who submits an application on behalf of a motor carrier might not be the only authorized representative or the current authorized representative for the motor carrier.

Adopted amendments to §218.13(i) clarify that the requirement for a motor carrier to update certain information in the department's online system only applies if the motor carrier has a certificate of registration that has not expired and has not been revoked.

Adopted new §218.13(j) requires a sole proprietor motor carrier with an unexpired certificate of registration to notify the department of the sole proprietor's imprisonment for a reason that would cause automatic revocation of the motor carrier's certificate of registration by operation of law under Occupations Code, §53.021(b). This reporting is necessary as a means for the department to learn about a motor carrier's imprisonment because this information is not automatically reported to the department by state or federal law enforcement agencies. The department has access to criminal history record information regarding convictions under Texas law under Government Code, §411.122(d)(24), but the department is not notified when a motor carrier is imprisoned due to a conviction under Texas law. Also, the department does not receive notice regarding convictions under federal law or the law of a U.S. state other than Texas because the department does not have access to criminal history record information that is maintained or indexed through the Federal Bureau of Investigation under Government Code, §411.12511 regarding a conviction of a motor carrier with a certificate of registration under Transportation Code, Chapter 643.

The department adopts §218.13(j) with an amendment at adoption to clarify that the sole proprietor is not required to use an authorized representative to provide the required notice to the department if the sole proprietor is able to do it. For this reason, the department also adopts §218.13(k)(4)(G) with an amendment at adoption to clarify that the sole proprietor shall only provide the department with the name and phone number of the sole proprietor's authorized representative if applicable.

Adopted new §218.13(j)(1)(A) refers to adopted new 43 TAC §211.25 of this title (relating to Criminal Offense Guidelines; Imprisonment), which the department published in this issue of the *Texas Register,* because adopted new 43 TAC §211.25 defines the offenses that the department has determined are directly related to the duties and responsibilities of a motor carrier with a certificate of registration under Transportation Code, Chapter 643.

Adopted new §218.13(k) provides the deadline for the notice under adopted new §218.13(j), so the department can timely update its records, which the department, law enforcement, and potential customers of a motor carrier rely on. Under adopted new §218.13(k), the deadline for the notice under adopted new §218.13(j) is within 15 days of the date the sole proprietor is imprisoned if the imprisonment occurs on or after May 1, 2026. The notice requirement under adopted new §218.13(j) only applies to an imprisonment that occurs on or after May 1, 2026, because the adopted amendments to §218.13 and adopted new §211.25 will become effective on May 1, 2026.

Adopted new §218.13(k) also requires the notice under adopted new §218.13(j) to be sent to the department using the email address listed on the department's website for this purpose because the department's system is not currently programmed to allow such notices to be provided within the department's system. In addition, adopted new §218.13(k) requires the notice to the department under adopted new §218.13(j) to contain the sole proprietor's name; the sole proprietor's certificate of registration number under Transportation Code, Chapter 643; the date the sole proprietor was imprisoned; the reason the sole proprietor was imprisoned using one of the reasons listed in adopted new §218.13(j); the citation to the statute, administrative rule, or regulation regarding the felony offense for which the sole proprietor was imprisoned if the sole proprietor was imprisoned for a felony offense that falls under adopted new §218.13(j)(1); whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials under Transportation Code, Chapter 643; and the name and phone number of the sole proprietor's authorized representative. The references to Transportation Code, Chapter 643 indicate that the sole proprietor shall provide the requested information regarding the sole proprietor's certificate of registration for intrastate operating authority. Adopted new §218.13(k) requires the notice to include the specified pieces of information so the department can verify whether the sole proprietor motor carrier's certificate of registration was automatically revoked by operation of law under Occupations Code, §53.021(b), including whether a felony conviction directly relates to the duties and responsibilities of the motor carrier under adopted new §211.25, and to allow the department to contact the motor carrier through their authorized representative while the motor carrier is imprisoned.

Adopted new §218.13(j) and (k) only apply to a sole proprietor motor carrier because only an individual can be imprisoned. Also, the department does not have the statutory authority to

apply these amendments to individuals who are associated with a license holder. If the motor carrier is a sole proprietor, the sole proprietor has the license under Transportation Code, Chapter 643. The statutory authority for the automatic revocation of a license under Occupations Code, §53.021(b) only applies to the license holder.

Adopted new §218.13(l) expands the prior language in §218.13(a)(3)(A) by expressly authorizing an applicant under Chapter 218 and a motor carrier with a certificate of registration to submit an application to the department or provide the department with any required information or updates through an authorized representative. Adopted new §218.13(l) also states that, upon request by the department, any representative of an applicant or motor carrier shall provide the department with written proof of authority to act on behalf of the applicant or motor carrier. Adopted new §218.13(l) addresses the reality that authorized representatives are sometimes necessary to run a business, and allows motor carriers to fulfill their duties to provide notice to the department even when their communication is limited because they are imprisoned. In addition, adopted new §218.13(l) clarifies the department's authority to verify that an individual is authorized to act on behalf of an applicant or motor carrier, so the department can ensure the integrity of its records.

The adopted amendments are necessary for the department to maintain accurate records for the department's administration of Transportation Code, Chapter 643 and for law enforcement to enforce certain laws regarding motor carriers, including Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety adopted under Transportation Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information on the department's website to help the potential customer decide whether to use the services of the motor carrier. These adopted amendments require sole proprietor motor carriers to provide the department with the necessary information to enable the department to verify whether the sole proprietor's certificate of registration under Transportation Code, Chapter 643 was automatically revoked by operation of law under Occupations Code, §53.021(b), and the date of the automatic revocation. Adopted new §218.13(k) requires a sole proprietor to tell the department whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials because certain felony offenses under adopted new §211.25 only apply to a motor carrier based on the motor carrier's type of operation. The department will use the information that a sole proprietor provides to the department under adopted new §218.13(j) and (k) to update the department's system to indicate whether the sole proprietor's certificate of registration was revoked, the date of the revocation, and that the revocation occurred under Occupations Code, §53.021(b). Transportation Code, §643.054(a-1) authorizes the department to deny a certificate of registration if the applicant had a registration revoked under Transportation Code, §643.252, so the department's records need to indicate whether a revocation occurred under authority other than Transportation Code, §643.252.

SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §218.2

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE. The adopted amendments implement Transportation Code, Chapter 643.

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

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SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §218.13

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) adopts amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; Government Code, §2001.004(1), which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapter 643; and Government Code, §2001.004(1).

§218.13. Application for Motor Carriers Registration.

(a) Form of original application. An original application for motor carrier registration must be filed electronically in the department's designated motor carrier registration system, must be in the form prescribed by the director and must contain, at a minimum, the following information and documents.

(1) USDOT number. A valid USDOT number issued to the applicant.

(2) Applicant information and documents. All applications must include the following information and documents:

(A) The applicant's name, business type (e.g., sole proprietor, corporation, or limited liability company), telephone number, email address, and Secretary of State file number, as applicable. The

applicant's name and email address must match the information the applicant provided to FMCSA to obtain the USDOT number that the applicant provided in its application to the department.

(B) An application submitted by an entity, such as a corporation, general partnership, limited liability company, limited liability corporation, limited partnership, or partnership, must include the entity's Texas Comptroller's Taxpayer Number or the entity's Federal Employer Identification Number.

(C) A legible and accurate electronic image of each applicable required document:

(i) The certificate of filing, certificate of incorporation, or certificate of registration on file with the Texas Secretary of State; and

(ii) each assumed name certificate on file with the Secretary of State or county clerk.

(3) Information and documents regarding applicant's owners, representatives, and affiliates. All applications must include the following information and documents on the applicant's owners, representatives, and affiliates, as applicable:

(A) The contact name, email address, and telephone number of the person submitting the application.

(B) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, business address, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company.

(C) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, and business address for the following if the applicant is owned in full or in part by a legal entity:

(i) each officer, director, or trustee authorized to act on behalf of the applicant; and

(ii) each manager or representative who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions, on behalf of the applicant.

(D) The name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part.

(E) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, and business address for each person who serves or will serve as the applicant's manager, operator, or representative who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions.

(F) A legible and accurate electronic image of at least one of the following unexpired identity documents for each natural person identified in the application:

(i) a driver license issued by a state or territory of the United States. If the driver license was issued by the Texas Department of Public Safety, the image must also include the audit number listed on the Texas driver license;

(ii) Texas identification card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E, or an identification certificate issued by a state or territory of the United States;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) United States passport; or

(v) United States military identification.

(4) Principal business address and mailing address. The applicant must provide the applicant's principal business address, which must be a physical address. If the mailing address is different from the principal business address, the applicant must also provide the applicant's mailing address.

(5) Legal agent.

(A) A Texas-domiciled motor carrier must provide the name, telephone number, and address of a legal agent for service of process if the agent is different from the motor carrier.

(B) A motor carrier domiciled outside Texas must provide the name, telephone number, and Texas address of the legal agent for service of process.

(C) A legal agent for service of process shall be a Texas resident, a domestic corporation, or a foreign corporation authorized to transact business in Texas with a Texas physical address, rather than a post office box, for service of process.

(6) Description of vehicles. An application must include a motor carrier equipment report identifying each motor vehicle that requires registration and that the carrier proposes to operate. Each motor vehicle must be identified by its vehicle identification number, make, model year, and type of cargo and by the unit number assigned to the motor vehicle by the motor carrier. Any subsequent registration of vehicles must be made under subsection (e) of this section.

(7) Type of motor carrier operations. An applicant must state if the applicant proposes to transport passengers, household goods, or hazardous materials.

(8) Insurance coverage. An applicant must indicate insurance coverage as required by §218.16 of this title (relating to Insurance Requirements).

(9) Safety certification. Each motor carrier must complete, as part of the application, a certification stating that the motor carrier knows and will conduct operations in accordance with all federal and state safety regulations.

(10) Drug-testing certification. Each motor carrier must certify, as part of the application, that the motor carrier is in compliance with the drug-testing requirements of 49 C.F.R. Part 382. If the motor carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the applicant must provide the names of the persons operating the consortium.

(11) Duration of registration.

(A) An applicant must indicate the duration of the desired registration. Except as provided otherwise in this section, registration may be for seven calendar days, 90 calendar days, one year, or two years. The duration of registration chosen by the applicant will be applied to all vehicles.

(i) Household goods carriers may not obtain seven-day or 90-day certificates of registration.

(ii) Motor carriers that transport passengers in a commercial motor vehicle as defined by Transportation Code,

§548.001(1)(B) may not obtain seven-day or 90-day certificates of registration, unless approved by the director.

(B) Interstate motor carriers that operate in intrastate commerce and meet the requirements under §218.14(c) of this title (relating to Expiration and Renewal of Commercial Motor Vehicles Registration) are not required to renew a certificate of registration issued under this section.

(12) Additional requirements. The following fees, documents, and information must be submitted with the application.

(A) An application must be accompanied by an application fee of:

(i) $100 for annual and biennial registrations;

(ii) $25 for 90-day registrations; or

(iii) $5 for seven-day registrations.

(B) An application must be accompanied by a vehicle registration fee of:

(i) $10 for each vehicle that the motor carrier proposes to operate under a seven-day, 90-day, or annual registration; or

(ii) $20 for each vehicle that the motor carrier proposes to operate under a biennial registration.

(C) An application must be accompanied by proof of insurance or financial responsibility and the insurance filing fee as required by §218.16.

(D) An application must include the completed New Applicant Questionnaire (Applicant Questionnaire), which consists of questions and requirements, such as the following:

(i) Have you ever had another motor carrier certificate of registration number issued by the department in the three years prior to the date of this application? If your answer is yes, provide the certificate of registration number for the motor carrier(s). In the Applicant Questionnaire, the word "you" means the applicant or any business that is operated, managed, or otherwise controlled by or affiliated with the applicant or a family member, corporate officer, manager, operator, or owner (if the business is not a publicly traded company) of the applicant. In the Applicant Questionnaire, the word "manager" means a person who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions.

(ii) Have you had a Compliance Review or a New Entrant Audit by the Texas Department of Public Safety that resulted in an Unsatisfactory Safety Rating in the three years prior to the date of your application? If your answer is yes, provide the USDOT number(s) and the certificate of registration number(s) issued by the department.

(iii) Are you currently under an Order to Cease from the Texas Department of Public Safety? If your answer is yes, provide the motor carrier's USDOT number(s) and the Carrier Profile Number(s). The Texas Department of Public Safety assigns a Carrier Profile Number (CP#) when they perform a compliance review on a motor carrier's operations to determine whether the motor carrier meets the safety fitness standards.

(iv) Are you related to another motor carrier, or have you been related to another motor carrier within the three years prior to the date of your application? The relationship may be through a person (including a family member), corporate officer, or partner who also operates or has operated as a motor carrier in Texas. If your answer is yes, state how you are related and provide the motor carrier's name and the motor carrier's USDOT number, or the certificate of registration number issued by the department for each related motor carrier.

(v) Do you currently owe any administrative penalties to the department, regardless of when the final order was issued to assess the administrative penalties? If your answer is yes, provide the following information under which the administrative penalties were assessed:

(I) department's notice number(s); and

(II) the motor carrier's USDOT number and certificate of registration number issued by the department;

(vi) Name and title of person completing the Applicant Questionnaire; and

(vii) Is the person completing the Applicant Questionnaire an authorized representative of the applicant? If your answer is yes, please add the person's name, job title, phone number, and address.

(E) An applicant must state if the applicant is domiciled in a foreign country.

(F) An application must include a certification that the information and documents provided in the application are true and correct and that the applicant complied with the application requirements under Chapter 218 of this title (relating to Motor Carriers) and Transportation Code, Chapter 643.

(G) An application must be accompanied by any other information and documents required by the department to evaluate the application under current law, including board rules.

(13) Additional requirements for household goods carriers. The following information, documents, and certification must be submitted with all applications by household goods carriers:

(A) A copy of the tariff that sets out the maximum charges for transportation of household goods, or a copy of the tariff governing interstate transportation services. If an applicant is governed by a tariff that its association has already filed with the department under §218.65 of this title (relating to Tariff Registration), the applicant complies with the requirement in this subparagraph by checking the applicable box on the application to identify the association's tariff.

(B) If the motor vehicle is not titled in the name of the household goods carrier, the following lease information and documentation, notwithstanding §218.18(a) of this title (relating to Short-term Lease and Substitute Vehicles):

(i) a copy of a valid lease agreement for each motor vehicle that the household goods carrier will operate; and

(ii) the name of the lessor and their USDOT number for each motor vehicle leased to the household goods carrier under a short-term lease.

(C) A certification that the household goods carrier has procedures that comply with Code of Criminal Procedure, Article 62.063(b)(3), which prohibits certain people who are required to register as a sex offender from providing moving services in the residence of another person without supervision.

(14) Additional requirements for passenger carriers. The following information and documents must be submitted with all applications for motor carriers that transport passengers in a commercial motor vehicle as defined by Transportation Code, §548.001(1)(B):

(A) If the commercial motor vehicle is titled in the name of the motor carrier, a copy of the International Registration Plan registration receipt or a copy of the front and back of the title for each commercial motor vehicle; or

(B) If the commercial motor vehicle is not titled in the name of the motor carrier, the following lease information and documentation, notwithstanding §218.18(a) of this title:

(i) A copy of a valid lease agreement for each commercial motor vehicle; and

(ii) The name of the lessor and their USDOT number for each commercial motor vehicle leased to the motor carrier under a short-term lease.

(b) Conditional acceptance of application. If an application has been conditionally accepted by the director pursuant to Transportation Code, §643.055, the applicant may not operate the following until the department has issued a certificate under Transportation Code, §643.054:

(1) a commercial motor vehicle or any other motor vehicle to transport household goods for compensation, or

(2) a commercial motor vehicle to transport persons or cargo.

(c) Approved application. An applicant meeting the requirements of this section and whose registration is approved shall be issued the following documents:

(1) Certificate of registration. The department shall issue a certificate of registration. The certificate of registration must contain the name and address of the motor carrier and a single registration number, regardless of the number of vehicles requiring registration that the carrier operates.

