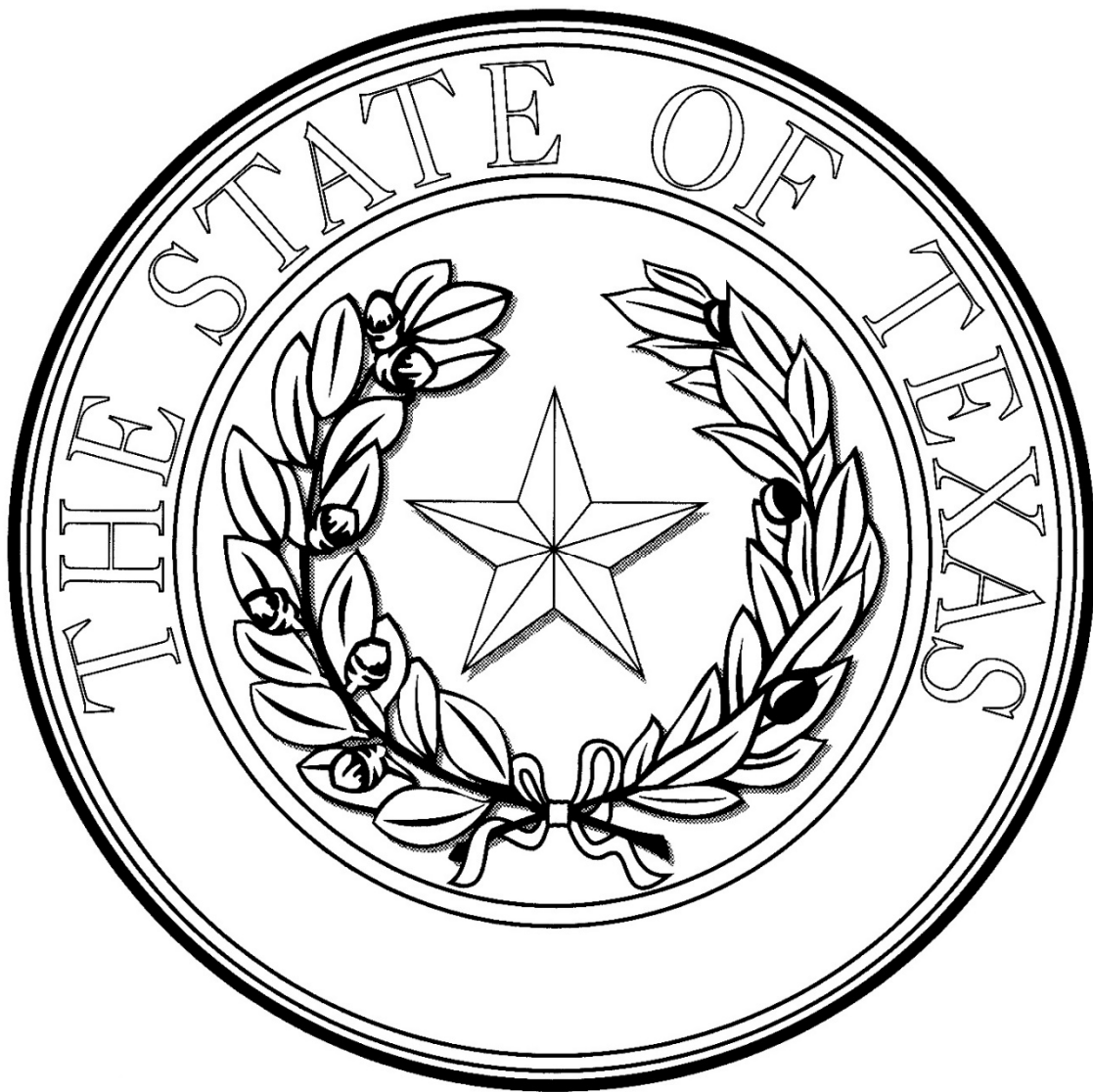

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Secretary of State - Robert S. Howden

Director - Michael J. Powell

Editor-in-Chief - Jill S. Ledbetter

Deputy Editor-in-Chief - Belinda Kirk

Editors

Leticia Benavides

Jay Davidson

Briana Franklin

Laura Levack

Erma Morgan

Matthew Muir

Breanna Mutschler

DJ Ramirez

Anna St. John

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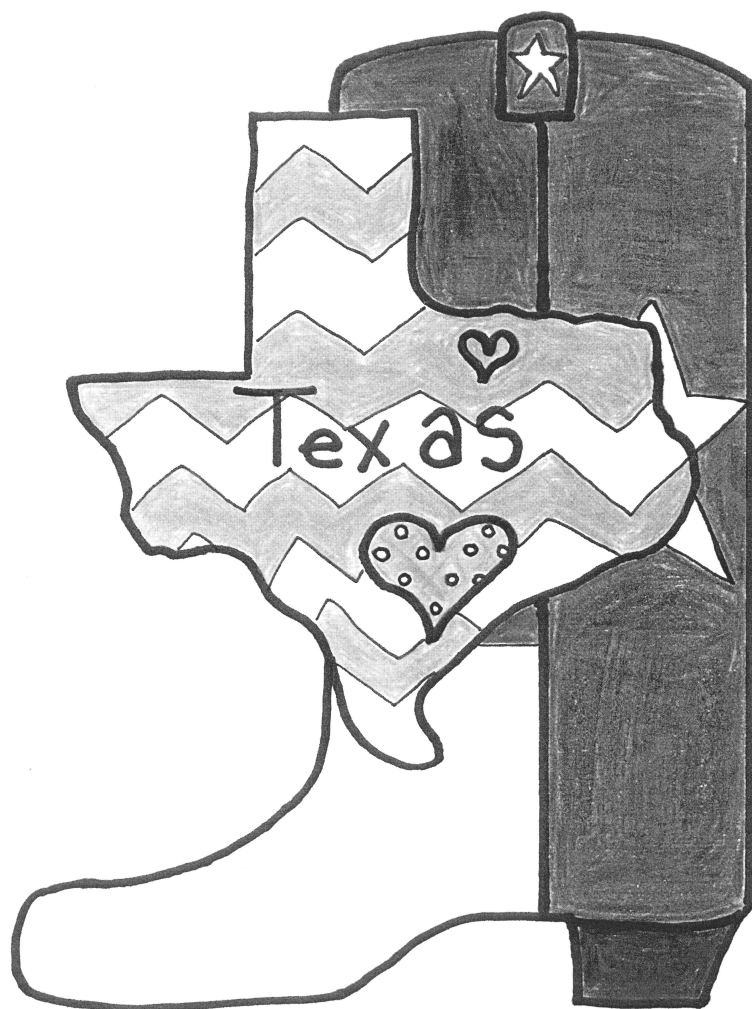
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THE GOVERNOR

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

Appointments

Appointments for July 30, 2026

Appointed to the Governor's University Research Initiative Advisory Board for a term to expire at the pleasure of the Governor, Bradley K. "Brad" Drake of Paris, Texas (replacing Christian A. "Christy" McClendon of Lubbock).

Appointments for July 31, 2026

Appointed as the Texas Comptroller of Public Accounts effective August 1, 2026 for the term expiring December 31, 2026, Donald B. "Don" Huffines of Dallas, Texas (replacing Glenn Hegar of Katy who resigned).

Appointments for August 3, 2026

Appointed to the Texas Veterans Commission for a term to expire December 31, 2031, Christopher G. "Chris" Cantu of Round Rock, Texas (replacing Mary Lopez Dale of Cedar Park whose term expired).

Appointments for August 4, 2026

Appointed to the Credit Union Commission for a term to expire February 15, 2031, Chance R. Peeler of Bonham, Texas (replacing Terrolyn "Kay" Rankin Swan of Monahans who resigned).

Appointments for August 5, 2026

Appointed to the Texas Emergency Services Retirement System Board of Trustees for a term to expire September 1, 2027, Matthew A. "Matt" Hohon of Granbury, Texas (replacing Bradley C. "Brad" Landi of Austin who resigned).

Appointed to the Texas Emergency Services Retirement System Board of Trustees for a term to expire September 1, 2027, Lindsay M. Price of Seabrook, Texas (replacing Pilar Rodriguez of Edinburg who resigned).

Appointed to the Texas Emergency Services Retirement System Board of Trustees for a term to expire September 1, 2031, Christopher A. Anderson of Santa Fe, Texas (replacing Nathan Douglas of Seabrook whose term expired).

Appointed to the Texas Emergency Services Retirement System Board of Trustees for a term to expire September 1, 2031, Matthew R. "Matt" Graves of Alvin, Texas (Mr. Graves is being reappointed).

Appointed to the Texas Emergency Services Retirement System Board of Trustees for a term to expire September 1, 2031, Jerry Romero of El Paso, Texas (Mr. Romero is being reappointed).

Greg Abbott, Governor

TRD-202603303



Proclamation 41-4300

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 Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Baylor, Bee, Bell, Bosque, Bowie, Briscoe, Brooks, Brown, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Cherokee, Childress, Clay, Coleman, Collin, Collingsworth, Comanche, Cooke, Coryell, Cottle, Crosby, Dallas, Delta, Denton, DeWitt, Dickens, Donley, Duval, Eastland, Ellis, Erath, Falls, Fannin, Floyd, Foard, Franklin, Freestone, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harrison, Haskell, Hemphill, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Hutchinson, Jack, Jackson, Jasper, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kleberg, Knox, La Salle, Lamar, Lampasas, Lavaca, Leon, Liberty, Limestone, Lipscomb, Live Oak, Lubbock, Madison, Marion, McLennan, McMullen, Milam, Mills, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nueces, Ochiltree, Orange, Palo Pinto, Panola, Parker, Polk, Potter, Rains, Randall, Red River, Refugio, Roberts, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Throckmorton, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Webb, Wheeler, Wichita, Wilbarger, Willacy, Wilson, Wise, Wood, Young, and Zapata Counties.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 3rd day of August, 2026.

Greg Abbott, Governor
TRD-202603284



Proclamation 41-4301

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, on June 5, 2026, I, Greg Abbott, Governor of Texas, issued a disaster proclamation certifying under Section 418.014 of the Texas Government Code that the spread of New World screwworm northward from Mexico toward the U.S. southern border threatens Texas' livestock industry and economy and poses an imminent threat of widespread and severe property damage for all Texas counties; and

WHEREAS, the certified conditions continue to exist and pose an on-going and imminent threat of disaster as set forth in the prior proclamation;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a state of disaster for all Texas counties. All orders, directions, suspensions, and authorizations provided in the Proclamation of June 5, 2026, are in full force and effect.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 3rd day of August, 2026.