(2) Insurance cab card. The department shall issue an insurance cab card listing all vehicles to be operated under the carrier's certificate of registration. The insurance cab card shall be continuously maintained at the motor carrier's principal business address. The insurance cab card must be valid for the same period as the motor carrier's certificate of registration and shall contain information regarding each vehicle registered by the motor carrier.

(A) A current copy of the page of the insurance cab card on which the vehicle is shown shall be maintained in each vehicle listed, unless the motor carrier chooses to maintain a legible and accurate image of the insurance cab card on a wireless communication device in the vehicle or chooses to display such information on a wireless communication device by accessing the department's online system from the vehicle. The appropriate information concerning that vehicle shall be highlighted if the motor carrier chooses to maintain a hard copy of the insurance cab card or chooses to display an image of the insurance cab card on a wireless communication device in the vehicle. The insurance cab card or the display of such information on a wireless communications device shall serve as proof of insurance as long as the motor carrier has continuous insurance or financial responsibility on file with the department.

(B) On demand by a department investigator or any other authorized government personnel, the driver shall present the highlighted page of the insurance cab card that is maintained in the vehicle or that is displayed on a wireless communication device in the vehicle. If the motor carrier chooses to display the information on a wireless communication device by accessing the department's online system, the driver shall locate the vehicle in the department's online system upon request by the department-certified inspector or other authorized government personnel.

(C) The motor carrier shall notify the department in writing if it discontinues use of a registered motor vehicle before the expiration of its insurance cab card.

(D) Any erasure or alteration of an insurance cab card that the department printed out for the motor carrier renders it void.

(E) If an insurance cab card is lost, stolen, destroyed, or mutilated; if it becomes illegible; or if it otherwise needs to be replaced, the department shall print out a new insurance cab card at the request of the motor carrier. Motor carriers are authorized to print out a copy of a new insurance cab card using the department's online system.

(F) The department is not responsible for a motor carrier's inability to access the insurance cab card using the department's online system.

(d) Additional and replacement vehicles. A motor carrier required to obtain a certificate of registration under this section shall not operate additional vehicles unless the carrier identifies the vehicles on a form prescribed by the director and pays applicable fees as described in this subsection.

(1) Additional vehicles. To add a vehicle, a motor carrier must pay a fee of $10 for each additional vehicle that the motor carrier proposes to operate under a seven-day, 90-day, or annual registration. To add a vehicle during the first year of a biennial registration, a motor carrier must pay a fee of $20 for each vehicle. To add a vehicle during the second year of a biennial registration, a motor carrier must pay a fee of $10 for each vehicle.

(2) Replacement vehicles. No fee is required for a vehicle that is replacing a vehicle for which the fee was previously paid. Before the replacement vehicle is put into operation, the motor carrier must notify the department, identify the vehicle being taken out of service, and identify the replacement vehicle on a form prescribed by the department. A motor carrier registered under seven-day registration may not replace vehicles.

(e) Supplement to original application. A motor carrier required to register under this section shall electronically file in the department's designated motor carrier registration system a supplemental application under the following circumstances.

(1) Change of cargo. A registered motor carrier may not begin transporting household goods or hazardous materials unless the carrier submits a supplemental application to the department and shows the department evidence of insurance or financial responsibility in the amounts specified by §218.16.

(2) Change of name. A motor carrier that changes its name shall file a supplemental application for registration no later than the effective date of the change. The motor carrier shall include evidence of insurance or financial responsibility in the new name and in the amounts specified by §218.16. A motor carrier that is a corporation must have its name change approved by the Texas Secretary of State before filing a supplemental application. A motor carrier incorporated outside the state of Texas must complete the name change under the law of its state of incorporation before filing a supplemental application.

(3) Change of address or legal agent for service of process. A motor carrier shall file a supplemental application for any change of address or any change of its legal agent for service of process no later than the effective date of the change. The address most recently filed will be presumed conclusively to be the current address.

(4) Change in principal officers and titles. A motor carrier that is a corporation shall file a supplemental application for any change

in the principal officers and titles no later than the effective date of the change.

(5) Conversion of corporate structure. A motor carrier that has successfully completed a corporate conversion involving a change in the name of the corporation shall file a supplemental application for registration and evidence of insurance or financial responsibility reflecting the new company name. The conversion must be approved by the Office of the Secretary of State before the supplemental application is filed.

(6) Change in drug-testing consortium status. A motor carrier that changes consortium status shall file a supplemental application that includes the names of the persons operating the consortium.

(7) Retaining a revoked or suspended certificate of registration number. A motor carrier may retain a prior certificate of registration number by:

(A) filing a supplemental application to reregister instead of filing an original application; and

(B) providing adequate evidence that the carrier has satisfactorily resolved the issue that gave rise to the suspension or revocation.

(f) Change of ownership. A motor carrier must file an original application for registration when there is a corporate merger or a change in the ownership of a sole proprietorship or of a partnership.

(g) Alternative vehicle registration for household goods agents. To avoid multiple registrations of a motor vehicle, a household goods agent's vehicles may be registered under the motor carrier's certificate of registration under this subsection.

(1) The carrier must notify the department on a form approved by the director of its intent to register its agent's vehicles under this subsection.

(2) When a carrier registers vehicles under this subsection, the carrier's certificate shall include all vehicles registered under its agent's certificates of registration. The carrier must register under its certificate of registration all vehicles operated on its behalf that do not appear on its agent's certificate of registration.

(3) The department may send the carrier a copy of any notification sent to the agent concerning circumstances that could lead to denial, suspension, or revocation of the agent's certificate.

(h) Substitute vehicles leased from leasing businesses. A registered motor carrier is not required to comply with the provisions of subsection (e) of this section for a substitute vehicle leased from a business registered under §218.18 of this title (relating to Short-term Lease and Substitute Vehicles). A motor carrier is not required to carry proof of registration as described in subsection (d) of this section if a copy of the lease agreement for the originally leased vehicle is carried in the cab of the temporary replacement vehicle.

(i) A motor carrier with an unexpired certificate of registration that has not been revoked shall update its principal business address, mailing address, and email address in the department's online system within 30 days of a change to the information.

(j) A sole proprietor with an unexpired certificate of registration shall notify the department as specified in subsection (k) of this section, directly or through the sole proprietor's authorized representative, of the sole proprietor's imprisonment for any of the following:

(1) a felony conviction for any of the following:

(A) an offense that directly relates to the duties and responsibilities of a motor carrier as defined in §211.25 of this title (relating to Criminal Offense Guidelines; Imprisonment);

(B) an offense listed in Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001;

(2) felony community supervision revocation;

(3) revocation of parole; or

(4) revocation of mandatory supervision.

(k) The notice under subsection (j) of this section shall be provided to the department:

(1) for an imprisonment that occurs on or after May 1, 2026;

(2) within 15 days of the date the sole proprietor is imprisoned;

(3) using the email address listed on the department's website for this purpose; and

(4) with the following information:

(A) the name of the sole proprietor;

(B) the sole proprietor's certificate of registration number under Transportation Code, Chapter 643;

(C) the date the sole proprietor was imprisoned;

(D) the reason the sole proprietor was imprisoned, using one of the reasons listed in subsection (j) of this section;

(E) the citation to the statute, administrative rule, or regulation regarding the felony offense for which the sole proprietor was imprisoned if the sole proprietor was imprisoned for a felony conviction that falls under subsection (j)(1) of this section;

(F) whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials under Transportation Code, Chapter 643; and

(G) the name and phone number of the sole proprietor's authorized representative, if applicable.

(l) An applicant under this chapter and a motor carrier with a certificate of registration may submit an application to the department or provide the department with any required information and updates through an authorized representative. Upon request by the department, a representative shall provide the department with written proof of authority to act on behalf of the applicant or motor carrier.

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 April 9, 2026.

TRD-202601528
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: May 1, 2026
Proposal publication date: December 26, 2025
For further information, please call: (512) 465-4160

Texas

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 Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 215, Motor Vehicle Distribution. This review is being conducted pursuant to Government Code, §2001.039.

The board will assess whether the reasons for initially adopting these rules continue to exist and whether the rules should be repealed, readopted, or readopted with amendments.

If you want to comment on this rule review proposal, submit your written comments by 5:00 p.m. CDT on May 26, 2026. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

TRD-202601510
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: April 9, 2026

♦ ♦ ♦

Adopted Rule Reviews

Texas Department of Housing and Community Affairs

Title 10, Part 1

The Texas Department of Housing and Community Affairs (the Department) performed a rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.3, Sick Leave Pool and Family Leave Pool. The purpose of the action was to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department determined that there continued to be a need for this rule, which is to comply with statutory requirements upon agencies to provide in rule a sick leave pool and family leave pool policy. The Department also determined that no changes to this rule were necessary. The rule was proposed for readoption in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, through March 8, 2026. No comment was received on the readoption which is adopted with no changes.

TRD-202601535
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking. The purpose of the action was to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage negotiated rulemaking. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption was noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, through March 8, 2026. No public comment was received and the rule is readopted with no changes.

TRD-202601538
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13, Contested Case Hearing Procedures. The purpose of the action was to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department determined that there continues to be a need for this rule, which is to provide procedures for contested case hearings. The Department also determined that no changes to this rule as currently in effect were necessary. This rule proposed for readoption was noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, through March 8, 2026. No comment was received and the rule is readopted without changes.

TRD-202601539
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage alternative dispute resolution procedures. The Department has also determined that no changes to this rule as currently in effect were necessary. This rule proposed for readoption was noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, through March 8, 2026. No public comment was received and the rule is readopted without changes.

TRD-202601540
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, including §§21.1 - 21.6. The purpose of the action was to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department has determined that there continues to be a need for this rule to comply with Tex. Gov't Code §2306.187, which requires that the Department develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities in Single Family Programs. The Department also determined that no changes to this rule are necessary. This rule proposed for readoption was noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. The public comment period was from February 6, 2026, through March 8, 2026. No public comment was received and the rule is readopted without changes.

TRD-202601544
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, including §§25.1 - 25.10. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department determined that there continues to be a need for this rule, which is to establish the requirements governing the Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Tex. Gov't Code. The Department also determined that no changes to this rule were necessary. This rule was noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Public comment was accepted from February 6, 2026, through March 8, 2026. No public comment was received and the rule is readopted without changes.

TRD-202601545
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 9, 2026

♦ ♦ ♦

Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 901, Volunteer and Community Engagement at a State Facility

Notice of the review of this chapter was published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1176). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 901 in accordance with Texas Government Code §2001.039, 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 901. Any amendments, if applicable, to Chapter 901 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 901 as required by Texas Government Code §2001.039.

TRD-202601508
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: April 8, 2026

♦ ♦ ♦

Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Chapter 208, Employment Practices. The review was conducted pursuant to Government Code, §2001.039.

Notice of the department's intention to review was published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8632). The department did not receive any comments on the rule review.

As a result of the review, the department readopts Chapters 208 without any changes. The department has determined that the reasons for initially adopting the readopted rules continue to exist.

This concludes the review of Chapter 208.

TRD-202601509

Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: April 9, 2026

♦ ♦ ♦

EXIT

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 10 TAC §10.625

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Violations of the National Standards for the Physical Inspection of Real Estate or Local Codes	All Programs	Yes
Noncompliance related to Affirmative Marketing Requirements	All Programs	No
Development is not available to the general public because of leasing issues	HTC, TCAP, and Exchange	Yes
TDHCA has received notice of possible Fair Housing Act Violation from HUD or DOJ and reported general public use violation in accordance with IRS 8823 Audit Guide Chapter 13	HTC	Yes
TDHCA has referred unresolved Fair Housing Design and Construction issue or other Fair Housing noncompliance to the Texas Workforce Commission	All programs	No
Development has gone through a deed in lieu of foreclosure or foreclosure	All programs	Yes
Development is never expected to comply due to failure to report or allow monitoring	All programs	Yes
Owner did not allow on□site monitoring or physical inspection and/or failed to notify residents resulting in inspection cancelation	All programs	Yes
LURA not in effect	All programs	Yes
Project failed to meet minimum set aside	HTC, TCAP, Exchange and Bonds	Yes
No evidence of, or failure to certify to material participation of a non□profit or HUB, if required by LURA	HTC, TCAP and Exchange	Yes, if non□profit issue, No, if HUB issue
Development failed to meet additional state required rent and occupancy restrictions	All programs	No
Noncompliance with social service requirements	All programs	No

Development failed to provide housing to the elderly as promised at application	All programs	No
Failure to provide special needs housing as required by LURA	All programs	No
Changes in Eligible Basis or Applicable percentage	HTC, TCAP, and Exchange	Yes
Failure to submit all or parts of the Annual Owner's Compliance Report	All programs	Yes for part A, No for other parts
Failure to submit reports or notices as required by §10.607 of this subchapter	All programs	No
Noncompliance with utility allowance requirements described in §10.614 of this subchapter and/or Treasury Regulation §1.42□ 10	All programs	Yes if rent exceeds limit, no if related to noncompliance with other requirements, such as posting, updating etc.
Noncompliance with lease requirements described in §10.613 and/or §10.624 of this subchapter	All programs	No
Asset Management Division has reported that Development has failed to establish and maintain a reserve account in accordance with §10.404 of this Chapter	All programs	No
Failure to provide a notary public as promised at application	HTC, TCAP, and Exchange	No
Violation of the Unit Vacancy Rule	HTC, TCAP, and Exchange	Yes
Casualty Loss	All programs	Yes
Failure to provide monitoring and/or physical inspection documentation	All programs	No
Failure to provide amenity as required by LURA	All programs	No

Failure to pay asset management, compliance monitoring or other required fee	HTC, TCAP, ERA, Bond, NHTF, TCAP□RF, Exchange, HOME□ARP, HOME Match, and HOME/NSP Developments committed funds after August 23, 2013	No
Change in ownership without Department approval (other than removal of a general partner in accordance with §10.406 of this chapter)	All programs	No
Noncompliance with written policy and procedure requirements	All programs	No, unless finding is because Owner refused to lease to Section 8 households
Program Unit not leased to Low□Income household/ Household income above income limit upon initial Occupancy	All programs	Yes
Program unit occupied by nonqualified students	HTC, TCAP, and Exchange during the Compliance Period, Bond, HOME, 811 PRA, and HOME□ARP Developments	Yes
Low Income Units used on a transient basis	HTC, TCAP, Exchange and Bond	Yes
Violation of the Available Unit Rule	All programs, but only during the Compliance Period for HTC, TCAP, and Exchange	Yes

Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	All programs	Yes
Failure to provide Tenant Income Certification and documentation	All programs	Yes
Unit not available for rent	All programs	Yes
Failure to collect data required by §10.612	All programs	No
Development evicted or terminated the tenancy of a low□income tenant for other than good cause	HTC, TCAP, Exchange, HOME, HOME□ ARP, ERA, HOME Match, TCAP□ RF, NHTF, and NSP	Yes
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	HOME, TCAP□RF, HOME Match, ERA, and HOME ARP	No
Violation of the Integrated Housing Rule	All programs	No
Failure to resolve final construction deficiencies within the corrective action period	All programs	No
Noncompliance with the required accessibility requirements such as §504 of the Rehabilitation Act of 1973, the 2010 ADA standards as modified in the Department rules, or other accessibility related requirements of a Department rule, or as reflected in a Contract or LURA	All programs	No
Noncompliance with the notice to the Department requirements described in §10.609 of this subchapter	All programs	No
Failure to reserve Units for Section 811 participants	811 PRA	No
Failure to notify the Department of the availability of units, notices of termination, and outcomes of referred applications as described in accordance with §8.6 of this title.	811 PRA	No
Owner failed to check required criminal history	811 PRA	No
Failure to properly use or document Enterprise Income Verification System as required for 811 PRA	811 PRA	No

Failure to provide or document HUD forms required for Section 811 PRA	811 PRA	No
Failure to report an inoperable elevator within the required timeframe	All programs	No
Accepted funding that limits Section 811 participation	811 PRA	No
Failure to document, calculate, or collect income and/or rent as required	811 PRA, HOME ARP	No
Failure to use HUD model lease or HUD Tenant Addendum, as required by the federal program	811 PRA , a Development subject to the 2025 HOME Final Rule, a Development with Department issued Project-Based Vouchers	No
Failure to meet, maintain, or disperse Section 811 units	811 PRA	No
Failure to conduct interim certifications	811 PRA	No
Failure to conduct annual income recertification	811 PRA	No
Asset Management Division has reported that Owner has failed to submit rents on an annual basis in accordance with §10.403 of this chapter	HOME, NSP, TCAP RF, HOME Match, HOME□ ARP, and NHTF	No
Failure to document or comply with eligibility requirements for 811 PRA	811 PRA	No
Noncompliance with CHDO Requirements	HOME	No
Failure to disperse unit designations across all Unit Types – Average Income only	HTC, TCAP and Exchange	No
Household income designations was improperly changed or removed	All programs	No
Failure to maintain the specific unit mix required in the Contract or Land Use Restriction Agreement (LURA)	HOME, HOME □ ARP, ERA, HOME Match, 811 PRA, TCAP□RF, HTF, and NHTF	No
Increased a household's rent more than one time during a 12□month period	All programs	No
Failure to issue a notice of rent increase in accordance with §10.622 of this subchapter	All programs	No

Failure to market to veterans and/or Public Housing Authority (PHA) waitlist as required in the LURA or application	All programs	No
Failure to include veteran statement in the application	All programs	No
Failure to accept rent that was paid on time and in full	All programs	No
Terminated utilities controlled by the Development Owner during a period prohibited by the applicable federal program or under state law	All programs	No
Failure to calculate, charge, collect, or refund a security or pet deposit as required for 811 PRA	811 PRA	No
A fee or deposit was charged that is impermissible for 811 PRA	811 PRA	No
Failure to issue utility allowance reimbursement in accordance with Section 811 only	811 PRA	No
Failure to provide or document initial or reminder notices for recertification as required for 811 PRA	811 PRA	No
Failure to document or comply with unit inspection file requirements for 811 PRA	811 PRA	No
Failure to conduct move□in or initial certification for 811 PRA	811 PRA	No
Failure to provide or document notice of change in tenant rent or utility reimbursement for 811 PRA	811 PRA	No
Failure to document or comply with move□out requirements for 811 PRA	811 PRA	No
Failure to conduct a transfer, gross rent change, move□ out, change in household or Non□interim certification as required for 811 PRA	811 PRA	No
Failure to terminate assistance or tenancy as required for 811 PRA	811 PRA	No

Failure to submit completed IRS Form(s) 8609 with Part II completed by the second monitoring review	HTC, Exchange, and TCAP	No
Failure to provide notice to applicants and households prior to the LURA term ending	All programs	No
Failure to maintain and/or provide evidence of insurance, including but not limited to, builder's risk during construction, property insurance, general liability, fidelity bonds, and flood insurance, as applicable	All programs	No
Failure to timely pay all property taxes, or maintain applicable exemptions to limit property taxes, resulting in a property tax lien and/or property tax suit	HOME, HOME□ ARP, ERA, TCAP, TCAP□RF, NHTF, and NSP	No
Failure to display Fair Housing poster as required for 811 PRA	811 PRA	No
Failure to respond to a reasonable accommodation request per 10 TAC §1.204(d)	All programs	No
Failure to document or comply with occupancy requirements for 811 PRA	811 PRA	No
Noncompliance with the Mitigation for Schools requirement of the LURA or application	All programs	No

Figure: 19 TAC §13.666(b)(2)

Classification of Instructional Programs Code	**Field Title**
13	Education
25	Library Science
19.0706	Child Development
19.0708	Childcare and Support Services Management
19.0709	Childcare Provider/Assistant
51	Health Professions and related programs
12.03	Funeral Service and Mortuary Services
19.0707	Family and Community Services

Figure: 19 TAC §13.669

Fundable Outcome	**Funded Rate**	**Funded Rate for Completion in a High-Demand Field**
(1) Fundable Credentials	*See subtypes below*	*See subtypes below*
(A) Associate Degree	$3,500	$4,500
(B) Baccalaureate Degree	$3,500	$4,500
(C) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate, Continuing Education Certificate)	$1,750	$3,500
(D) Occupational Skills Award	$1,000	$1,250
(E) Institutional Credential Leading to Licensure or Certification	$1,000	$1,250
(F) Third-Party Credential	$1,000	$1,250
(2) Credential of Value Premium	*See subtypes below*	*See subtypes below*
(A) Associate Degree	*$875*	*n/a*
(B) Baccalaureate Degree	*$875*	*n/a*
(C) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate, Continuing Education Certificate)	*$437*	*n/a*
(3) Dual Credit Fundable Outcome	$3,500	n/a
(4) Transfer Fundable Outcome	$3,500	n/a
(5) Structured Co-Enrollment Fundable Outcome	$3,500	n/a
(6) Opportunity High School Diploma Fundable Outcome	$3,500	n/a

Figure: 43 TAC §215.154(b)

If a new license applicant is:	Maximum number of dealer's temporary license plates issued during the first license term is:
1. a franchised motor vehicle dealer	200
2. a franchised motorcycle dealer	50
3. an independent motor vehicle dealer	25
4. an independent motorcycle dealer	10
5. a franchised or independent travel trailer dealer	10
6. a trailer or semitrailer dealer	15 [~~5~~]
7. an independent mobility motor vehicle dealer	5
8. a wholesale motor vehicle dealer	10
9. a wholesale motor vehicle dealer who also holds a wholesale motor vehicle auction GDN	40

Figure: 43 TAC §215.154(d)(1)[~~(e)(1)~~]

If a vehicle dealer is:	Maximum number of additional dealer's temporary license plates issued with a demonstrated need through proof of sales is:
1. A dealer selling 26 to 50 during the previous 12-month period	5
2. A dealer selling 51 to 100 during the previous 12-month period	10
3. A dealer selling 101 to 150 during the previous 12-month period	15
4. A dealer selling 151 to 199 during the previous 12-month period	20
5. A dealer selling 200-299 during the previous 12-month period	25
6. A dealer selling more than 300 vehicles during the previous 12-month period	30

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.

Texas Department of Agriculture

Correction of Error

The Texas Department of Agriculture adopted amendments to 4 TAC §§28.2, 28.3, 28.5 and 28.7, concerning the Financial Assistance Rules, in the March 13, 2026, issue of the *Texas Register* (51 TexReg 1617). Due to an error by the Texas Register a portion of the text for §28.2 was omitted. The text should read as follows:

§28.2. Definitions.

In addition to the definitions set forth in Texas Agriculture Code, §58.002, as amended, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Definitions applicable to specific programs may be included within the applicable subchapter.

(1) Act--The Texas Agricultural Finance Act, Texas Agriculture Code, Chapter 58.

(2) Administrator--The individual employed by the Commissioner, with approval of the Board, to perform duties related to administration of the Authority, as further described in Texas Agriculture Code, Section 58.015(c).

(3) Applicant--Any eligible agricultural business filing an application with the Authority for financial assistance under any program under this chapter. A lender may submit an application on behalf of the business.

(4) Application--An application promulgated and approved by the Board, including supporting documentation and schedules as required by the Authority, for participation in a program under this chapter.

(5) Authority--The Texas Agricultural Finance Authority.

(6) Board--The board of directors of the Authority.

(7) Business day--A day on which the Department is open for business. The term shall not include Saturday, Sunday, or a traditional holiday officially observed by the State. The Department's normal business hours are 8:00 a.m. to 5:00 p.m. each business day.

(8) Compliance report--A copy of the final loan documents.

(9) Comptroller--The Texas Comptroller of Public Accounts.

(10) Current market rate--The rate of interest on a United States treasury bill or note, the maturity date of which most closely matches the maturity date of the loan, or the end of the current biennium of the State, whichever is sooner, as determined by reference to the United States treasury bill or note section of the Wall Street Journal or equivalent publication including an electronic publication, published on the day the loan is priced.

(11) Default--The failure to perform an obligation established by the loan agreement, these rules or the Act.

(12) Department--The Texas Department of Agriculture.

(13) Deputy Commissioner--The Deputy Commissioner of the Department.

(14) Equity--The applicant's contribution to a project in the form of cash, land, or other depreciable property.

(15) Fund--The Texas Agricultural Fund.

(16) Loan guarantee amount--With respect to loans made by a lender and guaranteed by the Authority, a sum measured in terms of United States dollars that the Authority pays to the lender to acquire an undivided interest in any loan or, in the case of default by the borrower, the Authority agrees to pay to the lender, not to exceed the percentage as stated in the guaranty agreement.

(17) Program--Any financial assistance program approved by the Authority board and defined by the rules under this chapter.

(18) Project--An enterprise which would further the expansion or development of production, processing, marketing or exporting of Texas agricultural products or other agricultural-related rural economic development projects.

(19) Qualified application--A completed application, including all documents and information required by the Authority and submitted by the lender or applicant for participation in a program under this chapter.

(20) Rural area--An area which is predominately rural in character; an unincorporated area or a city with a population under 50,000; or a county with a population under 200,000, or another area defined by resolution of the board with respect to a particular program.

(21) Staff--The staff of the Authority or staff of the Department performing work for the Authority.

(22) State--The State of Texas.

TRD-202601625
Texas Department of Agriculture
Filed: April 14, 2026

♦ ♦ ♦

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - March 2026

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 March 2026 is $35.95 per barrel for the three-month period beginning on December 1, 2025, and ending February 28, 2026. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of March 2026, 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 March 2026 is $1.17 per mcf for the three-month period beginning on December 1, 2025, and ending February 28, 2026. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of March 2026, 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 March 2026 is $91.00 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 March 2026, 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 March 2026 is $3.03 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 March 2026, 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 April 15, 2026.

TRD-202601628
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: April 15, 2026

♦ ♦ ♦

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 04/20/26 - 04/26/26 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/20/26 - 04/26/26 is 18.00% for commercial[2] credit.

The postjudgment interest rate as prescribed by §304.003 for the period of 05/01/26 - 05/31/26 is 6.75%.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202601630
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: April 15, 2026

♦ ♦ ♦

Credit Union Department

Correction of Error

The Credit Union Department proposed amendments to 7 TAC §91.714 in the April 10, 2026, issue of the *Texas Register* (51 TexReg 2283). Due to an error by the Texas Register, subsection (b) of the rule was published incorrectly.

The text should read as follows:

(b) Permissible activities. Subject to the limitations of this section and §91.401 of this title (relating to Credit Union Ownership of Property), a credit union may engage in leasing activities. These activities include [~~becoming the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property,~~] obtaining an assignment of a lessor's interest in a lease of such property[~~,~~] and incurring obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

TRD-202601593

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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 applications:

Articles of Incorporation - Approved

Associated Credit Union of Texas - See *Texas Register* dated on February 27, 2026.

Fort Worth Community Credit Union - See *Texas Register* dated on February 27, 2026.

TRD-202601629
Robert W. Etheridge
Commissioner
Credit Union Department
Filed: April 15, 2026

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, 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 **May 26, 2026**. 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 physical 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. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division, MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be

postmarked by 5:00 p.m. on **May 26, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENFCOMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: A & L Partnership, LLC; DOCKET NUMBER: 2025-1222-PWS-E; IDENTIFIER: RN112118237; LOCATION: Lakehills, Bandera County; TYPE OF FACILITY: public water supply; PENALTY: $3,500; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(2) COMPANY: Alleyton Resource Company, LLC; DOCKET NUMBER: 2025-0817-WQ-E; IDENTIFIER: RN104418181; LOCATION: Fayetteville, Fayette County; TYPE OF FACILITY: aggregate production operation; PENALTY: $17,606; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $7,042; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(3) COMPANY: Aqua Texas, Inc.; DOCKET NUMBER: 2025-1426-PWS-E; IDENTIFIER: RN101230209; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: public water supply; PENALTY: $1,000; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(4) COMPANY: BIROME WATER SUPPLY CORPORATION; DOCKET NUMBER: 2025-1723-PWS-E; IDENTIFIER: RN101228468; LOCATION: Mount Calm, Hill County; TYPE OF FACILITY: public water supply; PENALTY: $3,810; ENFORCEMENT COORDINATOR: Katherine Argueta, (512) 239-4131; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(5) COMPANY: Bell County Water Control and Improvement District No. 3; DOCKET NUMBER: 2025-1778-MWD-E; IDENTIFIER: RN101919215; LOCATION: Nolanville, Bell County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $37,675; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(6) COMPANY: Brenntag Lubricants, LLC; DOCKET NUMBER: 2025-1836-WQ-E; IDENTIFIER: RN100241967; LOCATION: Houston, Harris County; TYPE OF FACILITY: petroleum distribution facility; PENALTY: $55,338; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(7) COMPANY: Carter, Matthew; DOCKET NUMBER: 2025-1547-WR-E; IDENTIFIER: RN112205596; LOCATION: Glen Rose, Somervell County; TYPE OF FACILITY: impoundment; PENALTY: $1,000; ENFORCEMENT COORDINATOR: Madison Travis, (512) 239-4687; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: Carter, Matthew; DOCKET NUMBER: 2025-1701-WR-E; IDENTIFIER: RN112289798; LOCATION: Glen Rose, Somervell County; TYPE OF FACILITY: impoundment; PENALTY: $500; ENFORCEMENT COORDINATOR: Madison Travis, (512) 239-4687; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(9) COMPANY: City of Austin; DOCKET NUMBER: 2025-0813-MWD-E; IDENTIFIER: RN101607901; LOCATION: Austin, Travis County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $38,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $38,750; ENFORCEMENT COORDINATOR: Alejandra Basave, (713) 767-3751; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(10) COMPANY: City of Brownfield; DOCKET NUMBER: 2025-1125-MSW-E; IDENTIFIER: RN102668456; LOCATION: Brownfield, Terry County; TYPE OF FACILITY: Type I and Type IV-Arid Exempt landfill; PENALTY: $30,000; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 5 - TYLER.

(11) COMPANY: City of Trenton; DOCKET NUMBER: 2023-1740-MWD-E; IDENTIFIER: RN101916518; LOCATION: Trenton, Fannin County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $22,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $18,200; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(12) COMPANY: Daniel R. Garcia Ghinis; DOCKET NUMBER: 2025-0109-WQ-E; IDENTIFIER: RN111997888; LOCATION: Princeton, Collin County; TYPE OF FACILITY: construction site; PENALTY: $2,375; ENFORCEMENT COORDINATOR: Alejandra Basave, (713) 767-3751; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(13) COMPANY: HAILIANG COPPER TEXAS INC; DOCKET NUMBER: 2025-1702-IWD-E; IDENTIFIER: RN102411352; LOCATION: Sealy, Austin County; TYPE OF FACILITY: motor vehicle manufacturing site; PENALTY: $8,925; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(14) COMPANY: ISP Technologies Inc.; DOCKET NUMBER: 2022-0201-AIR-E; IDENTIFIER: RN100825272; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $39,810; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(15) COMPANY: Liberty Utilities (Woodmark Sewer) Corp.; DOCKET NUMBER: 2025-1234-MWD-E; IDENTIFIER: RN101511400; LOCATION: Flint, Smith County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $162,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $81,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(16) COMPANY: Methodist Healthcare System of San Antonio, Ltd., L.L.P.; DOCKET NUMBER: 2025-1433-PST-E; IDENTIFIER: RN100624485; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: hospital emergency generator; PENALTY: $4,687; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 5 - TYLER.