Greg Abbott, Governor
TRD-202603285



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-0649-KP

Requestor:

Ms. Shelly Atteberry
Cooke County Auditor
101 South Dixon Street
Gainesville, Texas 76240

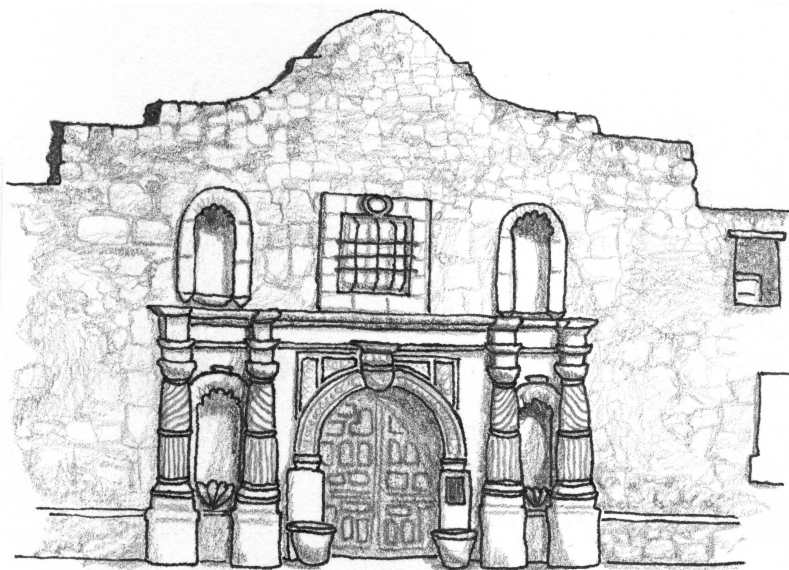
Re: Use and oversight of Law Enforcement Officer Standards and Education funds allocated to constables' offices (RQ-0649-KP)

Briefs requested by August 31, 2026

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

TRD-202603294
Justin Gordon
General Counsel
Office of the Attorney General
Filed: August 4, 2026

◆ ◆ ◆



EMERGENCY RULES

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES SUBCHAPTER F. SECURITY AND CONTROL 37 TAC §380.9723

The Texas Juvenile Justice Department is renewing the effectiveness of emergency amended §380.9723 for a 60-day period.

The text of the emergency rule was originally published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3663).

Filed with the Office of the Secretary of State on July 28, 2026.

TRD-202603198

Jana Jones

General Counsel

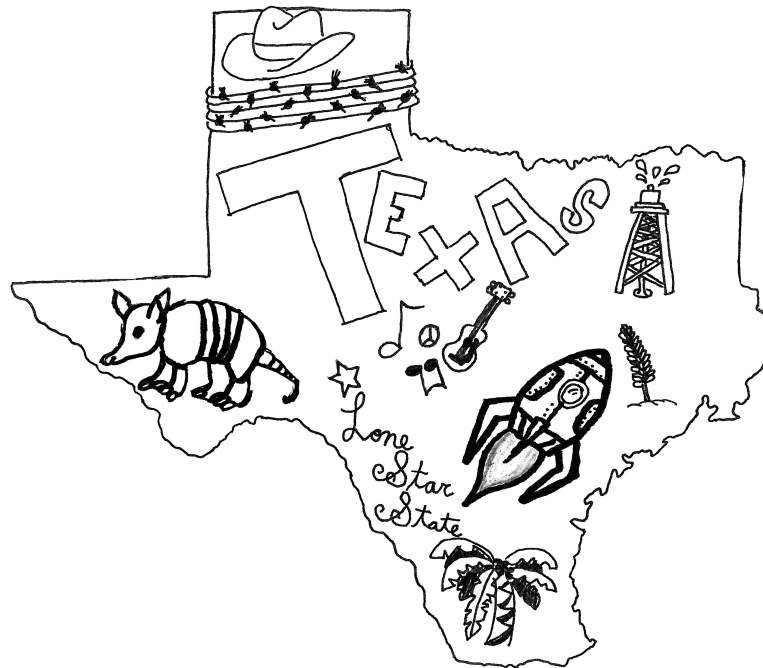
Texas Juvenile Justice Department

Original effective date: May 15, 2026

Expiration date: November 10, 2026

For further information, please call: (512) 490-7130





PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §353.2, concerning Definitions; §353.1502 concerning Definitions; and §353.1503 concerning Use of Telecommunications in Assessments; and the repeal of §353.608, concerning Minimum Payment Amounts to Qualified Nursing Facilities.

BACKGROUND AND PURPOSE

This proposal is necessary to align Medicaid program rules with the fiscal rules that implemented House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023 (Article II, Health and Human Services Commission (HHSC), Rider 25), which require HHSC to implement a Texas version of the Patient Driven Payment Model for Long-Term Care (PDPM LTC) methodology for the reimbursement of long-term stay nursing facility (NF) services in the Medicaid program.

Due to federal requirements in Title 42 Code of Federal Regulations §441.302(e) and (f), changing the NF reimbursement methodology from the Resource Utilization Group (RUG) to the PDPM LTC requires HHSC to incorporate the PDPM LTC methodology into the individual cost limit methodologies and related cost limit methodology. This proposal updates references to the former RUG reimbursement methodology with the term "reimbursement rate" in the Texas Administrative Code (TAC) for the state's two NF waiver programs, the STAR+PLUS Home and Community-Based Services Program and the Medically Dependent Children Program.

This proposal implements H.B. 4611, 88th Legislature, Regular Session, 2023, which made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The proposed amendment to §353.2 updates Texas Government Code citations for this purpose.

This proposal also implements Senate Bill (S.B.) 457, 89th Legislature, Regular Session, 2025, which eliminated the NF enhancement rate program. The proposed amendment updates definitions to remove references to the NF enhancement rate program.

The proposed repeal of §353.608 removes outdated rules for the Minimum Payment Amount Program (MPAP) for Qualified Nursing Facilities. The MPAP was replaced by the Quality In-

centive Payment Program for NFs, which is covered in 1 TAC, §353.1301 and §353.1303.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §353.2 updates citations to reflect the current statute and TAC references; corrects outdated agency acronyms; moves the definition of HHSC so the section is correctly alphabetized and then renumbers the section accordingly; updates the definition of "Nursing facility unit rate" to remove a citation to the former NF rate enhancement program that no longer exists; and makes other minimal changes to grammar and rule structure for clarity.

The proposed repeal of §353.608 deleted the rule as no longer necessary, because it refers to use of the MPAP for Qualified Nursing Facilities, which no longer exists.

The proposed amendment to §353.1502 updates citations to reflect the current TAC references, corrects outdated agency acronyms, updates the HHSC definition, adds a definition for PDPM LTC, removes the RUG definition, renumbers the subsections, and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §353.1503 replaces RUG language with PDPM LTC language.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will not create a new regulation;
- (6) the proposed rules will 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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules are codifying current processes and MCO capitation rates were addressed in rule project 24R019.

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 do not impose a cost on regulated persons; are necessary to receive a source of federal funds or comply with federal law; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, has determined that for each year of the first five years the rules are in effect, the public will benefit from having these rules use terminology consistent with the new PDPM LTC reimbursement methodology in 1 TAC Chapter 355 and removing the rules related to the discontinued MPAP.

Victoria Grady 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 proposed rules don't require affected persons to alter current business practices and MCO capitation rates were addressed in rule project 24R019.

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 24R074" in the subject line.

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §353.2

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; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.2. Definitions.

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

(1) Action--

(A) An action is defined as:

(i) the denial or limited authorization of a requested Medicaid service, including the type or level of service;

(ii) the reduction, suspension, or termination of a previously authorized service;

(iii) the failure to provide services in a timely manner;

(iv) the denial in whole or in part of payment for a service; or

(v) the failure of a managed care organization (MCO) to act within the timeframes set forth by the Texas Health and Human Services Commission (HHSC) and state and federal law.

(B) "Action" does not include expiration of a time-limited service.

(2) Acute care--Preventive care, primary care, and other medical or behavioral health care provided by the provider or under the direction of a provider for a condition having a relatively short duration.

(3) Acute care hospital--A hospital that provides acute care services.

(4) Adoption Assistance Program--The program administered by DFPS in accordance with 40 TAC Chapter 700, Subchapter H (relating to Adoption Assistance Program).

(5) Agreement or Contract--The formal, written, and legally enforceable contract and amendments thereto between HHSC and an MCO.

(6) Allowable revenue--All managed care revenue received by the MCO pursuant to the contract during the contract period, including retroactive adjustments made by HHSC. This would include any revenue earned on Medicaid managed care funds such as investment income, earned interest, or third party administrator earnings from services to delegated networks.

(7) Appeal--The formal process by which a member or his or her representative requests a review of the MCO's action.

(8) Applicant Provider--A physician or other health care provider applying for expedited credentialing [as defined in Texas Government Code §533.0064].

(9) Behavioral health service--A covered service for the treatment of mental, emotional, or substance use disorders.

(10) Capitated service--A benefit available to members under the Texas Medicaid program for which an MCO is responsible for payment.

(11) Capitation rate--A fixed predetermined fee paid by HHSC to the MCO each month, in accordance with the contract, for each enrolled member in exchange for which the MCO arranges for or provides a defined set of covered services to the member, regardless of the amount of covered services used by the enrolled member.

(12) CFR--Code of Federal Regulations.

(13) Children's Medicaid Dental Services--The dental services provided through a dental MCO to a client birth through age 20.

(14) Clean claim--A claim submitted by a physician or provider for health care services rendered to a member, with the data necessary for the MCO or subcontracted claims processor to adjudicate and accurately report the claim. A clean claim must meet all requirements for accurate and complete data as further defined under the terms of the contract executed between the MCO and HHSC.

(15) Client--Any Medicaid-eligible recipient.

(16) CMS--The Centers for Medicare & Medicaid Services, which is the federal agency responsible for administering Medicare and overseeing state administration of Medicaid.

(17) Complainant--A member, or a treating provider or other individual designated to act on behalf of the member, who files a complaint.

(18) Complaint--Any dissatisfaction expressed by a complainant, orally or in writing, to the MCO about any matter related to the MCO other than an action. Subjects for complaints may include:

(A) the quality of care of services provided;

(B) aspects of interpersonal relationships such as rudeness of a provider or employee; and

(C) failure to respect the member's rights.

(19) Consumer Directed Services (CDS) option--A service delivery option (also known as self-directed model with service budget) in which an individual or legally authorized representative employs and retains service providers and directs the delivery of certain program services.