(17) COMPANY: National Instruments Corporation; DOCKET NUMBER: 2025-1217-EAQ-E; IDENTIFIER: RN102840618; LOCATION: Austin, Travis County; TYPE OF FACILITY: computer

instruments production; PENALTY: $6,500; ENFORCEMENT COORDINATOR: Jasmine Jimerson, (512) 239-2552; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(18) COMPANY: Northside Independent School District; DOCKET NUMBER: 2022-0948-MWD-E; IDENTIFIER: RN106115181; LOCATION: Boerne, Bexar County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $22,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $18,000; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(19) COMPANY: PJD AMERICAN LLC.; DOCKET NUMBER: 2024-0701-PST-E; IDENTIFIER: RN102478690; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $4,500; ENFORCEMENT COORDINATOR: Eresha DeSilva, (713) 767-3669; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(20) COMPANY: PLANTATION ORCHARD, L.P.; DOCKET NUMBER: 2025-1038-WQ-E; IDENTIFIER: RN111524518; LOCATION: Granbury, Hood County; TYPE OF FACILITY: single family home construction; PENALTY: $18,375; ENFORCEMENT COORDINATOR: Alejandra Basave, (713) 767-3751; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(21) COMPANY: RWC Material, LLC; DOCKET NUMBER: 2025-1482-MLM-E; IDENTIFIER: RN112271721; LOCATION: Laredo, Webb County; TYPE OF FACILITY: aggregate production operation; PENALTY: $20,750; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(22) COMPANY: SCHMID, KLAUS; DOCKET NUMBER: 2026-0263-PWS-E; IDENTIFIER: RN110603651; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; PENALTY: $2,300; ENFORCEMENT COORDINATOR: Anjali Talpallikar, (512) 239-2507; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: Shell Chemical LP; DOCKET NUMBER: 2025-0987-IWD-E; IDENTIFIER: RN100211879; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: petrochemical manufacturing plant; PENALTY: $102,716; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(24) COMPANY: Smart SA Properties, LLC and L and B TRADING INC; DOCKET NUMBER: 2025-1490-PST-E; IDENTIFIER: RN101378222; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $11,102; ENFORCEMENT COORDINATOR: Ramyia Wendt, (512) 239-2513; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(25) COMPANY: THE SALVATION ARMY; DOCKET NUMBER: 2024-1806-MWD-E; IDENTIFIER: RN102769098; LOCATION: Midlothian, Ellis County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $23,250; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(26) COMPANY: Targa Downstream LLC; DOCKET NUMBER: 2025-0938-AIR-E; IDENTIFIER: RN100214212; LOCATION: Galena Park, Harris County; TYPE OF FACILITY: petroleum hydrocarbon storage and loading terminal; PENALTY: $144,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $57,800; ENFORCEMENT COORDINATOR: Trenton White, (903) 535-5155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 5 - TYLER.

(27) COMPANY: Terrell County Water Control and Improvement District 1; DOCKET NUMBER: 2025-1600-PWS-E; IDENTIFIER: RN101251437; LOCATION: Sanderson, Terrell County; TYPE OF FACILITY: public water supply; PENALTY: $3,127; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(28) COMPANY: Texas Department of Criminal Justice; DOCKET NUMBER: 2025-1276-PWS-E; IDENTIFIER: RN105614580; LOCATION: Somerville, Burleson County; TYPE OF FACILITY: public water supply; PENALTY: $1,312; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $1,312; ENFORCEMENT COORDINATOR: Katherine Mckinney, (512) 239-4619; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(29) COMPANY: Texas Department of Transportation; DOCKET NUMBER: 2025-0411-PST-E; IDENTIFIER: RN105824601; LOCATION: Midland, Midland County; TYPE OF FACILITY: fleet refueling facility; PENALTY: $3,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $2,700; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(30) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2025-1750-MWD-E; IDENTIFIER: RN102807070; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $29,000; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(31) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2025-1752-MWD-E; IDENTIFIER: RN102800240; LOCATION: Highlands, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $34,650; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(32) COMPANY: U.S.A. Technologies, Inc.; DOCKET NUMBER: 2024-1932-AIR-E; IDENTIFIER: RN112066915; LOCATION: Odem, San Patricio County; TYPE OF FACILITY: surface coating facility; PENALTY: $1,625; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(33) COMPANY: US Sand & Gravel, LLC; DOCKET NUMBER: 2025-1363-MLM-E; IDENTIFIER: RN111364469; LOCATION: Proctor, Comanche County; TYPE OF FACILITY: sand pit; PENALTY: $10,500; ENFORCEMENT COORDINATOR: Alejandra Basave, (713) 767-3751; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(34) COMPANY: Undine Texas Environmental, LLC; DOCKET NUMBER: 2025-1330-WQ-E; IDENTIFIER: RN112130612; LO-

CATION: High Island, Galveston County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $7,500; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

TRD-202601611
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: April 14, 2026

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Amended Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of City of Zavalla SOAH Docket No. 582-26-12387 TCEQ Docket No. 2023-0634-MLM-E

This Amended Notice changes the date of the hearing.

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. (CT) - April 23, 2026

To join the Zoom meeting via computer or smart device:

https://soah-texas.zoomgov.com

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed September 16, 2025 concerning assessing administrative penalties against and requiring certain actions of the City of Zavalla, for violations in Angelina County, Texas, of: Tex. Health & Safety Code §341.0315(c), Tex. Water Code §13.139(d), and 30 Texas Administrative Code §§288.20(c), 290.39(l)(5), 290.41(c)(3)(O), 290.43(c)(2) and (e), 290.45(b)(1)(D)(iii), 290.46(f)(2), (f)(3)(B)(ii), (l), (m), (m)(4), (s)(2)(C)(i), (s)(2)(B)(iv), (v), 290.111(h)(2), 290.121(a) and (b) and 291.93(3)(A).

The hearing will allow the City of Zavalla, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford the City of Zavalla, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of the **City of Zavalla** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. The City of Zavalla, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 11 and 13, and 30 Texas Administrative Code chs. 70, 288, 290, 291, and 297; Tex. Water Code §7.058; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at **www.tceq.texas.gov/goto/efilings** or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at **www.soah.texas.gov**, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: April 10, 2026

TRD-202601631
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 15, 2026

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Correction of Error

In the March 13, 2026, issue of the *Texas Register* (51 TexReg 1704), the Texas Commission on Environmental Quality (TCEQ or commission) adopted amendments to 30 Texas Administrative Code §§331.19, 331.107, and 331.108.

Due to a publication error by TCEQ, there were some typos throughout. There were also typographical errors from the Texas Register that resulted in the character Ã*f* being included throughout the text that can be disregarded.

On page 1705, in the second paragraph TCEQ published that the date the executive director commission determines the new or amended PAA application to be administratively complete. This should only reference the executive director, not the commission. The correct paragraph should read:

"The commission adopts the amendment to §331.108 by adding new §331.108(a)(4), which establishes that an application for a PAA is not subject to an opportunity for a contested case hearing if the Notice of Receipt of Application and Intent to Obtain Permit is provided to the individual land owners, mineral rights owners and an applicable Groundwater Conservation District not later than 30 days after the date the executive director determines the new or amended PAA application to be administratively complete."

Additionally, on page 1705 on the bottom of the page under the Takings Impact Assessment, TCEQ included an extra "and" when referencing "certain aquifer and storage and recovery projects". This should read "certain aquifer storage and recovery projects"

TRD-202601603
Amy L. Browning
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: April 13, 2026

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Enforcement Orders

An agreed order was adopted regarding Lake LBJ Water Control & Improvement District No. 1, Docket No. 2020-0441-MWD-E on April 15, 2026 assessing $21,250 in administrative penalties with $4,250 deferred. Information concerning any aspect of this order may be obtained by contacting Derek Osborn, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Leona Bullock dba Blue Ridge Mobile Home Park, Docket No. 2022-1030-PWS-E on April 15, 2026 assessing $11,160 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding Equistar Chemicals, LP, Docket No. 2022-1063-AIR-E on April 15, 2026 assessing $378,427 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Fort Griffin Special Utility District, Docket No. 2023-0908-PWS-E on April 15, 2026 assessing $3,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Georgetown, Docket No. 2023-1100-EAQ-E on April 15, 2026 assessing $52,500 in administrative penalties with $10,500 deferred. Information concerning any aspect of this order may be obtained by contacting Elizabeth Vanderwerken, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Port Neches, Docket No. 2023-1640-MWD-E on April 15, 2026 assessing $240,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Cobb, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sekisui Specialty Chemicals America, LLC, Docket No. 2024-0906-AIR-E on April 15, 2026 assessing $49,611 in administrative penalties with $9,922 deferred. Information concerning any aspect of this order may be obtained by contacting Raven Daigle, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Braskem America, Inc., Docket No. 2024-1241-AIR-E on April 15, 2026 assessing $23,263 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding U.S. LAND CORP., Docket No. 2024-1350-MWD-E on April 15, 2026 assessing $18,750 in administrative penalties with $3,750 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INV Nylon Chemicals Americas, LLC, Docket No. 2024-1502-AIR-E on April 15, 2026 assessing $28,975 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding North American Silica Sand, LLC, Docket No. 2024-1670-WQ-E on April 15, 2026 assessing $18,000 in administrative penalties with $3,600 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Motiva Enterprises LLC, Docket No. 2025-0100-AIR-E on April 15, 2026 assessing $14,250 in administrative penalties with $2,850 deferred. Information concerning any aspect of this order may be obtained by contacting Morgan Kopcho, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Department of Criminal Justice, Docket No. 2025-0263-PWS-E on April 15, 2026 assessing $29,029 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DCP Operating Company, LP, Docket No. 2025-0313-AIR-E on April 15, 2026 assessing $12,688 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Morgan Kopcho, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City Of Laredo, Docket No. 2025-0566-PWS-E on April 15, 2026 assessing $51,330 in administrative penalties with $10,266 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Blanco, Docket No. 2025-0638-PWS-E on April 15, 2026 assessing $1,400 in administrative penalties. Information concerning any aspect of this order may be

obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding South Rains Special Utility District, Docket No. 2025-0864-PWS-E on April 15, 2026 assessing $5,600 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katherine Argueta, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding EnLink North Texas Gathering, LP, Docket No. 2025-0870-AIR-E on April 15, 2026 assessing $25,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Roscoe, Docket No. 2025-0890-PWS-E on April 15, 2026 assessing $3,725 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Obianuju Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Emory, Docket No. 2025-0891-PWS-E on April 15, 2026 assessing $1,100 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GREENWOOD WATER CORPORATION, Docket No. 2025-1016-MLM-E on April 15, 2026 assessing $31,859 in administrative penalties with $6,371 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Riderville Water Supply Corporation, Docket No. 2025-1022-PWS-E on April 15, 2026 assessing $1,437 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katherine Argueta, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Utilities, L.P., Docket No. 2025-1135-PWS-E on April 15, 2026 assessing $2,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Aspermont, Docket No. 2025-1140-PWS-E on April 15, 2026 assessing $1,562 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Red River Authority of Texas, Docket No. 2025-1181-PWS-E on April 15, 2026 assessing $2,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katherine McKinney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Linde Inc., Docket No. 2025-1197-IWD-E on April 15, 2026 assessing $17,187 in administrative penalties with $3,437 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Crawford, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Products Operating LLC, Docket No. 2025-1238-IWD-E on April 15, 2026 assessing $19,688 in administrative penalties with $3,937 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Energy Transfer Nederland Terminal LLC, Docket No. 2025-1239-IWD-E on April 15, 2026 assessing $20,850 in administrative penalties with $4,170 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron Phillips Chemical Company LP, Docket No. 2025-1350-AIR-E on April 15, 2026 assessing $12,750 in administrative penalties with $2,550 deferred. Information concerning any aspect of this order may be obtained by contacting John Burkett, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TOR Texas, LLC dba Organic Recycler Hutchins, Docket No. 2025-1638-MSW-E on April 15, 2026 assessing $21,418 in administrative penalties with $4,283 deferred. Information concerning any aspect of this order may be obtained by contacting Celicia Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Voestalpine Texas Llc, Docket No. 2026-0187-AIR on April 15, 2026 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Contessa Gay, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lennar Homes Of Texas Land And Construction Ltd, Docket No. 2026-0290-MWD on April 15, 2026 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Fernando Martinez, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202601632
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 15, 2026

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Notice of District Petition - D-01262026-032

Notice issued April 9, 2026 TCEQ Internal Control No. D-01262026-032: Yvonne Irvine Newman and Lawrence Mark Irvine, trustees and trust protectors of the Angela E. Irvine Irrevocable Trust dated February 12, 2024, and any amendments thereto, Yvonne Irvine Newman and Lawrence Mark Irvine, co-trustees of the Donald P. Irvine Family Trust dated August 23, 1988, and any amendments thereto, Lawrence M.

Irvine, Kevin D. Newman, Yvonne I. Newman, and Columnar Holdings II, LLC, a Delaware limited liability company (Petitioners) filed a petition for creation of Flatrock Municipal Utility District (District) of Williamson County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) Yvonne Irvine Newman and Lawrence Mark Irvine, trustees and trust protectors of the Angela E. Irvine Irrevocable Trust dated February 12, 2024, and any amendments thereto, Yvonne Irvine Newman and Lawrence Mark Irvine, co-trustees of the Donald P. Irvine Family Trust dated August 23, 1988, and any amendments thereto, Lawrence M. Irvine, Kevin D. Newman, and Yvonne I. Newman hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 534.209 acres wholly located within Williamson County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, parks and recreation facilities, systems, plants, and enterprises as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $162,195,000 ($137,550,000 for water, wastewater, and drainage; and $20,255,000 for roads; and $4,390,000 for park and recreational facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202601609
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 14, 2026

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Notice of District Petition - D-03112025-017

Notice issued April 14, 2026 TCEQ Internal Control No. D-03112025-017: FNCFS Partnership, Ltd., a Texas limited partnership (Petitioner) and Allied Development, LLC, a Wyoming limited liability company (earnest money contract holder) filed a petition for creation of Brazoria County Municipal Utility District No. 98 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed; (3) the proposed District will contain approximately 191.30 acres located within Brazoria County, Texas; and (4) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Iowa Colony, Texas. By Resolution No. 2025-36, passed and approved on December 15, 2025, the City of Iowa Colony, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain and operate such additional facilities, including roads, parks and recreation facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $61,186,000 ($38,925,000 for water, wastewater, and drainage plus $6,024,000 for recreation plus $16,237,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief

description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202601613
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 14, 2026

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Notice of District Petition - D-03182026-035

Notice issued April 14, 2026 TCEQ Internal Control No. D-03182026-035: SA Lightning Bolt, LP, a Texas limited partnership (Petitioner) filed a petition for the creation of Guadalupe County Municipal Utility District No. 17 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The submitted material evidence that the Petitioner holds title to a majority of value of the land to be included in the proposed District. Also the petition states that: (1) there is no lienholder on the property to be included in the proposed District; (2) the proposed District will contain approximately 171.21 acres located within Guadalupe County, Texas; and (3) all of the land to be included within the proposed District is located with the extraterritorial jurisdictions of the City of Cibolo and the City of Santa Clara. The petition further states that the general nature of the work proposed to be done by the District, as contemplated at the present time, is to purchase, construct, acquire, repair, extend and to improve the land, easements, works, improvements, facilities, plants, equipment and appliances necessary to provide a water supply for municipal use, domestic uses and commercial purposes; collect transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; gather, conduct, divert and control local storm water or other local harmful excess of water in the District and payment of organization expenses, operational expenses during construction and interest during construction; design, acquire, construct, finance, improve, operate, and maintain macadamized graveled, or paved roads, or improvements in aid of those roads; and provide such other facilities, systems, plants, and enterprises as shall be consistent with the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately $37,673,321 ($24,714,767 for water, wastewater, and drainage plus $12,958,554 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202601614
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 14, 2026

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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 **May 26, 2026**. 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 physical 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. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. 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 May 26, 2026**. 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: Aquatic Co.; DOCKET NUMBER: 2024-1826-AIR-E; TCEQ ID NUMBER: RN100219104; LOCATION: 151 Industrial Street, Lancaster, Dallas County; TYPE OF FACILITY: a plastic composite bath products plant; PENALTY: $206,620; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202601615
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: April 14, 2026

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Texas Health and Human Services Commission

Notice of Public Hearing on Proposed State Fiscal Year 2026 Interim Medicaid Reimbursement Rates for State Veterans Nursing Homes, Effective Retroactive to September 1, 2025

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 26, 2026, at 9:00 a.m. CDT to receive public comments on the proposed interim Medicaid payment rates for State Veterans Nursing Homes.

This hearing will be conducted both in-person and as an online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following registration URL:

https://register.gotowebinar.com/register/5703367378165398613

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing in by phone will be provided via email after you register.

Members of the public may attend the rate hearing in person, which will be held in the North Austin Complex Building, Public Hearing Room 1.401 at 4601 W. Guadalupe St., Austin, Texas 78751. A recording of the hearing will be archived and accessible on demand at https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at https://www.hhs.texas.gov/about/meetings-events.

Proposal. HHSC proposes the interim rates determined by the Veterans Land Board (VLB) for the State Veterans Nursing Homes. The proposed interim rates account for actual and projected cost increases to operate these facilities. The proposed rate will be effective retroactive to September 1, 2025.

Methodology and Justification. HHSC maintains the interim rates program so Medicaid-eligible veterans can reside in State Veterans Nursing Homes. Ten homes are currently in operation and overseen by the VLB. To better align with the 1 Texas Administrative Code (TAC) Section 355.111, HHSC performed rate-setting functions and provided rate recommendations to the VLB. The interim rate is determined by the VLB and adopted by HHSC. The VLB's determined rates can be viewed on the VLB Costs webpage at glo.texas.gov/veterans/Texas-state-veterans-homes, within Important Links "Cost Breakdown." The VLB is authorized to operate these nursing facilities under Chapter 164, Natural Resources Code.

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available no later than May 12, 2026, at https://pfd.hhs.texas.gov/rate-packets. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7401, by fax at (512) 730-7475, or by email at PFD-LTSS@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted instead of oral testimony until 5:00 p.m. on the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by email to PFD-LTSS@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 W. Guadalupe St., Austin, Texas 78751.

Preferred Communication. For the quickest response, please use email or phone to communicate with HHSC regarding this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should call Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202601635
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: April 15, 2026

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Texas Department of Housing and Community Affairs

Aviso del período de comentarios públicos y audiencias públicas sobre el borrador del plan estatal del Programa de asistencia energética para hogares de bajos ingresos para 2027

De acuerdo con los requisitos del Departamento de Salud y Servicios Humanos de los Estados Unidos para el Programa de Asistencia de Energía para Hogares de Bajos Ingresos (LIHEAP) y el Código de Gobierno de Texas, Capítulo 2105, Subcapítulo B, el Departamento de Vivienda y Asuntos Comunitarios de Texas (TDHCA) está abriendo un período de comentarios y realización de cuatro audiencias públicas para solicitar comentarios sobre el Borrador del Plan Estatal LIHEAP 2027.

El Borrador del Plan Estatal LIHEAP 2027 describe el uso y distribución propuestos de los fondos LIHEAP para 2027. LIHEAP

proporciona fondos para el Programa Integral de Asistencia Energética (CEAP) y el Programa de Asistencia para la Climatización (WAP).

El Borrador del Plan Estatal LIHEAP 2027 fue presentado y aprobado por la Junta Directiva del TDHCA el 9 de abril de 2026. Como parte de los requisitos de información pública, consulta y audiencia pública para LIHEAP, la División de Asuntos Comunitarios del TDHCA ha publicado el Plan propuesto en el sitio web del TDHCA.

Visite el Centro de comentarios públicos del TDHCA en https://www.tdhca.texas.gov/tdhca-public-comment-center para acceder al Plan. Los documentos también se pueden obtener comunicándose con Rita Gonzales-Garza en rita.garza@tdhca.texas.gov o por teléfono al (512) 475-3905.

Las audiencias públicas para el Borrador del Plan Estatal LIHEAP 2027 se llevarán a cabo de la siguiente manera:

- martes, 12 de mayo, 2026, 1:00 p.m. - 1:30 p.m. en las oficinas de BakerRipley, 1 piso en el Centro de Educación Education, 3838 Aberdeen Way, Houston, Texas 77025.

- miercoles, 13 de mayo, 2026, 5:30 p.m. - 6:00 p.m. en la oficina de West Texas Opportunities, 1415 East 2nd Street, Odessa, Texas 79761.

- jueves, 14 de mayo, 2026, 1:00 p.m. - 1:30 p.m. en el Centro Comunitario del Norte, 1100 NW 18th Street, Habitacion R44133, Fort Worth, Texas 76164.

- jueves, 14 de mayo, 2026, 5:30 p.m. - 6:00 p.m. en el edifició de Departamento de Vivienda y Asuntos comunitarios de Texas, 221 E. 11th Street, Floor #1, Austin, Texas 78701.

En cada una de las audiencias, se presentará el borrador del Plan LIHEAP para comentarios del público. Las personas pueden proporcionar comentarios sobre el Plan ya sea a través de testimonios orales o escritos. Un representante del TDHCA estará presente en la audiencia para explicar el proceso de planificación y recibir comentarios de ciudadanos interesados y grupos afectados sobre el Plan.

El período de comentarios públicos para aceptar comentarios sobre el Borrador del Plan LIHEAP estará abierto desde el 24 de abril de 2026 hasta el 15 de mayo de 2026 a las 5:00 p.m. Tiempo central. También se pueden enviar comentarios por escrito sobre los Planes al Departamento de Vivienda y Asuntos Comunitarios de Texas, a la atención de: Rita Gonzales-Garza, P.O. Box 13941, Austin, Texas 78711-3941, o por correo electrónico a rita.garza@tdhca.texas.gov. Los comentarios deben enviarse a más tardar a las 5:00 p.m. Hora central, 15 de mayo de 2026.

Cualquier pregunta sobre el proceso de comentarios públicos puede dirigirse a Rita Gonzales-Garza al (512) 475-3905 o rita.garza@tdhca.texas.gov.

Las personas que requieran ayuda auxiliar, servicios o intérpretes de lenguaje de señas para las audiencias deben comunicarse con Rita Gonzales-Garza al (512) 475-3905 al menos tres días antes de la audiencia para que se puedan hacer los arreglos apropiados.

Las personas que no hablan inglés y que requieran intérpretes para la audiencia pública deben comunicarse con Rita Gonzales-Garza al (512) 475-3905 o por correo electrónico a rita.garza@tdhca.texas.gov al menos tres días antes de la audiencia para que se puedan hacer los arreglos apropiados hecho.

TRD-202601605
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 13, 2026

♦ ♦ ♦

Notice of Public Comment Period and Public Hearings on the Draft 2027 Low Income Home Energy Assistance Program State Plan

In accordance with the U. S. Department of Health and Human Services' requirement for the Low-Income Home Energy Assistance Program (LIHEAP) and Texas Government Code, Chapter 2105, Subchapter B, the Texas Department of Housing and Community Affairs (TDHCA) is opening a public comment period and conducting four public hearings to solicit comments on the Draft 2027 LIHEAP State Plan.

The Draft 2027 LIHEAP State Plan describes the proposed use and distribution of LIHEAP funds for 2027. LIHEAP provides funding for the Comprehensive Energy Assistance Program (CEAP) and the Weatherization Assistance Program (WAP).

The Draft 2027 LIHEAP State Plan was presented and approved by the TDHCA Board of Directors on April 9, 2026. As part of the public information, consultation, and public hearing requirements for LIHEAP, the Community Affairs Division of TDHCA has posted the proposed Plan on the TDHCA website.

Please visit the TDHCA Public Comment Center at https://www.tdhca.texas.gov/tdhca-public-comment-center to access the Plan. The documents also may be obtained by contacting Rita Gonzales-Garza at rita.garza@tdhca.texas.gov or by phone at (512) 475-3905.

Public hearings for the Draft 2027 LIHEAP State Plan will be held as follows:

- Tuesday, May 12, 2026, at 1:00 p.m. - 1:30 p.m. at BakerRipley, First Floor Education Center, 3838 Aberdeen Way, Houston, Texas 77025.

- Wednesday, May 13, 2026, at 5:30 p.m. - 6:00 p.m. at West Texas Opportunities, 1415 East 2nd Street, Odessa, Texas 79761.

- Thursday, May 14, 2026, at 1:00 p.m. - 1:30 p.m. at Northside Community Center, 1100 NW 18th Street, Room R44133, Fort Worth, Texas 76164.

- Thursday, May 14, 2026, 5:30 p.m. - 6:00 p.m. at Texas Department of Housing and Community Affairs, 221 East 11th Street, 1st Floor, Austin, Texas 78701.

At each of the hearings, the Draft LIHEAP Plan will be presented for public comment. Persons may provide comment on the Plan either through oral testimony or written testimony. A representative from TDHCA will be present at the hearing to explain the planning process and receive comments from interested citizens and affected groups regarding the Plan.

The public comment period to accept comments regarding the Draft LIHEAP Plan will be open from April 24, 2026, through May 15, 2026, at 5:00 p.m. Central time. Written comments concerning the Plan may also be submitted to the Texas Department of Housing and Community Affairs, Attn: Rita Gonzales-Garza, P.O. Box 13941, Austin, Texas 78711-3941, or by email to rita.garza@tdhca.texas.gov. Comments are due no later than 5:00 p.m. Central time, May 15, 2026.

Any questions regarding the public comment process may be directed to Rita Gonzales-Garza at (512) 475-3905 or rita.garza@tdhca.texas.gov.

Individuals who require auxiliary aids, services or sign language interpreters for the hearings should contact Rita Gonzales-Garza, at (512) 475-3905 at least three days before the hearing so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for the public hearing should contact Rita Gonzales-Garza at (512) 475-3905 or by email at rita.garza@tdhca.texas.gov at least three days before the hearing so that appropriate arrangements can be made.

TRD-202601604
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 13, 2026

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Texas Department of Licensing and Regulation

Air Conditioning and Refrigeration Penalties and Sanctions

The Texas Commission of Licensing and Regulation (Commission) provides this public notice that at their regularly scheduled meeting held March 24, 2026, the Commission adopted the Texas Department of Licensing and Regulation's (Department) revised enforcement plan, which was established in compliance with Texas Occupations Code §51.302(c).

The enforcement plan gives all license holders notice of the specific ranges of penalties and license sanctions that apply to specific alleged violations of the statutes and rules enforced by the Department. The enforcement plan also presents the criteria that are considered by the Department's Enforcement staff in determining the amount of a proposed administrative penalty or the magnitude of a proposed sanction. The enforcement plan is revised to include the penalty matrix for the Air Conditioning and Refrigeration program.

The penalty matrix for the Air Conditioning and Refrigeration program was last updated on July 15, 2019. Revisions to the matrix include: (1) incorporating continuing education violations and (2) other cleanup to ensure correct rule and law citations and plain language.

The Air Conditioning and Refrigeration Advisory Board recommended approval of the penalty matrix at their meeting held on February 10, 2026. The penalty matrix was presented to the Commission on March 24, 2026, and was adopted as recommended.

A copy of the revised enforcement plan is posted on the Department's website and may be downloaded at www.tdlr.texas.gov.

Air Conditioning and Refrigeration Penalties and Sanctions

Texas Occupations Code, Chapter 1302
16 Texas Administration Code, Chapter 60
16 Texas Administration Code, Chapter 75

Class A

Penalty Range: $500 to $1,000

Administrative Violations

Violation	Statute/Rule
Engaged in air conditioning contracting in city without notifying city of license	1302.262(a)
Failed to provide a revised insurance certificate to the Department within 30 days of change in business affiliation	75.40(d), 75.70(h)(2)
Failed to notify Department of change of address, company location, company telephone number, or business affiliation within 30 days of the change	75.70(a)(4), 75.70(h)(1), 75.73(d)
Failed to furnish to municipalities a list of authorized agents who may pull permits under the license	75.70(a)(6), 75.71(a)(5)
Failed to notify Department of assignment of license to company	75.71(a)(1)
Failed to notify Department that a licensee has left within 30 days	75.71(a)(1)
Failed to provide copy of assumed name certificate to the Department	75.71(a)(2)

Advertising Violations

Violation	Statute/Rule
Failed to include license number in advertisement which requires the license number	75.71(h)

Public Notice Violations

Violation	Statute/Rule
Failed to include Department information on proposal, invoice, contract, or sign displayed in place of business	75.71(i)
Failed to include license number on proposal or invoice	75.71(i)

Violation	Statute/Rule
Failed to include company name, address and phone number on proposal or invoice	75.71(i)
Failed to display or incorrectly displayed the company name and license number on vehicles which require it	75.71(g)
Failed to display company name and license number on sign at job site visible from street	75.71(g)

Class B

Penalty: $1,000 to $3,500 and/or up to 1-year full suspension

Records Violations

Violation	Statute/Rule
Failed to maintain records showing employment status of assigned licensee	75.71(a)(3)
Failed to make records available to the Department for at least three years after completion of a job	75.71(a)(6)
Failed to furnish a copy of licensee employment records at the request of the Department	75.71(a)(4)
Failed to provide invoice to consumer	75.71(i)

Mechanical Integrity Violations

Violation	Statute/Rule
Failed to obtain permit	1302.401(a)(2), 1302.401(b)(1), 75.100(e)(1)

Unlicensed Violations

Violation	Statute/Rule
Performed or offered to perform air conditioning or refrigeration contracting not authorized by the license classification	1302.253, 1302.251(a)
Performed or offered to perform air conditioning or refrigeration contracting not authorized by the license endorsement	1302.254(d), 1302.251(a)
Performed or offered to perform while license expired, or renewal denied	1302.251(a), 60.31(g),
Performed or offered to perform biomedical remediation without a license	1302.251(a), 75.100(c)(3)

Violation	Statute/Rule
Used the designation “certified technician” when did not meet the requirements of certification	1302.5055(b), 75.28(b), 75.73(a)(5)
Performed non-exempt duct work without a license	75.100(c)(1)

Improper Use of a License Violations

Violation	Statute/Rule
Allowed someone else to use license – not an employee or subcontractor	75.70(f), 75.70(g), 75.73(b),75.73(c)
Assigned a contracting license to more than one permanent office or more than one company	1302.251(c), 75.70(a)(1), (3)
Assigned license but not an employee or owner or not working full time at the company or permanent office	75.70(a)(2)
Company used a license not assigned to company	75.71(j)
Used a location other than the permanent office for contracting air conditioning sales or service	75.71(f)

Class C

Penalty: $2,000 to $5,000 and/or 1-year probated suspension up to revocation

Administrative Violations

Violation	Statute/Rule
Altered a license or registration in any way	75.70(j), 75.73(e)
Restricted license holder failed to abide by conditions imposed on licensee	51.357(b), 75.75(a)
Restricted license supervisor failed to use reasonable care to ensure that the restricted license holder complies with conditions imposed on licensee	51.357(d); 75.75(b)

Insurance Violations

Violation	Statute/Rule
Failed to maintain insurance	75.40(a), 75.40(b), 75.70(i)
Obtained insurance from a company not authorized to sell liability insurance in Texas	75.40(c)
Failed to provide proof of insurance upon request of the Department	75.40(d), 75.70(i)

Violation	Statute/Rule
Failed to provide insurance information to a consumer upon request	75.40(g)
Performed or offered to perform air conditioning or refrigeration contracting to the general public while having insurance waiver	75.40(f)

Mechanical Integrity Violations

Violation	Statute/Rule
Failed to provide proper installation, service, or mechanical integrity	1302.401(b)(1), 75.70(a)(7), 75.70(b)(3), 75.70(d), 75.70(e), 75.71(b)(1), 75.71(c)(3), 75.73(a)(1), 75.100(e)(1),
Failed to comply with municipal code or ordinance	1302.401(a)(2), 75.100(e)(1)
Failed to perform all electrical work in accordance with National Electrical Code and the International Residential Code, as applicable	75.100(a)(4)
Installed fuel gas piping other than as permitted	75.100(b)(1)
Altered an existing fuel gas piping system, stop, or shut-off valve	75.100(b)(1)
Installed drain piping other than as permitted	75.100(b)(2)
Failed to supervise an air conditioning and refrigeration technician	1302.503
Failed to provide direct supervision of all work requiring a license, certification, or registration	75.70(a)(5),75.71(e)
Failed to provide in-person supervision, either directly or via a certified technician, to a person younger than 18 years of age and acting or offering to act on behalf of the licensee as an air conditioning and refrigeration technician	1302.503(b), 75.70(12)

Misrepresentation Violations

Violation	Statute/Rule
Intentionally or knowingly misrepresented services or services to be provided	1302.401(b)(2), 75.70(a)(8), 75.71(b)(2), 75.73(a)(2)

Violation	Statute/Rule
Made a fraudulent promise or false statement to induce a person to contract for services	1302.401(b)(3), 75.70(a)(9), 75.71(b)(3)