(20) Covered services--Unless a service or item is specifically excluded under the terms of the state plan, a federal waiver, a managed care services contract, or an amendment to any of these, the phrase "covered services" means all health care, long term services and supports, or dental services or items that the MCO must arrange to provide and pay for on a member's behalf under the terms of the contract executed between the MCO and HHSC, including:

(A) all services or items considered [e~~om~~prising] "medical assistance" as defined in Texas Human Resources Code §32.003 [e~~f~~ the Human Resources Code]; and

(B) all value-added services under such contract.

(21) Credentialing--The process through which an MCO collects, assesses, and validates qualifications and other relevant information pertaining to a Medicaid enrolled health care provider to determine whether the provider may be contracted to deliver covered services as part of the network of the managed care organization.

(22) Cultural competency--The ability of individuals and systems to provide services effectively to people of various disabilities, cultures, races, ethnic backgrounds, and religions in a manner that

recognizes, values, affirms, and respects the worth of the individuals and protects and preserves their dignity.

(23) Day--A calendar day, unless specified otherwise.

(24) Default enrollment--The process established by HHSC to assign a Medicaid managed care enrollee to an MCO when the enrollee has not selected an MCO.

(25) Dental contractor--A dental MCO that is under contract with HHSC for the delivery of dental services.

(26) Dental home--A provider who has contracted with a dental MCO to serve as a dental home to a member and who is responsible for providing routine preventive, diagnostic, urgent, therapeutic, initial, and primary care to patients, maintaining the continuity of patient care, and initiating referral for care. Provider types that can serve as dental homes are federally qualified health centers and individuals who are general dentists or pediatric dentists.

(27) Dental managed care organization (dental MCO)--A dental indemnity insurance provider or dental health maintenance organization licensed or approved by the Texas Department of Insurance.

(28) Dental service--The routine preventive, diagnostic, urgent, therapeutic, initial, and primary care provided to a member and included within the scope of HHSC's agreement with a dental contractor. For purposes of this chapter, "dental service" does not include dental devices for craniofacial anomalies; treatment rendered in a hospital, urgent care center, or ambulatory surgical center setting for craniofacial anomalies; or emergency services provided in a hospital, urgent care center, or ambulatory surgical center setting involving dental trauma. These types of services are treated as health care services in this chapter.

(29) DFPS--The Texas Department of Family and Protective Services.

(30) Disability--A physical or mental impairment that substantially limits one or more of an individual's major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, socializing, or working.

(31) Disproportionate Share Hospital (DSH)--A hospital that serves a higher than average number of Medicaid and other low-income patients and receives additional reimbursement from the State.

(32) Dual eligible--A Medicaid recipient who is also eligible for Medicare.

(33) Elective enrollment--Selection of a primary care provider (PCP) and MCO by a client during the enrollment period established by HHSC.

(34) Emergency behavioral health condition--Any condition, without regard to the nature or cause of the condition, that in the opinion of a prudent layperson possessing an average knowledge of health and medicine:

(A) requires immediate intervention and/or medical attention without which the client would present an immediate danger to themselves or others; or

(B) renders the client incapable of controlling, knowing, or understanding the consequences of his or her actions.

(35) Emergency medical condition--A medical condition manifesting itself by acute symptoms of recent onset and sufficient severity (including severe pain), such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical care to result in:

- (A) placing the patient's health in serious jeopardy;
- (B) serious impairment to bodily functions;
- (C) serious dysfunction of any bodily organ or part;
- (D) serious disfigurement; or
- (E) serious jeopardy to the health of a pregnant woman or her unborn child.

(36) **Emergency service**--A covered inpatient and outpatient service, furnished by a network provider or out-of-network provider that is qualified to furnish such service, that is needed to evaluate or stabilize an emergency medical condition and/or an emergency behavioral health condition. For health care MCOs, the term "emergency service" includes post-stabilization care services.

(37) **Encounter**--A covered service or group of covered services delivered by a provider to a member during a visit between the member and provider. This also includes value-added services.

(38) **Enrollment**--The process by which an individual determined to be eligible for Medicaid is enrolled in a Medicaid MCO serving the service area in which the individual resides.

(39) **EPSDT**--The federally mandated Early and Periodic Screening, Diagnosis, and Treatment program defined in 25 TAC Chapter 33 (relating to Early and Periodic Screening, Diagnosis, and Treatment). The State of Texas has adopted the name Texas Health Steps (THSteps) for its EPSDT program.

(40) **EPSDT-CCP**--The Early and Periodic Screening, Diagnosis, and Treatment-Comprehensive Care Program described in Chapter 363 of this title (relating to Texas Health Steps Comprehensive Care Program).

(41) **Exclusive provider benefit plan (EPBP)**--An MCO that complies with 28 TAC §§3.9201 - 3.9212, relating to the Texas Department of Insurance's requirements for EPBPs, and contracts with HHSC to provide Medicaid coverage.

(42) **Expedited Credentialing**--The process under Texas Government Code §540.0656 [§533.0064] in which an MCO allows an applicant provider to provide Medicaid services to members on a provisional basis pending completion of the credentialing process.

(43) **Experience rebate**--The portion of the MCO's net income before taxes that is returned to the State in accordance with the MCO's contract with HHSC.

(44) **Fair hearing**--The process adopted and implemented by HHSC in Chapter 357, Subchapter A of this title (relating to Uniform Fair Hearing Rules) in compliance with federal regulations and state rules relating to Medicaid fair hearings.

(45) **Federal Poverty Level (FPL)**--The household income guidelines issued annually and published in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. §9902(2) and as in effect for the applicable budget period determined in accordance with 42 CFR [C.F.R.] §435.603(h). HHSC uses the FPL to determine an individual's eligibility for Medicaid.

(46) **Federal waiver**--Any waiver permitted under federal law and approved by CMS that allows states to implement Medicaid managed care.

(47) **Federally Qualified Health Center (FQHC)**--An entity that is certified by CMS to meet the requirements of 42 U.S.C. §1395x(aa)(3) as a Federally Qualified Health Center and is enrolled as a provider in the Texas Medicaid program.

(48) **Former Foster Care Children (FFCC) program**--The Medicaid program for young adults who aged out of the conservatorship of DFPS, administered in accordance with Chapter 366, Subchapter J of this title (relating to Former Foster Care Children's Program).

(49) **Functional necessity**--A member's need for services and supports with activities of daily living (ADLs) or instrumental activities of daily living (IADLs) to be healthy and safe in the most integrated setting possible. This [determination] is determined based on the results of a functional assessment.

(50) **Habilitation**--Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks based on the individual's person-centered service plan.

~~[(51) **Health and Human Services Commission (HHSC)**--The single state agency charged with administration and oversight of the Texas Medicaid program or its designee.]~~

(51) [(52)] **Health care managed care organization (health care MCO)**--An entity that is licensed or approved by the Texas Department of Insurance to operate as a health maintenance organization or to issue an EPBP.

(52) [(53)] **Health care provider group**--A legal entity, such as a partnership, corporation, limited liability company, or professional association, enrolled in Medicaid, under which certified or licensed individual health care providers provide health care items or services.

(53) [(54)] **Health care services**--The acute care, behavioral health care, and health-related services that an enrolled population might reasonably require in order to be maintained in good health, including, at a minimum, emergency services and inpatient and outpatient services.

(54) [(55)] **Health maintenance organization (HMO)**--An organization that holds a certificate of authority from the Texas Department of Insurance to operate as an HMO under Chapter 843 of the Texas Insurance Code, or a certified Approved Non-Profit Health Corporation formed in compliance with Chapter 844 of the Texas Insurance Code.

(55) HHSC--The Texas Health and Human Services Commission.

(56) **Hospital**--A licensed public or private institution as defined in [the] Texas Health and Safety Code [at] Chapter 241, relating to Hospitals [hospitals], or Chapter 261, relating to Municipal Hospitals [municipal hospitals].

(57) **Intermediate care facility for individuals with an intellectual disability or related condition (ICF-IID)**--A facility providing care and services to individuals with intellectual disabilities or related conditions as defined in §1905(d) of the Social Security Act (42 U.S.C. 1396(d)).

(58) **Legally authorized representative (LAR)**--A person authorized by law to act on behalf of an individual with regard to a matter described in this chapter, and may, depending on the circumstances, include a parent, guardian, or managing conservator of a minor, or the guardian of an adult, or a representative designated pursuant to 42 CFR §435.923 [C.F.R. 435.923].

(59) **Long term services [service] and supports [support] (LTSS)**--Services [A service] provided to a qualified member in the member's [his or her] home or other community-based setting necessary to allow the member to remain in the most integrated setting possible. LTSS includes services provided under the Texas State Plan as well as services that are available to people [persons] who qualify

for the STAR+PLUS Home and Community-Based Services Program [services] or a Medicaid §1915(c) [1915(e)] waiver program [services]. LTSS is available through an MCO that participates in STAR+PLUS, STAR Health, and STAR Kids. LTSS services vary [varies] by program model.

(60) Main dentist--See definition of "dental home" in this section.

(61) Managed care--A health care delivery system or dental services delivery system in which the overall care of a patient is coordinated by or through a single provider or organization.

(62) Managed care organization (MCO)--A dental MCO or a health care MCO.

(63) Marketing--Any communication from an MCO to a client who is not enrolled with the MCO that can reasonably be interpreted as intended to influence the client's decision to enroll, not to enroll, or to disenroll from a particular MCO.

(64) Marketing materials--Materials that are produced in any medium by or on behalf of the MCO that can reasonably be interpreted as intending to market to potential members. Materials relating to the prevention, diagnosis, or treatment of a medical or dental condition are not marketing materials.

(65) MDCP--Medically Dependent Children Program. A Medicaid §1915(c) waiver program that provides community-based services to assist Medicaid beneficiaries under age 21 to live in the community and avoid living in a facility [institutionalization].

(66) Medicaid--The medical assistance program authorized and funded pursuant to Title XIX of the Social Security Act (42 U.S.C. §1396 et seq) and administered by HHSC.

(67) Medicaid for Transitioning Foster Care Youth (MTFCY) Program [transitioning foster care youth (MTFCY) program]--The Medicaid program for young adults who aged out of the conservatorship of DFPS. This program is[:] administered in accordance with Chapter 366, Subchapter F of this title (relating to Medicaid for Transitioning Foster Care Youth).

(68) Medical Assistance Only (MAO)--A person who qualifies financially and functionally for Medicaid assistance but does not receive Supplemental Security Income (SSI) benefits, as defined in Chapters 358, 360, and 361, of this title (relating to Medicaid Eligibility for the Elderly and People with Disabilities, Medicaid Buy-In Program, and Medicaid Buy-In for Children Program).

(69) Medical home--A PCP or specialty care provider who has accepted the responsibility for providing accessible, continuous, comprehensive, and coordinated care to members participating in an MCO contracted with HHSC.

(70) Medically necessary--

(A) For Medicaid members birth through age 20, this means the following Texas Health Steps services:

(i) screening, vision, dental, and hearing services; and

(ii) other health care services or dental services that are necessary to correct or ameliorate a defect, [or] physical or mental illness, or condition and must: [- A determination of whether a service is necessary to correct or ameliorate a defect or physical or mental illness or condition:]

(I) [must] comply with the requirements of a final court order that applies to the Texas Medicaid program or the Texas Medicaid managed care program as a whole; and

(II) if applicable, consider [may include consideration of] other relevant factors, such as the criteria described in subparagraphs (B)(ii) - (vii) and (C)(ii) - (vii) of this paragraph.

(B) For Medicaid members over age 20, non-behavioral health services that are:

(i) reasonable and necessary to prevent illnesses or medical conditions, or provide early screening, interventions, or treatments for conditions that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a disability, cause illness or infirmity of a member, or endanger life;

(ii) provided at appropriate facilities and at the appropriate levels of care for the treatment of a member's health conditions;

(iii) consistent with health care practice guidelines and standards that are endorsed by professionally recognized health care organizations or governmental agencies;

(iv) consistent with the member's medical need;

(v) no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency;

(vi) not experimental or investigative; and

(vii) not primarily for the convenience of the member or provider.

(C) For Medicaid members over age 20, behavioral health services that:

(i) are reasonable and necessary for the diagnosis or treatment of a mental health or substance use disorder, or to improve, maintain, or prevent deterioration of functioning resulting from such a disorder;

(ii) are in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care;

(iii) are furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(iv) are the most appropriate level or supply of service that can safely be provided;

(v) could not be omitted without adversely affecting the member's mental and/or physical health or the quality of care rendered;

(vi) are not experimental or investigative; and

(vii) are not primarily for the convenience of the member or provider.

(71) Member--A person who is eligible for benefits under Title XIX of the Social Security Act and Medicaid, is in a Medicaid eligibility category included in the Medicaid managed care program, and is enrolled in a Medicaid MCO.

(72) Member education program--A planned program of education:

(A) concerning access to health care services or dental services through the MCO and about specific health or dental topics;

(B) that is approved by HHSC; and

(C) that is provided to members through a variety of mechanisms that must include, at a minimum, written materials and face-to-face or audiovisual communications.

(73) Member materials--All written materials produced or authorized by the MCO and given out [~~distributed~~] to members or potential members that contain [~~containing~~] information about [~~concerning~~] the managed care program. Member materials include member identification [ID] cards, member handbooks, list of providers [~~provider directories~~], and marketing materials.

(74) Non-capitated service--A benefit available to members under the Texas Medicaid program for which an MCO is not responsible for payment.

(75) Nursing facility--As defined in §358.103 of this title (relating to Definitions) and 26 TAC §554.101 (relating to Definitions), an entity or institution, also called nursing home or skilled nursing facility, that provides organized and structured nursing care and services and is subject to licensure under Texas Health and Safety Code Chapter 242.

(76) Nursing facility add-on services--The types of services that are provided in a nursing facility setting by a nursing facility provider or another provider, but are not included in the nursing facility unit rate, including emergency dental services, physician-ordered rehabilitative services, customized power wheelchairs [~~wheel chairs~~], and augmentative communication devices[, ~~tracheostomy care for youth under age 22, and ventilator care~~].

(77) Nursing facility services--The services included in the nursing facility unit rate, nursing facility Medicare coinsurance, and nursing facility add-on services.

(78) Nursing facility unit rate--The daily rate that covers Medicaid fee-for-service (FFS) standard care and services for nursing facility providers [~~The rate for the type of services included in the Medicaid fee-for-service (FFS) daily rate for nursing facility providers~~] as defined in 26 TAC §554.2601 (relating to Vendor Payment (Items and Services Included)). This includes [, ~~including~~] room and board, medical supplies and equipment, personal needs items, social services, and ~~non-legend~~ [~~over-the-counter~~] drugs. The nursing facility unit rate also includes the [~~applicable nursing facility staff rate enhancements as described in §355.308 of this title (relating to Direct Care Staff Rate Component), and~~] professional and general liability insurance add-on payments as described in §355.312 of this title (relating to Reimbursement Setting Methodology--Liability Insurance Costs). The nursing facility unit rate excludes nursing facility add-on services.

(79) Outside regular business hours--As applied to FQHCs and rural health clinics (RHCs), means before 8 a.m. and after 5 p.m. Monday through Friday, weekends, and federal holidays.

(80) Participating MCO--An MCO that has a contract with HHSC to provide services to members.

(81) Permanency Care Assistance Program--The program administered by DFPS in accordance with 40 TAC Chapter 700, Subchapter J, Division 2 (relating to Permanency Care Assistance Program).

(82) Person-centered care--An approach to care that focuses on members as individuals and supports caregivers working most closely with them. It involves a continual process of listening, testing new approaches, and changing routines and organizational approaches in an effort to individualize and de-institutionalize the care environment.

(83) Person-centered planning--A documented service planning process that includes people chosen by the individual, is directed by the individual to the maximum extent possible, enables the individual to make choices and decisions, is timely and occurs at times and locations convenient to the individual, reflects cultural

considerations of the individual, includes strategies for solving conflict or disagreement within the process, offers choices to the individual regarding the services and supports they receive and from whom, includes a method for the individual to require updates to the plan, and records alternative settings that were considered by the individual.

(84) Post-stabilization care service--A covered service, related to an emergency medical condition, that is provided after a Medicaid member is stabilized in order to maintain the stabilized condition, or, under the circumstances described in 42 CFR [~~C.F.R.~~] §438.114(b) and (e) and 42 CFR [~~C.F.R.~~] §422.113(c)(iii) to improve or resolve the Medicaid member's condition.

(85) Primary care provider (PCP)--A physician or other provider who has agreed with the health care MCO to provide a medical home to members and who is responsible for providing initial and primary care to patients, maintaining the continuity of patient care, and initiating referral for care.

(86) Provider--A credentialed and licensed individual, facility, agency, institution, organization, or other entity, and its employees and subcontractors, that has a contract with the MCO for the delivery of covered services to the MCO's members.

(87) Provider education program--Program of education presented by the MCO to the MCO's providers about the Medicaid managed care program and [~~about~~] specific health or dental care issues. This program is presented [~~by the MCO to its providers~~] through written materials and training events.

(88) Provider network or Network--All providers that have contracted with the MCO for the applicable managed care program.

(89) Quality improvement--A system to continuously examine, monitor, and revise processes and systems that support and improve administrative and clinical functions.

(90) Rural Health Clinic (RHC)--An entity that meets all of the requirements for designation as a rural health clinic under §1861(aa)(1) of the Social Security Act (42 U.S.C. §1395x(aa)(1)) and is approved for participation in the Texas Medicaid program.

(91) Service area--The counties included in any HHSC-defined service area as applicable to each MCO.

(92) Significant traditional provider (STP)--A provider identified by HHSC as having provided a significant level of care to the target population, including a DSH.

(93) STAR--The State of Texas Access Reform (STAR) managed care program that operates under a federal waiver and primarily provides, arranges for, and coordinates preventive, primary, acute care, and pharmacy services for low-income families, children, and pregnant women.

(94) STAR Health--The managed care program that operates under the Medicaid state plan and primarily serves:

(A) children and youth in DFPS conservatorship;

(B) young adults who voluntarily agree to continue in a foster care placement (if the state as conservator elects to place the child in managed care); and

(C) young adults who are eligible for Medicaid as a result of their former foster care status through the month of their 21st birthday.

(95) STAR Kids--The program that operates under a federal waiver and primarily provides, arranges, and coordinates preventive, primary, acute care, and long-term services and supports to persons with disabilities under the age of 21 who qualify for Medicaid.

(96) STAR+PLUS--The managed care program that operates under a federal waiver and primarily provides, arranges, and coordinates preventive, primary, acute care, and long-term services and supports to persons with disabilities and [elderly] persons age 65 and over who qualify for Medicaid based on the person's [by virtue of their] SSI or MAO status.

(97) STAR+PLUS Home and Community-Based Services Program--The program that provides person-centered care services that are delivered in the home or in a community setting, as authorized through a federal waiver under §1115 of the Social Security Act, to qualified Medicaid-eligible clients who are age 21 or older, as cost-effective alternatives to institutional care in nursing facilities.

(98) State plan--The agreement between the CMS and HHSC regarding the operation of the Texas Medicaid program, in accordance with the requirements of Title XIX of the Social Security Act.

(99) Supplemental Security Income (SSI)--The federal cash assistance program of direct financial payments to people who are 65 years of age or older, are blind, or have a disability administered by the Social Security Administration (SSA) under Title XVI of the Social Security Act. All persons who are certified as eligible for SSI in Texas are eligible for Medicaid. Local SSA claims representatives make SSI eligibility determinations. The transactions are forwarded to the SSA in Baltimore, which then notifies the states through the State Data Exchange (SDX).

(100) Texas Health Steps (THSteps)--The name adopted by the State of Texas for the federally mandated Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services, described at 42 U.S.C. §1396d(r), [and] 42 CFR §440.40, and 42 CFR Part 441 Subpart B [§§441.40 - 441.62].

(101) Value-added service--A service provided by an MCO that is not "medical assistance," as defined by Texas Human Resources Code §32.003 [of the Texas Human Resources Code].

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 August 3, 2026.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-2910



SUBCHAPTER G. STAR+PLUS

1 TAC §353.608

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; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The repeal affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.608. *Minimum Payment Amounts to Qualified Nursing 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 August 3, 2026.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 438-2910



SUBCHAPTER R. TELECOMMUNICATIONS IN MANAGED CARE SERVICE COORDINATION AND ASSESSMENTS

1 TAC §353.1502, §353.1053

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 system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.1502. *Definitions.*

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

(1) Assessments--Managed care organization (MCO) evaluation of a member's medical and functional service needs, including [community-based] long-term services and supports, behavioral health services, therapies (e.g., physical, occupational, speech), and nursing services. This includes the MCO's completion of program-specific instruments and forms.