Unlicensed Violations

Violation	Statute/Rule
Performed or offered to perform air conditioning or refrigeration contracting without a license	1302.251(a), 1302.252(a)
Collected a fee for air conditioning or refrigeration work performed without a license	1302.252(b)
Used the services of a person who was not a registered technician, certified technician, student in a certification training program, or a licensed air conditioning and refrigeration contractor to assist in the performance of air conditioning and refrigeration maintenance work	1302.263(2), 75.70(a)(11), 75.71(k)
Acted or offered to act as an air conditioning and refrigeration technician without a registration or certification	1302.501(a)
Technician assisted a person who was not licensed as a contractor	1302.509(2)
Knowingly performed work on behalf of an unlicensed company	75.70(a)(10), 75.73(a)(4)
Used an unlicensed subcontractor without actively providing work or services requiring a license	75.70(b)(1),(2), 75.71(c)(1),(2)
Subcontracted an entire job to an unlicensed person	75.70(b), 75.71(c)
Subcontracted design of an air conditioning and refrigeration system to an unlicensed person	75.70(c), 75.71(d)
Registered or Certified technician performed non-exempt air conditioning and refrigeration maintenance work without being under the supervision of a licensed air conditioning and refrigeration contractor	1302.503, 75.73(a)(3)
Permits the use or display of a license by a person not authorized to use that license	60.23(a)(3)

Class D

Penalty: $5,000 and/or revocation

Violation	Statute/Rule
Failed to comply with previous order of Commission or Executive Director	1302.401(a)(1), 51.353(a), 60.23(a)(5), 75.90

Violation	Statute/Rule
Obtained or attempted to obtain a license, certification, or registration by fraud or false representation	60.23(a)(1)
Falsified any document submitted to the Department or Commission	60.23(a)(2)
Failed to comply with all exam security requirements; Cheated on an examination	75.21(c), (d), 60.54
Failed to pay the Department for a dishonored payment	60.82
Failed to cooperate in an investigation of a complaint	60.203(a), (c)
Failed to make available to the department all records, notices, or other documents requested	60.203(b)
Interfered with an investigation or threatened or intimidated a Department employee in connection with an investigation	60.203(c)(3)

Filed with the Office of the Secretary of State on April 13, 2026. TRD-202601608

Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: April 13, 2026

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Course of Organized Instruction (COI) for Driving Safety

The Texas Department of Licensing and Regulation publishes the adopted changes to the Course of Organized Instruction (COI) for Driving Safety. The COI for Driving Safety is incorporated by reference and to be considered with the adopted amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; Subchapter M, §84.500 and §84.504; and Subchapter N, §84.600, regarding the Driver Education and Traffic S afety (DES) program, as published in the adopted rules section of this issue of the *Texas Register.*

COURSE OF ORGANIZED INSTRUCTION (COI) FOR DRIVING SAFETY

May 2026

6-Hour Driving Safety Course
(COI-Driving Safety)

Texas Department of Licensing and Regulation, Education and Examination Division www.tdlr.texas.gov

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NOTICE

The Course of Organized Instruction (COI) is not curriculum. It is a manual created for providers, that includes the required course content for the driver safety education course. Providers using a third-party source, or their own curriculum will use that with the COI, and Driver Education & Safety laws and rules to create a strong driver safety education course.

COURSE OF ORGANIZED INSTRUCTION FOR SIX-HOUR DRIVING SAFETY

Chapter One: Course Introduction

1.1 Introduction. This guide details the required course content and minimum instruction requirements for the instruction for six-hour Driving Safety programs in Texas, as prescribed by the Texas Education Code (TEC) and the Texas Administrative Code (TAC). All course content and instructional material shall include current statistical data, references to law, driving procedures, and traffic safety methodology. Laws and statistical data presented must be Texas-specific. Course providers may employ national data and statistics, where appropriate, for comparative purposes during instruction.

Course content, minimum instruction requirements, and administrative guidelines for Driving Safety classroom instruction shall include the instructional objectives established by the Department. Further, providers must meet the requirements of the Texas Administrative Code and the statutes authorizing those codes.

Lesson lengths stated in this COI for the chapters expressed herein are to be determined by the provider to maximize effective instructional techniques and student mastery of course content. It may be necessary to extend the training time by repeating lessons to ensure the student demonstrates mastery over course content contained in each section. Breaks to students during instruction are to be given in accordance with 16 TAC §84.500(b)(1)(B).

If there is a conflict with the information contained in this guide and applicable law, the law shall control. Failure to comply with the requirements contained in this guide, applicable law, rule or order of the Commission for the Texas Department of Licensing and Regulation (TDLR), or the TDLR executive director may subject the licensee to administrative penalties and/or sanctions pursuant to 16 TAC §84.400.

Questions regarding the guide should be directed to the Texas Department of Licensing and Regulation, Education and Examination Division, P.O. Box 12157, Austin, Texas 78711, or www.tdlr.texas.gov, or call (800)803-9202.

Chapter Two: Course Options

The following course options are authorized by the Texas Department of Licensing and Regulation (TDLR):

2.1 Traditional Course. A six-hour curriculum attended in person by the student at an approved driving safety school classroom location. In a traditional classroom location, the licensee is responsible to ensure sufficient seating that allows students the ability to comprehend instructional aids.

2.2 Alternative Delivery Method (ADM). A six-hour curriculum that does not require the student to be present in a physical classroom location. The curriculum shall be instructed through the alternative method approved by the Department.

2.3 Chapter Exams or Comprehensive Exam. To evaluate the student's knowledge and understanding and measure progress (mastery equals 70 percent or above after each Chapter or a Comprehensive Exam at the end of the course).

2.4 Sequencing of Topics. Course Provider may teach Chapter Topics Two through Twelve in any order but, at a minimum, must instruct each Topic in full.

Chapter Three: Instructional Objectives

3.1 Educational Objective of Driving Safety Courses. The educational objectives of driving safety courses must include promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; instruction on law enforcement procedures for traffic stops; human trafficking prevention; litter prevention; anatomical gifts; leaving children in vehicles unattended; distractions; motorcycle awareness; information relating to the Texas Driving with Disabilities Program; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and

consequences of street racing; alcohol awareness and its effect on motor vehicle operation; reducing traffic violations, injuries, deaths, and economic losses; proper child passenger safety seat system use; information relating to penalties, fines, and inherent dangers such as bodily injury, death, and property damage in construction zones; and instilling safe driving habits through education, including Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.

Chapter Four: Curriculum Instruction Characteristics

4.1 General. Driving Safety course content, including video and multimedia, shall include current statistical data, references to law, driving procedures, and traffic safety methodology. A driving safety course shall include, as a minimum, materials adequate to assure the student masters the following topics. Laws and statistical data presented must be Texas-specific. Course providers may employ national data and statistics, where appropriate, for comparative purposes during instruction.

4.2 Driving Safety Topics of Instruction.

Total instruction time must be a minimum of five (5) hours, excluding breaks, and at minimum, include the Topics listed below.

4.2.1 Topic One: Course Introduction

Objective: The student recognizes the value of legal and responsible reduced-risk driving practices and accepts driving as a privilege with responsibilities, obligations, and potential consequences.

4.2.1.1 Instruction, at minimum, must address the following topics:

(A) purpose and benefits of the course;

(B) course and facilities orientation;

(C) requirements for receiving course credit; and

(D) department provided information on course content.

4.2.2 Topic Two: The Traffic Safety Problem

Objective: To develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution.

4.2.2.1 Instruction, at minimum, must address the following topics:

(A) identification of the overall traffic problem in Texas, specifically, and comparatively, the United States;

(B) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and

(C) the top five contributing factors of motor vehicle crashes in Texas as identified by the Texas Department of Transportation.

4.2.3 Topic Three: Factors Influencing Driver Performance

Objective: To identify the characteristics and behaviors of drivers and how they affect driving performance.

4.2.3.1 Instruction, at minimum, must address the following topics:

(A) attitudes, habits, feelings, and emotions (aggressive driving, etc.);

(B) physical condition (drowsy driving, etc.);

(C) knowledge of driving laws and procedures; and

(D) understanding the driving task.

4.2.4 Topic Four: Traffic Laws and Procedures

Objective: To identify the requirements of, and the rational for, applicable Texas driving laws and procedures and to influence drivers compliance.

4.2.4.1 Instruction, at minimum, must address the following topics:

(A) passing;

(B) right-of-way, and knowledge and application of procedure to yield right-of-way to emergency vehicles described in Transportation Code §545.157, school buses, and pedestrians;

(C) turns;

(D) stops;

(E) speed limits;

(F) railroad crossings safety, including statistics, causes, and evasive actions;

(G) categories of traffic signs, signals, and highway markings including those in construction or maintenance work zones and identifying inherent dangers associated with violating traffic laws in those zones such as bodily injury, death, and property damage and explain ways to promote safe driving practices;

(H) pedestrians;

(I) improved shoulders;

(J) intersections;

(K) occupant restraints;

(L) anatomical gifts;

(M) litter prevention;

(N) law enforcement and emergency vehicles "Move Over and Slow Down Law" (HB 3319, 87th Regular Legislature 2021);

(O) law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85th Regular Legislature (2017));

(P) Texas Driving with Disabilities Program. Curriculum is expected to instruct the student on the following:

1. How to participate in the program;

2. How to identify which diagnoses may be considered a "Communication Impediment" for the Texas Driving with Disability Program;

3. Identify which form the student should have their doctor fill out and take to DPS to have "Communication Impediment" added to the front of their Driver License or Texas State ID card;

4. Explain where to find the Communication Impediment with a Peace Officer on a Driver License or a Texas State ID card; and

5. Identify which forms a student would need to complete with the Texas Department of Motor Vehicles to disclose their Communication Impediment or Deaf/Hard of Hearing in The Texas Law Enforcement Telecommunication System (TLETS); and

(Q) other laws as applicable (i.e., financial responsibility/compulsory insurance).

4.2.5 Topic Five: Special Skills for Difficult Driving Environments

Objective: To identify how special conditions affect driver and vehicle performance and identify techniques for management of these conditions.

4.2.5.1 Instruction, at minimum, must address the following topics:

(A) inclement weather;

(B) traffic congestion;

(C) city, urban, rural, and expressway/freeway environments;

(D) reduced visibility conditions--hills, fog, curves, light conditions (darkness, glare, etc.), and

(E) roadway conditions.

4.2.6 Topic Six: Physical Forces That Influence Driver Control

Objective: To identify the physical forces that affect driver control and vehicle performance.

4.2.6.1 Instruction, at minimum, must address the following topics:

(A) speed control (acceleration, deceleration, etc.);

(B) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and

(C) force of impact (momentum, kinetic energy, inertia, etc.).

4.2.7 Topic Seven: Perceptual Skills Needed for Driving

Objective: To identify the factors of perception and how the factors affect driver performance.

4.2.7.1 Instruction, at minimum, must address the following topics:

(A) visual interpretations;

(B) hearing;

(C) touch;

(D) smell;

(E) reaction abilities (simple and complex); and

(F) judging speed and distance.

4.2.8 Topic Eight: Defensive Driving Strategies

Objective: To identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses.

4.2.8.1 Instruction, at minimum, must address the following topics:

(A) trip planning;

(B) evaluating the traffic environment;

(C) anticipating the actions of others;

(D) decision making;

(E) implementing necessary maneuvers;

(F) compensating for the mistakes of other drivers;

(G) avoiding common driving errors;

(H) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.);

(I) safe operation of a motor vehicle near an oversize or overweight vehicle, including safe following distances and safe passing methods;

(J) motorcycle awareness, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcyclist;

(K) distractions relating to the effect of using a wireless communication device, including texting or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle;

(L) understand the dangers of speed and its impact on reduced-risk driving practices; must include the dangers and consequences of street racing in violation of Transportation Code §545.420; and

(M) define construction or maintenance work zones and identifying dangers associated with violating traffic laws in those zones such as bodily injury, death, and property damage and explain ways to promote safe driving practices.

4.2.9 Topic Nine: Driving Emergencies

Objective: To identify common driving emergencies and their countermeasures.

4.2.9.1 Instruction, at minimum, must address the following topics:

(A) collision traps (front, rear, and sides);

(B) off road recovery, paths of least resistance; and

(C) mechanical malfunctions (tires, brakes, steering, power, lights, etc.)

4.2.10 Topic Ten: Occupant Restraints and Protective Equipment

Objective: To identify the rationale for having and using occupant restraints and protective equipment.

4.2.10.1 Instruction, at minimum, must address the following topics:

(A) legal aspects;

(B) vehicle control;

(C) crash protection;

(D) operational principles (active and passive);

(E) helmets and other protective equipment;

(F) proper use of child passenger safety seat systems; and

(G) dangers involved in locking or leaving children in vehicles unattended.

4.2.11 Topic Eleven: Alcohol and Traffic Safety

Objective: To identify the effects of alcohol on roadway users.

4.2.11.1 Classroom instruction shall address the following topics:

(A) physiological effects;

(B) psychological effects;

(C) legal aspects; and

(D) synergistic effects.

4.2.12 Topic Twelve: Human Trafficking

Objective: Recognize the key indicators of human trafficking.

4.2.12.1 Instruction, at minimum, must address the following topics:

(A) activities commonly associated with human trafficking;

(B) recognition of potential victims of human trafficking; and

(C) methods for assisting victims of human trafficking, including how to report human trafficking.

4.2.13 Topic Thirteen: Comprehensive Examination or Unit Examination

Objective: The student reduces risk by legally and responsibly completing a Progress Assessment to evaluate classroom knowledge and understanding and measure progress (mastery equals 70 percent or above).

NOTICE

The Course of Organized Instruction (COI) is not curriculum. It is a manual created for providers, that includes the required course content for the driver safety education course. Providers using a third-party source, or their own curriculum will use that with the COI, and Driver Education & Safety laws and rules to create a strong driver safety education course.

TRD-202601591
Deanne Rienstra
Interim General Counsel
Texas Department of Licensing and Regulation
Filed: April 10, 2026

♦ ♦ ♦

Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour)

The Texas Department of Licensing and Regulation publishes the adopted changes to the Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour). The POI for Driver Education and Traffic Safety (Adult Six-Hour) is incorporated by reference and to be considered with the adopted amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; Subchapter M, §84.500 and §84.504; and Subchapter N, §84.600, regarding the Driver Education and Traffic Safety (DES) program, as published in the adopted rules section of this issue of the *Texas Register.*

PROGRAM OF ORGANIZED INSTRUCTION (POI) FOR DRIVER EDUCATION AND TRAFFIC SAFETY

May 2026

Exclusively for Adults 6-Hour Course
(POI-Adult Six-Hour)

Texas Department of Licensing and Regulation, Education and Examination Division
www.tdlr.texas.gov

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NOTICE

The Program of Organized Instruction (POI) is not curriculum. It is a manual created for providers, that includes the required course content for the six-hour classroom instruction for the adult driver education course. Providers using a third-party source, or their own curriculum will use that with the POI, Driver Education & Safety laws and rules, and the current Texas Driver Handbook to create a strong driver education course.

PROGRAM OF ORGANIZED INSTRUCTION FOR ADULT SIX-HOUR DRIVER EDUCATION AND TRAFFIC SAFETY

Chapter One: Program Introduction

1.1 General. This guide details the required course content and minimum instruction requirements for the classroom instruction phase for the Exclusively for Adults driver education programs in Texas, as prescribed by the Texas Education Code (TEC) and the Texas Administrative Code (TAC). All course content and instructional material shall include current statistical data, references to law, driving procedures, and traffic safety methodology.

Course content, minimum instruction requirements, and administrative guidelines for Adult Driver Education and Traffic Safety classroom instruction shall include the instructional objectives, knowledge and skills, and student expectations established by the Department. Further, programs and instructors must meet the requirements of the Texas Administrative Code and the statutes authorizing those codes.

Lesson lengths for the topics expressed herein are to be determined by the provider to maximize effective instructional techniques and student mastery of course content. It may be necessary to extend the training time by repeating lessons to ensure the student demonstrates mastery over course content contained in each section. Schools are allowed to give breaks to students during instruction in accordance with 16 TAC §84.500(b)(1)(B).

If there is a conflict with the information contained in this guide and applicable law, the law shall control. Failure to comply with the requirements contained in this guide, applicable law, rule or order of the Commission for the Texas Department of Licensing and Regulation (TDLR), or the TDLR executive director may subject the licensee to administrative penalties and/or sanctions pursuant to 16 TAC §84.400.