(2) Audio-only--Synchronous interactive, two-way audio communication that uses only sound and that meets the privacy requirements of the Health Insurance Portability and Accountability Act. Audio-only includes the use of telephonic communication. Audio-only does not include face-to-face communication.

(3) Audio-visual--Synchronous interactive, two-way audio and video communication that conforms to privacy requirements under the Health Insurance Portability and Accountability Act. Audio-visual does not include audio-only or in-person communication.

(4) CFR [C.F.R.]--Code of Federal Regulations.

(5) Change in condition--A significant change in a member's health, caregiver support, or functional status that will not normally resolve itself without further intervention and requires review of and revision to the member's current service plan or individual service plan.

{(6) Community-based long-term services and supports (LTSS)--Services provided to a qualified member in the member's

home or another community-based setting necessary to allow the member to remain in the most integrated setting possible. Community-based LTSS includes Medicaid state plan services available to all members, as well as services available to members who qualify for the Home and Community Based Services (HCBS) Program or Medicaid 1915(c) waiver programs, including the STAR+PLUS Home and Community-Based Services (HCBS) Program and the Medically Dependent Children Program. Community-based LTSS is available to both HCBS -eligible and non-HCBS eligible members. Community-based LTSS in Medicaid managed care varies by program model.]

(6) [(7)] Community First Choice (CFC)--A Medicaid state plan benefit described in 1 TAC Chapter 354, Subchapter A, Division 27 (relating to Community First Choice).

(7) [(8)] Covered services--Unless a service or item is specifically excluded under the terms of the state plan, a federal waiver, a managed care services contract, or an amendment to any of these, the phrase "covered services" means all health care, long term services and supports, nonemergency medical transportation services, or dental services or items that the MCO must arrange to provide and pay for on a member's behalf under the terms of the contract executed between the MCO and the Texas Health and Human Services Commission, including:

(A) all services or items considered [comprising] "medical assistance" as defined in Human Resources Code §32.003; and

(B) all value-added services under such contract.

(8) [(9)] Declared state of disaster--A State of Disaster declared by the governor in accordance with Texas Government Code §418.014.

(9) [(10)] Face-to-face--In-person or audio-visual communication that meets the requirements of the Health Insurance Portability and Accountability Act. Face-to-face does not include audio-only communication.

(10) [(11)] Functionally necessary covered services--LTSS [Community-based long-term services and supports] provided to assist members with activities of daily living based on a functional assessment of the member's activities of daily living and a determination of the amount of supplemental supports necessary for the member to remain independent or in the most integrated setting.

(11) [(12)] Healthcare service plan--An individualized plan developed with and for a member with special healthcare needs in the STAR Health program. The healthcare service plan includes the following:

(A) the member's history;

(B) a summary of current medical and social needs and concerns;

(C) short and long-term needs and goals; and

(D) a treatment plan to address the member's physical, psychological, and emotional healthcare problems and needs, including:

(i) a list of required services;

(ii) the frequency of each service;

(iii) a description of who will provide each service;

and

(iv) for a member in the Early Childhood Intervention program, the individual family service plan.

(12) [(13)] HHSC--The Texas Health and Human Services Commission or its designee.

(13) [(14)] HIPAA--Health Insurance Portability and Accountability Act. Collectively, the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§1320d et seq., and regulations adopted under that act, as modified by the Health Information Technology for Economic and Clinical Health Act (HITECH) (P.L. 111-105), and regulations adopted under that act at 45 CFR Parts 160 and 164.

(14) [(15)] Individual service plan (ISP)--An individualized and person-centered plan in which a member enrolled in the STAR Kids, STAR Health, or STAR+PLUS HCBS program operated by an MCO, with assistance as needed, identifies and documents the member's preferences, strengths, and health and wellness needs in order to develop short term objectives and action steps to ensure personal outcomes are achieved within the most integrated setting by using identified supports and services. The ISP is supported by the results of a member's program-specific assessment and must meet the requirements of 42 CFR [C.F.R.] §441.301.

(15) [(16)] Information technology--Includes text, email, fax, secure transmission of clinical information, and HIPAA-compliant telecommunication tools such as health plan websites where a member or the member's legally authorized representative can access the member's healthcare information, including service plans.

(16) [(17)] In-person (or in person)--Within the physical presence of another person. In-person or in person does not include audio-visual or audio-only communication.

(17) [(18)] Legally authorized representative (LAR)--A person authorized by law to act on behalf of an individual with regard to a matter described in this subchapter, and may, depending on the circumstances, include a parent, guardian, or managing conservator of a minor, or the guardian of an adult, or a representative designated pursuant to 42 CFR [C.F.R.] §435.923.

(18) [(19)] Managed care organization (MCO)--An entity licensed and approved by the Texas Department of Insurance with which HHSC contracts to provide Medicaid services and that complies with Chapter 353 of this title (relating to Medicaid Managed Care).

(19) [(20)] Medical consent--The person who may consent to medical care for a member under Texas Family Code Chapter 266.

(20) [(21)] Medically Dependent Children Program (MDCP)--A Medicaid §1915(c) [1915(e)] waiver program that provides community-based services to assist Medicaid members [beneficiaries] under age 21 to live in the community and avoid living in a care facility [institutionalization].

(21) [(22)] Medically necessary--Has the meaning as defined in §353.2 of this chapter (relating to Definitions).

(22) [(23)] Medical Necessity Level of Care (MN/LOC)--An assessment instrument used to determine medical necessity for a nursing facility as defined by 26 TAC §554.2601. An MN/LOC is required for STAR+PLUS HCBS Program and CFC eligibility.

(23) [(24)] Member--A person who is eligible for benefits under Medicaid, is in a Medicaid eligibility category included in the Medicaid managed care program, and is enrolled in a Medicaid MCO.

(24) [(25)] Minimum data set (MDS)--Has the meaning as defined in 26 TAC §554.101 (relating to Definitions).

(25) [(26)] Nursing facility--An entity that provides organized and structured nursing care and services, and is subject to licensure under Texas Health and Safety Code, Chapter 242.

(26) [(27)] Nursing facility level of care--The determination that the level of care required to adequately serve a member is at or above the level of care provided by a nursing facility.

(27) PDPM LTC--Patient Driven Payment Model for Long-Term Care. A classification system consisting of multiple categories, based on the minimum data set core elements in a resident assessment instrument, that is used to determine a recipient's service and care requirements for a nursing facility.

(28) Person-centered care--An approach to care that focuses on members as individuals and supports caregivers working most closely with members. It involves a continual process of listening, testing new approaches, and changing routines and organizational approaches in an effort to individualize and de-institutionalize the care environment.

(29) Resident Assessment Instrument (RAI)--Has the meaning as defined in 26 TAC §554.101.

[(30) Resource Utilization Group (RUG)--A categorization method, consisting of multiple categories based on the minimum data set core elements in a resident assessment instrument, that is used to determine a recipient's service and care requirements for a nursing facility. A RUG determination is necessary for MDCP and the STAR+PLUS HCBS Program eligibility because these programs require a nursing facility level of care.]

(30) [(31)] Service coordination--A specialized care management service that is performed or arranged by the MCO to identify needs, including physical health, mental health services and long term support services, facilitate development of a service plan or individualized service plan to address those identified needs, and coordination of services among the member's primary care provider, specialty providers, and non-medical providers to ensure timely access to covered services, non-capitated services, and community services.

(31) [(32)] Service coordinator--The person with primary responsibility for providing service coordination to Medicaid managed care members.

(32) [(33)] Service plan (SP)--An individualized and person-centered plan in which a member, with assistance as needed, identifies and documents the member's preferences, strengths, and needs in order to develop short-term objectives and action steps to ensure personal outcomes are achieved within the most integrated setting by using identified supports and services. The service plan is supported by the results of the member's program-specific assessment. In STAR+PLUS, a service plan applies to members who are not enrolled in the STAR+PLUS HCBS Program.

(33) [(34)] STAR+PLUS Home and Community-Based Services (HCBS) Program--The program that provides person-centered care services that are delivered in the home or in a community setting, as authorized through a federal waiver under §1115 of the Social Security Act, to qualified Medicaid-eligible clients who are age 21 or older, as cost-effective alternatives to institutional care in nursing facilities.

(34) [(35)] Telecommunications--An exchange of information by electronic and electrical means.

(35) [(36)] Telephonic--Audio-only communication using a telephone. Telephonic communication does not include audio-visual communication.

(36) [(37)] Verbal consent--The spoken agreement of a member, a member's legally authorized representative, or a member's medical consentor.

§353.1503. *Use of Telecommunications in Assessments.*

(a) STAR+PLUS.

(1) STAR+PLUS MCOs [managed care organizations (MCOs)] must conduct initial assessments and annual reassessments using HHSC-developed tools for STAR+PLUS HCBS Program eligibility in-person.

(2) STAR+PLUS MCOs must conduct all initial and annual assessments using HHSC-developed tools for functionally necessary covered services such as personal assistance services, Community First Choice services, and day activity and health services, in -person.

(3) Change in condition assessments that require or potentially require a change in the PDPM LTC [Resource Utilization Group (RUG)] level must be conducted in-person.

(4) STAR+PLUS MCOs may offer [to STAR+PLUS] members a choice of audio-visual communication in place of in-person change in condition assessments, if [as long as] the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When a STAR+PLUS [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR+PLUS MCO must meet the member in-person [use in-person communication].

(C) The STAR+PLUS MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(5) Except as described in paragraph (4) of this subsection, a [A] STAR+PLUS MCO may not conduct an initial assessment, annual reassessment, or change in condition assessment without the in-person presence of the member.

(6) During a declared state of disaster, HHSC may issue direction to STAR+PLUS MCOs regarding whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for STAR+PLUS members who reside in the area subject to the declared state of disaster.

(7) STAR+PLUS MCOs must adhere to §353.1153 of this chapter (relating to STAR+PLUS Home and Community Based Services (HCBS) Program) for STAR+PLUS assessments and service planning, and §353.1(c) of this chapter (relating to Purpose) regarding compliance with all terms of the contract with HHSC.

(8) For limited circumstances, STAR+PLUS MCOs may submit, in a manner and format prescribed by HHSC, an exceptions policy for required in-person assessments for approval by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

(b) STAR Kids.

(1) [The] STAR Kids MCOs [MCO] must administer the initial assessment and annual reassessments using the HHSC-developed STAR Kids assessment tool in-person.

(2) Change in condition assessments that require or potentially require a change in the PDPM LTC [RUG] level must be conducted in-person.

(3) MCOs may offer STAR Kids members a choice of audio-visual communication in place of in-person change in condition assessments, as long as the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When a STAR Kids [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR Kids MCO must meet the member in-person [use in-person communication].

(C) The STAR Kids MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(4) [A] STAR Kids MCOs [MCO] may not conduct an assessment without the in-person presence of the member.

(5) During a declared state of disaster, HHSC may issue direction to STAR Kids MCOs regarding whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for STAR Kids members who reside in the area subject to the declared state of disaster.

(6) STAR Kids MCOs must adhere to §353.1155 of this chapter (relating to Medically Dependent Children Program) for assessments and service planning, and §353.1(c) of this chapter regarding compliance with all terms of the contract with HHSC.

(7) For limited circumstances, STAR Kids MCOs may submit, in a manner and format prescribed by HHSC, an exceptions policy for required in-person assessments for approval by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

(c) STAR Health.

(1) The STAR Health MCO must administer the HHSC-developed assessment tool for initial Medically Dependent Children Program (MDCP) eligibility and annual reassessments in -person.

(2) The STAR Health MCO must conduct all initial and annual reassessments using HHSC-developed tools for functionally necessary covered services such as personal assistance services, personal care services, and Community First Choice services, in -person.

(3) Change in condition assessments that require or potentially require a change in the PDPM LTC [RUG] level must be conducted in-person.

(4) The STAR Health MCO [MCOs] may offer [STAR Health] members a choice of audio-visual communication in place of in-person change in condition assessments, if [as long as] the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When the STAR Health [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR Health MCO must meet the member in-person [use in-person communication].

(C) The STAR Health MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(5) A STAR Health MCO may not conduct an assessment without the in-person presence of the member.

(6) During a declared state of disaster, HHSC may give [issue] direction to the STAR Health MCO on [MCOs regarding] whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for [STAR Health] members who live [reside] in the area subject to the declared state of disaster.

(7) The [A] STAR Health MCO must adhere to §353.1155 of this chapter for MDCP assessments and service planning, and §353.1(c) of this chapter regarding compliance with all terms of the contract with HHSC.

(8) For limited circumstances, the [a] STAR Health MCO may submit, in a manner and format provided or described [prescribed] by HHSC, an exceptions policy for required in-person assessments. This policy must be approved [for approval] by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

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 August 3, 2026.

TRD-202603263

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-2910



TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER S. WHOLESALE MARKETS

16 TAC §25.521

The Public Utility Commission of Texas (commission) proposes new §25.521 relating to Large Load Demand Management Service. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.170 as enacted by Senate Bill 6 during the Texas 89th Regular Legislative Session. The proposed rule will require ERCOT to ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocol to allow the transmission-voltage customers to be curtailed during firm load shed; require ERCOT to develop a reliability service to competitively procure demand reductions from large load customers; and establish a framework for the program.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Jessie Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the section. A municipally owned utility that is a load serving entity will be charged by ERCOT for the large load demand management service (LLDMS) based upon the load serving entity's load ratio share during the relevant LLDMS obligation period.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased reliability. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by September 4, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Comments must be filed by September 4, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, and analysis. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 58482.

In addition to general comments on the text of the proposed rule, the commission invites interested persons to address the following specific questions:

Proposed subsection (f)(1)(C) authorizes payment to a qualified scheduling entity representing a large load customer that is not instructed by ERCOT to deploy but is subject to availability verification during the Large Load Demand Management Service (LLDMS) obligation period. Should a large load customer that is available but not ultimately instructed to deploy during the LLDMS obligation period be compensated some percentage of the market clearing price for the large load customer's availability to reduce demand during the LLDMS obligation period? If so,

what is an appropriate payment to the large load customer for their availability during the LLDMS obligation period?

Proposed subsection (f)(4) imposes a maximum budget of \$54 million in a calendar year. What is an appropriate budget for the LLDMS program?

What cadence should ERCOT use to assess an extreme weather condition and how far in advance should ERCOT start the auction to procure LLDMS?

Should ERCOT be allowed to deploy LLDMS for transmission emergencies? If so, what limitations, if any, should the Commission impose on this authority?

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The rule is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by that title that is necessary and convenient to the exercise of that power and jurisdiction. §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which specifies that ERCOT is directly responsible and accountable to the commission; and §39.170, which requires the commission to require ERCOT to ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocols, including installation of any necessary equipment or technology before the customer is interconnected, to allow the load to be curtailed during firm load shed, and requires the commission to require ERCOT to develop a reliability service to competitively procure demand reductions from large load customers to be deployed in the event of an anticipated emergency condition.

Cross Reference to Statute: Public Utility Regulatory Act §14.001; §14.002; §39.151; and §39.170.

§25.521. Large Load Demand Management Service (LLDMS).

(a) Directive to ERCOT.

(1) ERCOT must ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocol, including the installation of any necessary equipment or technology before the customer is interconnected, to allow the load to be curtailed during firm load shed. This subsection applies to a load interconnected after December 31, 2025, that is not:

(A) load operated by a critical load industrial customer, as defined by Public Utility Regulatory Act (PURA) §17.002; or

(B) designated as a critical natural gas facility under PURA §38.074.

(2) ERCOT must develop a Large Load Demand Management Service (LLDMS) to competitively procure demand reductions from large load customers consistent with this section.

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

(1) Extreme weather condition--A weather condition that creates a significant risk for an energy emergency alert (EEA) event.

(2) Large load customer--An entity with a total non-coincident peak demand at a single site that is equal to or greater than 75 megawatts (MW).

(3) LLDMS obligation period--The period identified in a LLDMS agreement through which a procured large load customer is obligated to provide LLDMS.

(4) Transmission emergency--A condition in which an element on the transmission system is operating above its emergency rating such that it creates a significant risk of firm load shed.

(c) Participation. Participation in LLDMS is limited to large load customers that pre-qualify for participation at least annually.

(1) Pre-qualification. ERCOT must establish criteria for a large load customer to pre-qualify for participation in LLDMS. The criteria for pre-qualification must include the following minimum requirements:

(A) the large load customer must offer at least 1 MW of demand reduction; and

(B) the large load customer must pass a price responsive test in compliance with ERCOT protocols.

(2) Ineligibility. A large load customer participating in the following services or program in the ERCOT market is not eligible to participate in LLDMS:

(A) a different reliability service;

(B) an ancillary service;

(C) a program administered by ERCOT that compensates for curtailment;

(D) a demand response program in which the large load customer curtails in response to the wholesale price of electricity;

(E) an ERCOT-procured contract for capacity;

(F) a net metering arrangement that imposes a curtailment obligation on the large load customer under PURA §39.169;

(G) firming service under PURA §39.1592 and §25.65 of this title (relating to Firming Program Requirements for Electric Generation Facilities in the ERCOT Region);

(H) a demand response product, program, or service administered by a transmission and distribution service provider; or

(I) the Voluntary Early Curtailment Load program, as defined in ERCOT protocols, or its successor program.

(d) Procurement. ERCOT may procure LLDMS from a large load customer on an as needed basis to help prevent an anticipated EEA event due to an extreme weather condition or alleviate an actual EEA event due to an extreme weather condition.

(1) Request for proposal. ERCOT may issue a request for proposal to large load customers that are pre-qualified to participate in LLDMS:

(A) based on monthly probabilistic modeling that identifies an elevated risk for an EEA event in the modeled month;

(B) based on weekly weather forecasting that identifies an elevated risk for an EEA event during the forecasted week;

(C) in advance of an anticipated EEA Level 1 event due to an extreme weather condition; or

(D) during an EEA event due to an extreme weather condition.

(2) Quantity. The total quantity of MW that ERCOT procures for an LLDMS obligation period must be based on a risk assessment informed by probabilistic modeling.

(3) Submitted offer.

(A) Submission. A qualified scheduling entity (QSE) must submit an offer to ERCOT on behalf of a large load customer that is pre-qualified to participate in LLDMS. The offer must be expressed in dollars per megawatt hour units.

(B) Rejection. ERCOT must reject an offer that is:

(i) unreasonable;

(ii) an outlier when evaluating the parameters of an acceptable offer;

(iii) submitted on behalf of a large load customer that failed to comply with ERCOT instructions to deploy during the previous LLDMS obligation period;

(iv) inconsistent with any other requirement established in ERCOT protocols; or

(v) greater than \$5,000 per megawatt hour.

(e) Deployment.

(1) Prior to deployment, ERCOT must provide at least 24-hour notice to a QSE that a large load customer represented by the QSE may be deployed to reduce its load during the LLDMS obligation period.

(2) ERCOT may deploy a large load customer as necessary to help maintain reliability during an EEA event due to an extreme weather condition throughout the LLDMS obligation period.

(3) When deployed by ERCOT, a large load customer must deploy consistent with its obligations and must remain deployed:

(A) for the duration of the EEA event; or

(B) until the large load customer can be recalled safely, as determined and communicated by ERCOT.

(f) Payment and charges.

(1) ERCOT must pay a QSE that represents a large load customer participating in LLDMS as follows:

(A) all payments must be based on a single clearing price;

(B) awards must be settled monthly after availability data is confirmed;

(C) A QSE representing a large load customer that is not instructed by ERCOT to deploy but is subject to availability verification during the LLDMS obligation period may receive a payment based on 25% of the market clearing price; and

(D) A QSE representing a large load customer that deploys consistent with ERCOT instructions during the LLDMS obligation period may receive payment based on 100% of the market clearing price associated with the deployed capacity.

(2) ERCOT must include load reduction under this section when calculating price adjustments for reliability deployments.

(3) ERCOT must charge each load serving entity for LLDMS deployment costs based upon the LSE's load ratio share during the procurement period.

(4) ERCOT may spend a maximum of \$54 million in procurement costs during a calendar year.

(g) Compliance.

(1) ERCOT must establish criteria to reduce a QSE's payment, claw back a QSE's payment, suspend a QSE from participation in LLDMS, or any combination thereof, based on the QSE's failure to meet its LLDMS obligation under this section or a related ERCOT protocol.

(2) ERCOT must establish criteria to suspend a large load customer based on noncompliance with this section or a related ERCOT protocol. ERCOT must also establish criteria for subsequent reinstatement.

(3) ERCOT must notify the commission of all alleged instances of noncompliance with this section or a related ERCOT protocol.

(4) ERCOT must maintain records relating to any alleged noncompliance with this section or a related ERCOT protocol.

(h) After action reporting requirement. Not later than 60 days after an event in which ERCOT procures LLDMS, ERCOT must file a report with the commission detailing:

(1) the number of large load customers that submitted offers;

(2) the number of megawatts procured;

(3) the highest offer;

(4) the lowest offer;

(5) the cleared price;

(6) the duration of deployment, as applicable;

(7) performance during deployment, as applicable; and

(8) any recommendation to revise LLDMS.