Questions regarding the guide should be directed to the Texas Department of Licensing and Regulation, Education and Examination Division, P.O. Box 12157, Austin, Texas 78711, or www.tdlr.texas.gov, or call (800) 803-9202.

Chapter Two: Course Options

The following course options are authorized by the Texas Department of Licensing and Regulation (TDLR):

2.1 Traditional Course. An Adult six-hour curriculum attended in person by the student at an approved driver education school classroom location. In a traditional classroom location, the licensee is responsible to ensure sufficient seating and desks or tables that allows students to comprehend classroom instruction.

2.2 Online Course. An Adult six-hour curriculum that does not require the student to be present in a classroom location. The curriculum shall be instructed online as approved by the Department.

DRIVER EDUCATION AND TRAFFIC SAFETY
ADULT SIX HOUR COURSE

Chapter Three: Instructional Objectives

3.1 General. In Texas, the **Driver Education and Traffic Safety Program** provides new drivers the foundation of knowledge, understanding, skills, and experiences necessary for new drivers to drive legally and safely. This foundation is provided by licensed instructors, parents, guardians, or adult mentors through a classroom of culturally responsive instructional techniques that include knowledge assessment, skill assessment, guided observation, and parental/mentor involvement.

3.2 Educational Objective of this Course. The student legally and responsibly recognizes the necessity for reduced risk driving practices by accepting driving as a privilege with responsibilities, obligations, and potential consequences; and applying knowledge and understanding about alcohol and drug awareness. The educational objectives of driver training courses must include promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of driver education and citizens; instruction on law enforcement procedures for traffic stops; human trafficking prevention; litter prevention; anatomical gifts; leaving children in vehicles unattended; distractions; motorcycle awareness; recreational water safety; information relating to the Texas Driving with Disabilities Program; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and consequences of street racing; alcohol awareness and its effect on motor vehicle operation; reducing traffic violations, injuries, deaths, and economic losses; proper child passenger safety seat system use; information relating to penalties, fines, and inherent dangers such as bodily injury, death, and property damage in construction and maintenance work zones; and instilling safe driving habits through education, including Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.

Chapter Four: Minimum Course Content

4.1 Driving Safety Topics of Instruction. The driver education course exclusively for adults shall consist of six clock hours of classroom instruction that meets the following topics.

4.1.1 Topic One: Course Introduction

Objective: The student recognizes the value of legal and responsible reduced-risk driving practices and accepts driving as a privilege with responsibilities, obligations, and potential consequences.

4.1.1.1 Classroom Instruction Requirements:

(A) recognize how an Adult Driver Education course provides a novice driver the foundation of knowledge, understanding, skills, and experiences necessary to continue the life-long learning process of reduced-risk driving;

(B) know that basic knowledge of traffic laws provides a driver the foundation to formulate informed, legal, and responsible decisions to reduce risk; and

(C) recognize that driving is a privilege with risk, responsibilities, obligations, and potential consequences requiring the knowledge, understanding, and application of legal and responsible reduced-risk driving practices; and reduce risk by recognizing the value of legal and responsible reduced-risk driving practices and accepting driving as a privilege with responsibilities, obligations, and potential consequences.

4.1.2 Topic Two: Your License to Drive

Objective: The student reduces risk and accepts driving as a privilege by legally and responsibly possessing

a driver license, registering a motor vehicle, and obeying the Safety Responsibility Act.

Resource: Texas Driver Handbook, Chapters 1-3

4.1.2.1 Classroom Instruction Requirements:

(A) describe the process, responsibility, and obligation of obtaining, possessing, and renewing a Texas driver license including the instruction permit;

(B) recognize driver license types, restrictions, endorsements, and special information;

(C) list and describe suspensions and revocations placed on driving privileges;

(D) list and describe guidelines and procedures to inspect and register a motor vehicle in Texas;

(E) recognize the benefits and obligations of the Safety Responsibility Act;

(F) reduce risk and accept driving as a privilege by legally and responsibly possessing a driver license, registering a motor vehicle, and obeying the Safety Responsibility Act; and

(G) explain the Texas Drivers with Disabilities Program and its underlying purposes and policies and the procedure by which a driver may participate in the program to place a notice on a driver license.

4.1.3 Topic Three: Right-of-Way

Objective: The student reduces risk by legally and responsibly accepting or yielding the right-of-way.

Resource: Texas Driver Handbook, Chapter 4

4.1.3.1 Classroom Instruction Requirements:

(A) define right-of-way and list the responsibilities, obligations, and potential consequences for failure to accept or yield the right-of-way, including yielding the right-of-way to motorcyclists;

(B) define traditional and non-traditional intersections;

(C) describe when and the procedures to accept or yield the right-of-way at controlled intersections, uncontrolled intersections, intersecting roads with lesser or greater number of lanes, intersecting roads with different pavement surfaces, T-intersections, traffic circles, construction or maintenance work zones, controlled-access roads, railroad grade crossings, turns (left and right), and entering a public road from a private road;

(D) know when and the procedure to yield the right-of-way to emergency vehicles "Move Over and Slow Down Law" (HB 3319, 87th Regular Legislature 2021), as described in Transportation Code §545.157, school buses, and pedestrians;

(E) state the law and describe risk-reducing procedures when passing an emergency vehicle stopped on or by a roadway;

(F) know how the basic knowledge of right-of-way laws provides a driver the foundation to formulate and implement informed, legal, and responsible decisions to reduce risk; and

(G) reduce risk by legally and responsibly accepting or yielding the right-of-way.

4.1.4 Topic Four: Traffic Control Devices

Objective: The student reduces risk by legally and responsibly applying knowledge and understanding of traffic control devices.

Resource: Texas Driver Handbook, Chapter 5

4.1.4.1 Classroom Instruction Requirements:

(A) list and explain the meanings of the colors and shapes of signs, signals, and pavement markings;

(B) recognize and describe the purpose and appropriate response for traffic control devices including signs, signals, and pavement markings based on law, consequences, and driving conditions;

(C) recognize how basic knowledge of traffic control devices provides a driver the foundation to formulate and implement informed, legal, and responsible decisions to reduce risk; and

(D) reduce risk by legally and responsibly responding to traffic control devices.

4.1.5 Topic Five: Controlling Traffic Flow

Objective: The student reduces risk by legally and responsibly applying knowledge and understanding of laws and procedures for controlling traffic flow.

Resource: Texas Driver Handbook, Chapters 6-9

4.1.5.1 Classroom Instruction Requirements:

(A) define traffic flow;

(B) relate how traffic flow is managed by traffic control devices, law enforcement, and other persons;

(C) explain the appropriate communication to indicate a change in speed or position;

(D) state the laws for passing and being passed, basic and special turning situations, and for stopping, standing, parking, leaving a space, backing, and coasting;

(E) define and explain how to avoid blind spot driving;

(F) know the importance and how to establish a safe following interval;

(G) relate speed to stopping a vehicle based on roadway conditions;

(H) know the importance of adjusting speed, route planning, or not driving during poor driving conditions including traffic, weather, visibility, roadway, vehicle, and driver;

(I) state the legal minimum and maximum speed limits for Texas roadways and beaches;

(J) state the law and purpose of vehicle lights;

(K) state the laws and potential dangers for freeway entry, travel, and exit;

(L) know the importance of avoiding driving when fatigued including highway (roadway) hypnosis;

(M) describe procedures for managing a vehicle breakdown;

(N) describe procedures for controlling a vehicle in a skid, brake failure, running off pavement, blowout, or driving down a steep hill;

(O) explain potential dangers and countermeasures associated with winter driving;

(P) reduce risk by legally and responsibly applying knowledge and understanding of laws and procedures for controlling traffic flow; and

(Q) define construction or maintenance work zones and identify inherent dangers associated with violating traffic laws in those zones such as bodily injury, death, and property damage and explain ways to promote safe driving practices.

4.1.6 Topic Six: Alcohol and Other Drugs

Objective: The student legally and responsibly performs reduced-risk driving practices by adopting zero tolerance driving and lifestyle practices related to the use of alcohol and other drugs, and applying knowledge and understanding of alcohol and other drug laws, regulations, penalties, and consequences.

Resource: Texas Driver Handbook, Chapter 10

4.1.6.1 Classroom Instruction Requirements:

(A) know the legal definition of intoxication in Texas;

(B) summarize how alcohol and other drugs affect driving ability;

(C) know laws, regulations, and penalties applicable to adults, over 21, for Improper Use of a Driver License, Driving Under the Influence, Public Intoxication, Driving While Intoxicated, Intoxication Assault, and Intoxication Manslaughter violations;

(D) know laws, regulations, and penalties applicable to minors and under 21 for Improper Use of a Driver License, Driving Under the Influence by a Minor, Public Intoxication, Minor in Possession, Driving While Intoxicated, Intoxication Assault, and Intoxication Manslaughter violations;

(E) know laws, regulations, and penalties applicable to minors and adults for Open Container Law, and Open Container Enhancement Law;

(F) know laws, regulations, and penalties applicable to minors and adults for Administrative License Revocation and Implied Consent violations; and

(G) reduce risk by legally and responsibly performing reduced-risk driving practices and adopt zero tolerance practices related to the use of alcohol and other drugs by applying knowledge and understanding of alcohol and other drug laws, regulations, penalties; and consequences to driving and lifestyles.

4.1.7 Topic Seven: Cooperating with Other Roadway Users

Objective: The student reduces risk by legally and responsibly cooperating with law enforcement and other roadway users including vulnerable roadway users in emergency and potential emergency situations, and safely operating a motor vehicle near an oversize or overweight vehicle, or in construction zones, including safe following distances and safe passing methods to reduce inherent dangers such as bodily injury, death, and property damage.

Resource: Texas Driver Handbook, Chapters 11-14

4.1.7.1 Classroom Instruction Requirements:

(A) summarize and categorize roadway users;

(B) understand the Good Samaritan Law and responsibilities at the scene of a traffic crash including aiding the injured;

(C) list the laws and responsibilities of sharing the road with other roadway users such as bicyclists, trucks, motorcyclists, light rail, person on horseback, horse driven conveyance, slow-moving vehicles, persons and vehicles in construction or maintenance work zones;

(D) describe the responsibilities of a defensive driver;

(E) state the laws and responsibilities regarding occupant restraints and open truck beds;

(F) describe the responsibilities if stopped by law enforcement;

(G) show and explain the Community Education Safety Act (Senate Bill 30) video and instructional materials;

(H) define aggressive driving and list ways to avoid personal or other roadway users aggressive driving;

(I) explain the responsibilities for transporting cargo, using safety chains, and towing;

(J) list the causes and consequences of carbon monoxide poisoning and state avoidance procedures;

(K) reduce risk by legally and responsibly cooperating with law enforcement and other roadway users including vulnerable roadway users including emergency and potential emergency situations;

(L) reduce risk by safely operating a motor vehicle near an oversize or overweight vehicle, including safe following distances and safe passing methods; and

(M) explain the Texas Driving with Disabilities Program. Curriculum is expected to instruct the student on the following:

1. How to participate in the program;

2. How to identify which diagnoses may be considered a "Communication Impediment" for the Texas Driving with Disability Program;

3. Identify which form the student should have their doctor fill out and take to DPS to have "Communication Impediment" added to the front of their Driver License or Texas State ID card;

4. Explain where to find the Communication Impediment with a Peace Officer on a Driver License or a Texas State ID card; and

5. Identify which forms a student would need to complete with the Texas Department of Motor Vehicles to disclose their Communication Impediment or Deaf/Hard of Hearing in The Texas Law Enforcement Telecommunication System (TLETS).

4.1.8 Topic Eight: Managing Risk

Objective: The student reduces and manages risk by legally and responsibly understanding the issues commonly associated with motor vehicle collisions, including poor decision-making, risk taking, impaired driving, distractions, speed, failure to use a safety belt, driving at night, and using a wireless communications device while operating a vehicle.

4.1.8.1 Classroom Instruction Requirements:

(A) recognize the value of responsible reduced-risk driving practices to manage issues commonly associated with motor vehicle collisions;

(B) recognize how poor decision-making and risk-taking increase the possibility of a collision;

(C) understand the dangers of impaired driving including but not limited to; mental, emotional, and physical fatigue and illnesses;

(D) list distractions that affect driving including but not limited to; vehicle navigation systems, music systems, vehicle controls, mobile phones, passengers and pets;

(E) understand the dangers of speed and its impact on reduced-risk driving practices, including the dangers and consequences of street racing in violation of Transportation Code §545.420;

(F) recognize how failure to use a safety belt while driving increases risk;

(G) explain the potential dangers associated with driving at night;

(H) understand the effect of using a wireless communications device or engaging in other actions that may distract a driver on the safe or effective operation of a motor vehicle including but not limited to; text messaging while driving, eating & drinking while driving, personal grooming, multi-tasking, working in the vehicle, reading while driving;

(I) reduce risk by legally and responsibly applying knowledge, understanding and safe driving practices to manage issues commonly associated with motor vehicle collisions; and

(J) recognize the key indicators of human trafficking by:

- identifying activities commonly associated with human trafficking;
- recognizing of potential victims of human trafficking; and
- learning methods for assisting victims of human trafficking, including how to report human trafficking.

4.1.9 Topic Nine: Classroom Progress Assessment

Objective: Texas Department of Public Safety Highway Sign and Traffic Law examination. The student reduces risk by legally and responsibly completing a Progress Assessment to evaluate classroom knowledge and understanding and measure progress (mastery equals 70 percent or above).

NOTICE

The Program of Organized Instruction (POI) is not curriculum. It is a manual created for providers, that includes the required course content for the six hour classroom instruction for the adult driver education course. Providers using a third-party source, or their own curriculum will use that with the POI, Driver Education & Safety laws and rules, and the current Texas Driver Handbook to create a strong driver education course.

TRD-202601590
Deanne Rienstra
Interim General Counsel
Texas Department of Licensing and Regulation
Filed: April 10, 2026

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Program of Organized Instruction for Driver Education and Traffic Safety (POI-DE)

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure for Program of Organized Instruction for Driver Education and Traffic Safety is not included in the print version of the Texas Register. The figure is available in the on-line version of the April 24, 2026, issue of the Texas Register.)

The Texas Department of Licensing and Regulation publishes the adopted changes to the Program of Organized Instruction for Driver Education and Traffic Safety (POI-DE). The POI-DE is incorporated by reference and to be considered with the adopted amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; Subchapter M, §84.500 and §84.504; and Subchapter N, §84.600, regarding the Driver Education and Traffic Safety (DES) program, as published in the adopted rules section of this issue of the *Texas Register.*

TRD-202601592
Deanne Rienstra
Interim General Counsel
Texas Department of Licensing and Regulation
Filed: April 10, 2026

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North Central Texas Council of Governments

Request for Information for Accessible Transit Vehicle Technology and Safety Components

The North Central Texas Council of Governments (NCTCOG) is seeking private companies or firms to share information on accessible transit rolling stock that supports public transportation services in the region. NCTCOG plans to use this information to better understand current and state-of-the-art industry approaches to safety, accessibility, and technologies. NCTCOG has been requested by local governments and subrecipients to initiate a process to support future vehicle procurement efforts.

NCTCOG will be releasing this Request for Information (RFI) on **Friday, April 24, 2026,** in the Bidnet Direct system and will accept electronic submissions through the Bidnet Direct system only. The Bidnet Direct submittal will count as the official submittal. Responses must be submitted in Bidnet Direct no later than **5:00 p.m., Central Time**, on **Friday, May 22, 2026.** Responses received after that time will not be accepted.

NCTCOG does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202601634
Todd Little
Executive Director
North Central Texas Council of Governments
Filed: April 15, 2026

♦ ♦ ♦

Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit

Cummings Dam, LLC, has applied to the Texas Parks and Wildlife Department (TPWD) for a General Permit pursuant to Texas Parks and Wildlife CodeChapter 86, to remove or disturb approximately 242 cubic yards of sedimentary material within the San Marcos River in Hays County. The purpose is to add riprap into eroded spaces along the edge of the existing dam structure to fill the interstitial areas and stabilize the existing riprap on the dam. The location is Cummings Dam, 29.8560077, -97.9059606, 1.75 miles southeast of Cape Street crossing and 0.55 miles west of Old Bastrop Road crossing. 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 May 22, 2026, 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 Divi-

sion, 4200 Smith School Road, Austin, Texas 78744; or via e-mail: sand.gravel@tpwd.texas.gov.