(i) Implementation. ERCOT must develop, in consultation with commission staff, additional procedures, including registration requirements for the large load customers participating in LLDMS, guides, technical requirements, protocols, or other standards that are consistent with this section and that ERCOT finds necessary to develop LLDMS.

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 July 30, 2026.

TRD-202603227

Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 936-7044

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §22.165, §22.166

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I, §22.165 and §22.166, concerning Texas Armed Services Scholarship Program. Specifically, these amendments will provide additional information regarding the process of award calculation and establish a deadline by which all scholarship appointments may be made for a given year.

The Coordinating Board is authorized by Texas Education Code, §61.9771, to adopt rules relating to the Program.

Rule 22.165, Scholarship Amount, is amended to clarify subsection (a)(2), codifying the Coordinating Board's existing practice of using resident undergraduate cost of attendance in determining the maximum scholarship amount under that section. Amendments are also made to clarify that officer training program costs should be used in calculating the cost of attendance.

Rule 22.166, Appointment by Elected Officials, is amended to establish a deadline of November 30, 2026, and October 31 of subsequent years by which the lieutenant governor or speaker of the house may submit additional scholarship appointments on behalf of members of their respective chambers who did not submit appointments by the September 30 deadline established in statute. This deadline is established to ensure appointments are received by the Coordinating Board in time for scholarship funds to be disbursed to eligible students at the beginning of the spring semester and to allow sufficient time for technological systems used to administer the program to be updated for the following nomination cycle. Consistent with Texas Education Code, §61.9772(b-1), the amendment also clarifies that the lieutenant governor and speaker of the house may designate a member of their respective chambers to complete this function. The rule is further amended to provide an eligible student who was nominated as an additional appointment by the lieutenant governor or speaker of the house to fill a vacancy five business days to indicate a desire to pursue the scholarship and enter into a promissory note. If the recipient does not elect to pursue the scholarship, the lieutenant governor and speaker of the house of representative may fill the vacancy.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, 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 Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated

as a result of administering the sections will be the improved program administration. 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 Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

These amendments are proposed under Texas Education Code, Section 61.9771, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I.

§22.165. *Scholarship Amount.*

(a) The Coordinating Board shall determine and announce the amount of a scholarship not later than the final day of January prior to the start of each fiscal year. The amount shall not exceed the greater of:

- (1) \$30,000; or
- (2) an amount equal to the average resident undergraduate cost of attendance at public institutions of higher education in this state at which one or more scholarship recipients were enrolled in the prior year.

(b) Notwithstanding subsection (a) of this section, a student may not receive a scholarship under this subchapter in an amount that exceeds the student's cost of attendance. In determining the student's cost of attendance, institutions should consider all additional education-related expenses incurred through participation in officer training programs.

(c) Notwithstanding subsection (a) of this section, if the Coordinating Board determines that insufficient appropriations are available to offer scholarships to all eligible students at the amount described by subsection (a) of this section in a given fiscal year, then the Coordinating Board may instead calculate and publish a maximum scholarship amount that ensures all eligible students receive an equitable portion of available funds.

§22.166. *Appointment by Elected Officials.*

(a) Each year the governor and the lieutenant governor shall each appoint two students and two alternates, and each state senator and

each state representative shall appoint one student and one alternate to receive an initial scholarship.

(b) State senators or state representatives shall make appointments under subsection (a) of this section no later than September 30 of each year.

(c) If the Coordinating Board has not received an appointment required from a state senator or state representative by the deadline in subsection (b) of this section [all such appointments by the September 30 deadline], the Coordinating Board will notify the lieutenant governor and the speaker of the house of representatives and request additional appointments. The lieutenant governor and speaker of the house of representatives, or their designee(s), shall make additional appointments no later than November 30, 2026, or October 31 of each subsequent year.

(d) If a student appointed to receive a scholarship is determined to be ineligible to receive an initial scholarship, the Coordinating Board must notify the alternate on file of his or her nomination.

(e) An appointed student selected to fill a vacancy under subsection (c) of this section shall, not later than the fifth business day after the Coordinating Board sends the student notice of the appointment, provide written or electronic notice that the student intends to pursue the scholarship. The Coordinating Board shall inform the student of the response deadline and the consequences of failing to respond in the notice. If the student timely declines the scholarship, fails to provide timely notice, or is determined ineligible, the Coordinating Board shall notify the lieutenant governor or speaker of the house of representatives, as appropriate, or the member designated under subsection (c) of this section, that the vacancy remains unfilled. The appropriate presiding officer or designated member shall promptly make another appointment.

(f) [(e)] If a recipient's scholarship converts to a loan prior to graduation, beginning with the academic year following the determination, the appointing official may appoint another eligible student to receive any available funds designated for the recipient who no longer meets the requirements for the scholarship.

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 July 31, 2026.

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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: September 13, 2026

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



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 161. COMMISSIONER'S RULES CONCERNING ADVISORY COMMITTEES

The Texas Education Agency (TEA) proposes the repeal of §161.1001 and §161.1003, new §161.1001 and §161.1003, and an amendment to §161.1002, concerning advisory committees. The proposed revisions would update the rules addressing the establishment of discretionary and mandatory advisory committees, TEA operating procedures for the committees, and the list of existing committees.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 161.1001 recognizes the commissioner of education's authority to appoint advisory committees. Section 161.1002 defines the relevant information to be included within agency operating procedures about each advisory committee, and §161.1003 lists advisory committees that have been appointed.

Section 161.1001 would be repealed and proposed new §161.1001 would provide clarifying language and specify that each advisory committee is subject to Texas Government Code, Chapter 551.

The proposed amendment to §161.1002 would streamline the information required in TEA operating procedures and improve clarity for those seeking further information about appointed advisory committees.

Section 161.1003 would be repealed and proposed new §161.1003 would update the list of appointed advisory committees and provide further information about those committees relevant to the provisions of Texas Government Code, Chapter 2110.

FISCAL IMPACT: Tracy Young, commissioner's chief of staff and chief communications officer, 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 existing regulations and create new regulations, and it would limit an existing regulation by removing information from the operating procedures concerning advisory committees.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand 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. Young 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 provide clarification on the commissioner's establishment of advisory committees and TEA operating procedures and identify committees that have been established. 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 August 14, 2026, and ends September 14, 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 August 14, 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/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

19 TAC §161.1001, §161.1003

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.055(b)(11), which permits the commissioner to appoint advisory committees, in accordance with Texas Government Code, Chapter 2110, as necessary to advise the commissioner in carrying out the duties and mission of the agency; and Texas Government Code, Chapter 2110, which provides direction for the establishment of advisory committees by state agencies.

CROSS REFERENCE TO STATUTE. The repeals implement TEC, §7.055(b)(11), and Texas Government Code, Chapter 2110.

§161.1001. Establishment of Advisory Committees.

§161.1003. Advisory Committees.

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 August 3, 2026.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: September 13, 2026

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



19 TAC §§161.1001 - 161.1003

STATUTORY AUTHORITY. The new rule and amendment are proposed under TEC, §7.055(b)(11), which permits the commissioner to appoint advisory committees, in accordance with

Texas Government Code, Chapter 2110, as necessary to advise the commissioner in carrying out the duties and mission of the agency and Texas Government Code, Chapter 2110, provides direction for the establishment of advisory committees by state agencies.

CROSS REFERENCE TO STATUTE. The new rule and amendment implement Texas Education Code (TEC), §7.055(b)(11), and Texas Government Code, Chapter 2110.

§161.1001. Establishment of Advisory Committees.

The commissioner of education may appoint advisory committees as necessary to advise the commissioner in carrying out the duties and mission of the Texas Education Agency.

§161.1002. Texas Education Agency Operating Procedures.

[The commissioner of education shall adopt and implement Texas Education Agency (TEA) operating procedures governing establishment and operation of public education advisory committees.] For each committee listed in §161.1003 of this title (relating to Advisory Committees), the commissioner of education shall include the following information as an attachment to the Texas Education Agency (TEA) operating procedure relating to Advisory Committees [procedures] :

(1) name of the committee;

(2) purpose of the committee; and

~~[(3) statutory authority under which the committee is established;]~~

~~[(4) number of members; and]~~

(3) ~~[(5)]~~ staff contact at TEA.

§161.1003. Advisory Committees.

The commissioner of education has appointed the following advisory committees.

(1) Discretionary committee. Commissioner's Advisory Council on the Education of Gifted/Talented Students.

(A) Purpose and tasks.

(i) Purpose. The purpose of the committee is to advise the commissioner on policy and practice related to gifted/talented education and advanced academics.

(ii) Tasks. The committee shall meet quarterly, provide minutes of meetings to supporting Texas Education Agency (TEA) staff, and generate an annual report on its activity.

(B) Manner of reporting. The committee shall provide meeting minutes to supporting TEA staff within two weeks of the completion of each meeting and shall provide a report on its activity to supporting TEA staff annually.

(C) Duration. This committee will continue in existence until abolished affirmatively by the commissioner.

(2) Mandatory committees.

(A) Adult High School Charter School Program Advisory Committee.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to make recommendations to the commissioner regarding the secondary exit-level assessment tool adopted or developed under Texas Education Code (TEC), §12.260, and the satisfactory performance level for that tool and the accountability frameworks adopted under TEC, §12.262, including the performance domains and measures in each framework.

(II) Tasks. The committee shall complete tasks as outlined in TEC, §§12.251-12.265.

(ii) Manner of reporting. This committee will report to TEA as outlined in TEC, §§12.251-12.265.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(B) Continuing Advisory Committee for Special Education.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to advise TEA of unmet needs within the state in the education of children with disabilities; comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities; advise TEA in developing evaluations and reporting on data to the secretary of education under the Individuals with Disabilities Education Act (IDEA), §1418; advise TEA in developing corrective action plans to address findings identified in federal monitoring reports under IDEA, Part B; and advise TEA in developing and implementing policies relating to the coordination of services for children with disabilities.

(II) Tasks. The committee shall complete tasks as described in subclause (I) of this clause.

(ii) Manner of reporting. The committee shall report to the legislature every two years with recommended changes to state law and TEA rules relating to special education as provided by TEC, §29.006.

(iii) Duration. This committee will continue in existence until no longer required by state or federal law.

(C) Open Education Resource Advisory Board.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to ensure that open education resource instructional materials made available under TEC, §§31.0701-31.076, are of the highest quality; aligned with the essential knowledge and skills adopted by the State Board of Education under TEC, §28.002, for the applicable subject and grade level; suitable for the age of students at the grade level for which the materials are developed; free from bias and factual error; and in compliance with TEC, §28.0022.