TRD-202601627
James Murphy
General Counsel
Texas Parks and Wildlife Department
Filed: April 14, 2026

♦ ♦ ♦

Notice of Proposed Real Estate Transactions

Request for Pipeline Easement - Anderson County

Approximately 0.6 Acres at the Trinity River Wildlife Management Area

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving a request for a pipeline easement of approximately 0.6 acres at the Trinity River Wildlife Management Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Whitney Gann, Ph.D., Wildlife Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Aransas County

Approximately 0.8 Acres at Rockport State Park Region 2 Headquarters

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 0.8 acres at the Rockport State Park Region 2 Headquarters. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jacob Aston, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Blanco County

Approximately 4 Acres at Blanco State Park

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 4 acres at Blanco State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jacob Aston, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Comal County

Approximately 30 Acres at Honey Creek State Natural Area

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 30 acres at Honey Creek State Natural Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Austin County

Approximately 230 Acres at Stephen F. Austin State Park

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 230 acres at Stephen F. Austin State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Matagorda County

Approximately 825 Acres at Matagorda Peninsula Coastal Management Area

In a meeting on May 28, 2026, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 825 acres at Matagorda Peninsula Coastal Management Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

TRD-202601626
James Murphy
General Counsel
Texas Parks and Wildlife Department
Filed: April 14, 2026

♦ ♦ ♦

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 April 7, 2026, 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 2024, Docket Number 59613.

The Application: Community Telephone 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 for 2024. Community Telephone requests that the Commission allow recovery of funds from the TUSF in the amount of $2,048,965.47 for 2024 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. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. A deadline for intervention in this proceeding will be established. All comments should reference Docket Number 59613.

TRD-202601561
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: April 10, 2026

♦ ♦ ♦

Notice of Application to Adjust High-Cost Support Under 16 TAC §26.407(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on April 13, 2026, seeking a determination of need for continued support from the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

Docket Title and Number: Application of Brazos Telephone Cooperative, Inc. to Adjust High-Cost Support Under 16 TAC §26.407(h), Docket Number 59638.

The Application: Brazos Telephone Cooperative, Inc. requests a high-cost support adjustment increase of $399,017 in annual high-cost support. According to Brazos Telephone Cooperative, the requested adjustment complies with the cap of 140% of the annualized support the provider was authorized to receive in the 12 months prior to the date of the adjustment, as required by 16 Texas Administrative Code §26.407(g)(1).

Persons who wish to comment on this application should notify the Public Utility Commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or you may call the PUCT Consumer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals may contact the commission through Relay Texas at (800) 735-2989. All comments should reference Docket Number 59638.

TRD-202601633
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: April 15, 2026

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Red River Authority of Texas

Request for Qualifications (RFQ) Professional Engineering Services for Regional Water Planning Group - Area B

1.0 GENERAL INFORMATION

Senate Bill 1 (SB 1), passed by the 75th Texas Legislature, mandated that the Texas Water Development Board (TWDB) implement a statewide water planning program to ensure that the water needs of all Texans are met over the next 50 years. In response to this legislation, TWDB adopted state and regional water planning rules, delineated the state into sixteen regional areas, and selected the initial members for the Regional Water Planning Group serving in each area.

The Regional Water Planning Group - Area B (RWPG-B or Group) has been designated as Region B and consists of all or parts of the following eleven (11) Texas counties: Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Montague, Wichita, Wilbarger, and a portion of Young County that encompasses the City of Olney.

The RWPG-B is responsible for preparing and adopting a regional water plan for its area and for hiring a consultant to assist with its development, which includes the engineering, hydrological, environmental, legal, and institutional components. The planning process begins with the collection and analysis of many types of information related to regional water supplies and the demands placed on them by area users. The Group decides how future water needs may be met and includes information in their water plan data about water supplies and demand, water quality problems affecting the water supply, and the social and economic characteristics of the region. The plan will also identify water supply threats to agriculture and natural resources. Information on current drought preparations and the status of other water plans in the region will also be reviewed during plan development. In addition, the plan prioritizes water management strategies based on factors such as strategy cost, year of need, and the amount of water the strategy provides.

Before the plan can be finalized, the RWPG-B must provide for public input in the planning process, hold public meetings, and furnish a draft report of the plan for public review and comment. The water plan must address the needs of all water users and suppliers in their region (except certain political subdivisions that decide not to participate). Once this process is complete, the final adopted plan will be forwarded to TWDB for approval and incorporation into a comprehensive state water plan.

2.0 SOLICITATION

The Red River Authority of Texas (the Authority), on behalf of the RWPG-B, is soliciting Statements of Qualifications (SOQs) from engineering/planning firms qualified to provide professional consulting services for Regional Water Planning activities. The Authority is the administrative entity for the RWPG-B, and as such, will be the contracting party on behalf of the Group. The SOQ should be submitted in accordance with the instructions listed in ITEM 7 below.

3.0 SCOPE OF WORK

The RWPG-B has not approved a complete Scope of Work (SOW) for the preparation of its Seventh Cycle Regional Water Plan. However, general guidance documents related to the planning effort will be posted to the Texas Water Development Board Website at the following link:

https://www.twdb.texas.gov/waterplanning/rwp/planning-docu/2031/rfa_docs.asp

The applicant should include in their SOQ their reasons and assurances that they can perform the professional services required under TWDB regulations and guidance related to regional water planning, as found at the link above.

Funding of Regional Water Planning activities by the Texas Water Development Board is contingent upon continued legislative appropriations. Because regional water planning activities cover multiple funding biennium, changes in funding legislative appropriations may result

in changes to the approved SOW. Respondents may contact the following individual regarding clarification of the Request for Qualification:

Mr. Kyle Miller, General Manager

WCWID No. 2

Chair, Regional Water Planning Group - Area B

Mailing: P.O. Box 240

Wichita Falls, Texas 76307

Physical: 3000 Hammon Road

Wichita Falls, Texas 76310

Email: info@rra.texas.gov

Phone: (940) 723-2236

4.0 CONSULTANT SELECTION PROCESS

Members of the RWPG-B Technical Advisory Committee (TAC) will meet to analyze and evaluate each SOQ received. The TAC will create a ranked list and present it and its recommendation to the RWPG-B at the public meeting scheduled for May 27, 2026. The RWPG-B will then review, discuss, and make their selection. Once the consultant team is selected, contract negotiations to perform the professional services necessary for the development and adoption of the Region B Regional Water Plan will commence.

Public information: All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act after the solicitation has been completed and the contract executed with the selected firm. Firms associating with other firms in order to bring specific expertise and experience to the project are allowed and encouraged.

5.0 REQUIREMENTS FOR SOQ

Respondents shall carefully read the information in the following evaluation criteria and submit a complete SOQ that addresses all questions and is in the format provided below:

5.1 Ability to provide services

5.1.1 Provide the following information:

- Legal name of firm, Form 1295, and current W-9.

- Location, size, and description of the firm and services offered.

- Contact person(s).

- Date of firm formation.

- Legal business description (i.e., Individual, Partnership, Corporation, Joint Venture, etc.).

- Evidence of being licensed to provide professional and consulting services in the state of Texas.

5.2 Qualifications and Availability: The respondent must provide a:

5.2.1 Statement of interest for the project, including a narrative describing the firm's specific expertise and unique qualifications as they pertain to TWDB regional water planning.

5.2.2 Statement regarding the availability and commitment of the firm, its principal(s), and assigned professionals to undertake the project.

5.2.3 Statement that the firm is familiar with the state of Texas rules regarding regional water planning and regional water planning grant assistance as adopted by TWDB.

5.3 Staffing Capabilities: The respondent must provide:

5.3.1 An organizational chart listing all personnel (including consultants) who will be assigned to work on this project.

5.3.2 Names and roles of key project team members who will perform the assigned tasks.

5.3.3 Résumés for all key project team members. Identify any members who have had previous experience on similar projects.

5.3.4 Staffing size by areas of expertise.

5.3.5 Current workload of prime firm.

5.3.6 Staff availability to perform services.

5.3.7 Description of any sub-consultants that may be employed as part of the project team.

5.4 Project Experience: The respondent must provide:

5.4.1 An overview and history of the firm and consultants.

5.4.2 List of similar water planning projects, including:

- Project name and location

- Services provided

- Date of completion

- Final consultant costs

- Client name and point-of-contact person

- Statement indicating whether the project was completed within the allotted time schedule.

5.5 Project Methodology: The respondent must provide:

5.5.1 A description of the approach to complete the project's Scope of Work. A proposed project schedule based on any available TWDB guidance relating to the schedule and the project team's understanding of the planning process.

5.5.2 A description of the internal project review process and quality assurance program that will be utilized by the project team.

5.6 History of Successful Performance: The respondent may submit:

5.6.1 Documentation showing a history of meeting TWDB regional water planning project schedules.

5.6.2 Documentation showing a history of accomplishing TWDB regional water planning services within established budget - include projected cost vs. actual cost.

5.6.3 A list of TWDB regional water planning references, to include: organization's name, point-of-contract person(s), and phone number(s).

5.6.4 A list of projects completed in the Region B planning area.

5.7. Responsiveness to RFQ -Qualifications shall be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to meet the requirements of this RFQ. Emphasis shall be placed on quality, capability, experience, and understanding of the water planning process for Region B.

6.0 ADDITIONAL INFORMATION TO BE INCLUDED IN STATEMENT OF QUALIFICATION

6.1 The RWPG-B requires professional liability insurance for firms with which it contracts. Please state which insurance coverage your firm carries and the amounts.

7.0 DUE DATE AND CONTACT

Respondents must submit one (1) electronic copy and ten (10) copies of their Statement of Qualifications by 1:00 p.m., Thursday, May 14, 2026. All responses should be submitted to:

Mr. Kyle Miller, General Manager

WCWID No. 2

Chair, Regional Water Planning Group - Area B

Mailing: P.O. Box 240

Wichita Falls, Texas 76307

Physical: 3000 Hammon Road

Wichita Falls, Texas 76310

Email: info@rra.texas.gov

TRD-202601624
Cara Glasscock
Administration Manager
Red River Authority of Texas
Filed: April 14, 2026

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Texas Department of Transportation

Notice and Opportunity to Comment - Statewide Planning Public Involvement Process for the Statewide Long-Range Transportation Improvement Program (SLRTP) and the Statewide Transportation Improvement Program (STIP)

The Texas Department of Transportation (TxDOT) is proposing a process update for the Statewide Planning Public Involvement Process for the Statewide Long-Range Transportation Plan (SLRTP) and the Statewide Transportation Improvement Program (STIP). This notice is affording an opportunity to comment as part of the statewide transportation planning process and Texas Administrative Code.

TxDOT has established the following public involvement process to provide opportunities for public review and comment at key decision points while carrying out the statewide transportation planning process, including the development of the Statewide Long-Range Transportation Plan (SLRTP) and the Statewide Transportation Improvement Program (STIP), in accordance with *https://www.ecfr.gov/current/title-23/part-450/section-450.210#p-450.210(a)*.

TxDOT's public involvement process for statewide planning is periodically reviewed for effectiveness to ensure that the process provides full and open access to all interested parties and is revised, as appropriate. TxDOT provides 45 calendar days for public review and written comment prior to adoption of any major revisions to the statewide public involvement process.

Technical and policy information used in the development of the SLRTP and STIP is available to the public on TxDOT.gov at *https://www.txdot.gov/projects/planning/ttp.html* and *https://www.txdot.gov/projects/planning/stip.html* and on the Texas Administrative Code (TAC) website at *https://texas-sos.appianportalsgov.com/rules-and-meetings?$locale=en_US&interface=VIEW_TAC_SUMMARY&queryAsDate=04%2F10%2F2025&recordId=191794* and *https://texas-sos.appianportalsgov.com/rules-and-meetings?$locale=en_US&interface=VIEW_TAC_SUMMARY&queryAsDate=04%2F01%2F2025&recordId=191798*. Access the Plan at: *https://www.txdot.gov/projects/hearings-meetings.html*

The plan is written in English. If you need an interpreter or document translator because English is not your primary language or you have difficulty communicating effectively in English, one will be provided to you. If you have a disability and need assistance, special arrangements can be made to accommodate most needs. If you need interpretation or translation services or you are a person with a disability who requires an accommodation to review the project materials or submit information, please contact Enyu Li, Transportation Planning and Programming Division, at (512) 416-2298 no later than 4 p.m. CT, at least three business days before the date on which you would like to review the plan or submit information. Please be aware that advance notice is required as some services and accommodations may require time for TxDOT to arrange.

El plan está escrito en inglés. Si usted necesita un intérprete o un traductor de documentos porque su idioma principal no es el inglés o tiene alguna dificultad para comunicarse eficazmente en inglés, se le proporcionará uno. Si usted tiene alguna discapacidad y necesita asistencia, se pueden hacer arreglos especiales para atender la mayoría de las necesidades. Si usted necesita servicios de interpretación o traducción o es una persona con alguna discapacidad que requiera una adaptación para revisar los materiales o enviar información, por favor póngase en contacto con Enyu Li, División de Planificación y Programación del Transporte, *al* número (512) 416-2298 *a más tardar a las 4:00 p.m. hora central, al menos tres días hábiles antes de la fecha en la que desea revisar el plan o enviar información. Por favor sepa que es necesario dar aviso con anticipación, ya que algunos servicios y adaptaciones pueden requerir tiempo para que el Departamento de Transporte de Texas (TxDOT) los organice.*

Written comments regarding the plan are requested and may be submitted by mail to the TxDOT Transportation Planning and Programming Division, P.O. Box 149217, Austin, Texas 78714-9217, or by email to TPP_STIP@txdot.gov. All comments must be received on or before Monday, June 8, 2026.

If you have any general questions regarding the proposed plan, please contact Enyu Li, (512) 416-2298, email address: enyu.li@txdot.gov.

TRD-202601594
James Kirk
Senior General Counsel
Texas Department of Transportation
Filed: April 13, 2026

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Texas Water Development Board

Notice for Public Hearing and Public Comment Period for the Draft 2027 State Water Plan and Intent to Adopt the 2027 State Water Plan

The Texas Water Development Board (TWDB) will conduct a public hearing beginning at 1:00 p.m. on May 27, 2026, in room 170 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas and via Teams Meeting at https://teams.microsoft.com/meet/2809045663164?p=5lgyYekMappue76tZx. Meeting ID: 280 904 566 316 4; Passcode: fp9Lk2bs. Audio access only: (512) 298-6360; phone conference ID: 508 590 523#.

The public hearing is to receive public comments on the *Draft* 2027 State Water Plan in accordance with Texas Water Code §16.051 and 31 Texas Administrative Code §358.4(a). Relevant comments concerning the *Draft* 2027 State Water Plan will be accepted in person and through virtual attendance of the public hearing. If you would like to provide a public comment, please fill out the online registration form at www.twdb.texas.gov/waterplanning/swp/2027/docs/visitor-sign-in-card.pdf and send it to SWPPublicComment@twdb.texas.gov or in person by 12:00 p.m. on May 27, 2026.

Persons may also provide written comments on or before 5:00 p.m. May 29, 2026, via the following link: https://forms.office.com/r/KWcZi2dMT1. A copy of the *Draft* 2027 State Water Plan is available on the Board's website at http://www.twdb.texas.gov/waterplanning/swp/2027/index.asp.

After consideration of comments submitted, in accordance with this notice, the TWDB will consider adopting the 2027 State Water Plan at a regularly noticed and scheduled Texas Water Development Board meeting tentatively scheduled to be held in July 2026.

Persons with disabilities who plan to attend this hearing and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Jacque Lustig at (512) 463-8676 or at Jacque.lustig@twdb.texas.gov two (2) work days prior to the meeting so that appropriate arrangements can be made.

Additional information may be obtained from:

Temple McKinnon, Director of Water Supply Planning, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711, (512) 475-2057, temple.mckinnon@twdb.texas.gov.

TRD-202601612
Ashley Harden
General Counsel
Texas Water Development Board
Filed: April 14, 2026

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TEXAS

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 51 (2026) is cited as follows: 51 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "51 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 51 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: https://www.sos.texas.gov. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 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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