(II) Tasks. The committee shall complete tasks as needed to support the purpose described in subclause (I) of this clause.

(ii) Manner of reporting. The committee will report to TEA staff as needed to support the purpose described in clause (i)(I) of this subparagraph.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(D) Expanded Learning Opportunities Council.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to study issues concerning expanded learning opportunities for Texas' public school students and report related recommendations to the Texas Legislature on a biennial basis.

(II) Tasks. The committee shall complete tasks as provided in TEC, §§33.256-33.258.

(ii) Manner of reporting. The committee shall report to TEA as provided in TEC, §33.259.

(iii) Duration. Unless continued in existence as provided by Texas Government Code, Chapter 325 (the Texas Sunset Act), the council is abolished on September 1, 2029.

(E) State Advisory Council on Educational Opportunity for Military Children.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to provide for coordination between state agencies, school districts, and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children.

(II) Tasks. The committee shall conduct meetings at least quarterly; provide meeting dates, agendas, minutes, end-of-year reports, and other documentation as required to the Military Interstate Children's Compact Commission; and establish policies and procedures governing the committee's operations.

(ii) Manner of reporting. There are no reporting requirements for this committee in the authorizing statute, TEC, Chapter 162.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(F) State Parent Advisory Council for Migrant Education.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to advise TEA in planning, implementing, and evaluating the state program designed to meet the educational needs of migratory children.

(II) Tasks. The committee shall be invited to comment and make recommendations on the following:

(-a-) improving the Texas Migrant State Plan submitted to the United States Department of Education;

(-b-) improving programs and services offered to migrant children;

(-c-) improving evaluation of the migrant programs;

(-d-) increasing the quantity and quality of parent involvement; and

(-e-) considering other items which may be appropriate to the role of the State Parent Advisory Council for Migrant Education.

(ii) Manner of reporting. TEA staff will review and incorporate feedback and recommendations provided by committee members.

(iii) Duration. This committee will continue in existence until no longer required by federal law.

(G) Title I, Committee of Practitioners/Texas Ed-Flex Committee.

(i) Purpose and tasks.

(I) Purpose. Review and provide comments and suggestions on any proposed state rule or regulation pursuant to Title I of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Conduct peer review of Individual Programmatic Ed-Flex waiver applications and makes rec-

ommendations for approval to the commissioner or his/her designee, thus functioning as the state's Ed-Flex committee.

(II) Tasks. The committee shall complete tasks as needed to support the purpose described in subclause (I) of this clause.

(ii) Manner of reporting. The committee shall provide comments and suggestions to TEA staff on any proposed state rule or regulation pursuant to the ESEA, Title I, as amended by the ESSA; make recommendations on Individual Programmatic Ed-Flex waiver applications; and provide supporting TEA staff with meeting minutes.

(iii) Duration. This committee will continue in existence until no longer required by federal law.

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

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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



PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 229. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAMS

(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 figures in 19 TAC §229.1 and 19 TAC §229.3 are not included in the print version of the Texas Register. The figures are available in the on-line version of the August 14, 2026, issue of the Texas Register.)

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§229.1 - 229.5, and 229.7, concerning the performance standards and procedures for educator preparation program (EPP) accountability. The proposed amendments would provide for adjustments to the Texas Accountability System for Educator Preparation (ASEP) Manual; would clarify and streamline language; would provide clarity on processes and timelines related to new certification tests, surveys, and observation requirements; would update sources of information for population identification; would increase ASEP communications, would provide time and supports for EPPs with a lowered ASEP status; and would include technical updates.

BACKGROUND INFORMATION AND JUSTIFICATION: EPPs are entrusted to prepare educators for success in the classroom. Texas Education Code (TEC), §21.0443, requires EPPs to adequately prepare candidates for certification. Similarly, TEC, §21.031, requires SBEC to ensure candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state. TEC, §21.045, also requires SBEC to establish standards to govern

the continuing accountability of all EPPs. SBEC rules in Chapter 229 establish the process used for issuing annual accreditation ratings for all EPPs to comply with these provisions of the TEC and to ensure the highest level of educator preparation, which is codified in the SBEC Mission Statement.

The following is a description of the proposed amendments to Chapter 229, Subchapters A, B, C, and E, including the ASEP Manual (Figure: 19 TAC §229.1(c)), and updated data collection requirements (Figure: 19 TAC §229.3(f)(1)).

Subchapter A, Accountability System for Educator Preparation Program Procedures

§229.1. General Provisions and Purpose of Accountability System for Educator Preparation Programs.

Updates to ASEP Manual

The proposed amendment to Figure: 19 TAC §229.1(c) would update the ASEP Manual as follows:

Updates to Chapter 1 would remove an outdated reference to Chapter 9 and correct the description of Chapter 8.

Updates to Chapter 3 would clarify how a redesigned test would be integrated into pass rates calculations as they begin. The worked examples would be updated to increase clarity about redesigned tests and how they are handled in the pass rates calculations each year.

Updates to Chapter 5 would clarify that EPPs have an opportunity to review their student growth roster and request the removal of individuals. This would align with current practices described in other chapters and provide clarity for EPPs regarding this process. This would also clarify the population included in relation to deactivated certificates.

Updates to Chapter 6 would clarify that, beginning in the 2025-2026 academic year, individuals completing internship, residency, or clinical teaching experiences will be identified using the clinical experience record end date. This would incorporate updated data and provide transparency to EPPs about which candidates will be evaluated each year. These updates would further establish observation frequency requirements as the standard for the 2025-2026 and 2026-2027 reporting years, generalize references to Chapter 228, Requirements for Educator Preparation Programs, Subchapter F, Support for Candidates During Required Clinical Experiences, to facilitate future rulemaking, and incorporate the term reporting year for clarity and consistency.

A technical edit would be made to §229.1(c) to remove reference to a provision repealed effective January 7, 2025.

§229.2. Definitions.

Proposed new §229.2(19) and (23) would add definitions for "governing body" and "legal authority," which are used in Chapter 229, to clarify the responsibilities of leadership roles in an EPP and provide examples of positions at an EPP that are considered leadership roles.

Proposed new §229.2(20) would align language related to the individual who supports a teacher resident with language in §228.2, defining the term as "host teacher."

Proposed new §229.2(22) would align language related to the mentor of a candidate completing an internship with language in §228.2, defining the term as "intern mentor teacher."

§229.3. Required Submissions of Information, Surveys, and Other Data.

The proposed amendment to §229.3(a) would align language with the proposed changes to §229.2(20) and (22).

Updates to Required Data Collections

The proposed amendment to Figure: 19 TAC §229.3(f)(1) would add "EPP contact information" to the list of required data to collect the names, email addresses, and phone numbers of the EPP's legal authority, chief operating officer, and governing body chair. It also requires that each individual be separate persons. This requirement would enable robust communication and is consistent with feedback from SBEC.

Technical edits to conform with style would be made throughout the subchapter.

Subchapter B, Accountability System for Educator Preparation Accreditation Statuses

§229.4. Determination of Accreditation Status.

The proposed amendment to §229.4(a) and (a)(4)(A)(i) would remove rules that are no longer applicable to streamline the rule text.

The proposed amendment to §229.4(a)(4)(A)(ii) would clarify the changes to minimum observation requirements in Chapter 228, Subchapter F, that will be effective September 1, 2026. This would provide clarity to the field about which observation requirements are actionable for each evaluation year.

The proposed amendments to §229.4(a)(2) and (5) would allow for the first reporting year that a redesigned survey is distributed in replacement of a prior survey to be a report-only year for the principal and teacher surveys. The principal and teacher surveys will be revised to remain aligned with the Texas Teacher Evaluation and Support System (T-TESS) teacher observation rubric, which is being updated to align with new educator standards. This update would provide for visibility on the outcomes of the new survey to SBEC and EPPs prior to the new survey being actionable for accountability and is responsive to stakeholder input.

The proposed amendment to §229.4(b)(3)(A) would update the assignment of accreditation statuses so that an ASEP Index score that is less than 80% in the first year would be Accredited-Warned status. This would result in EPPs receiving an Accredited-Warned status prior to receiving an Accredited-Probation status. This would provide additional time for EPP improvement and is consistent with feedback from SBEC.

The proposed amendment to §229.4(b)(4)(A) would update the Accredited-Probation status counting to begin in the first year after an Accredited-Warned status was approved when the ASEP Index is below 80%. This would provide additional time for EPP improvement and is consistent with feedback from SBEC.

Technical edits to conform with style would be made throughout the subchapter.

Subchapter C, Accreditation Sanctions

§229.5. Accreditation Sanctions and Procedures.

Proposed new §229.5(b) would require an EPP to complete a continuing EPP review if an EPP receives a status of Accredited-Warned or Accredited-Probation. This update would allow for EPPs to receive additional oversight and support through the

Continuing Approval Review system when they fall below the Accredited performance level.

Proposed §229.5(c)-(f) would be relettered to accommodate the addition of proposed new subsection (b).

Technical edits to conform with style would also be made throughout the subchapter.

Subchapter E, Review Procedures

§229.7. Informal Review of Texas Education Agency Recommendations.

The proposed amendment to §229.7(b)(4) would clarify that a required notice of an accreditation status recommendation or change be communicated to the chief operating officer, legal authority, and chair of the governing body. This change would ensure communication of these results and is consistent with feedback from SBEC.

The proposed amendment to §229.7(c) would add "legal authority" to the list of individuals in rule who can request an informal review. This would ensure alignment with several parties being able to request an informal review and is consistent with feedback from SBEC.

Technical edits to conform with style requirements would be made throughout the subchapter.

FISCAL IMPACT: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years enforcing or administering the rules, there will be additional costs for EPPs that are required to complete a discretionary continuing educator preparation program review. The proposed rules would require a Continuing Educator Preparation Program Approval Review in a circumstance where approved Accountability System for Educator Preparation status is "Accredited-Warned" or "Accredited-Probation" for the first consecutive year (or first time after previously receiving an Accredited status). The number was modeled off of the results in the 2024-2025 Accountability System for Educator Preparation approved statuses. In 2024-2025, nine programs scored below 80% on the ASEP Index, which is the score that would result in an Accredited-Warned or Accredited-Probation status in the future. Of those nine, five were Accredited in the previous reporting year in which they had an approved status. One of the five was already scheduled for their five-year Continuing Educator Preparation Program Approval Review. This program would have been assessed the fee of \$4,500 for a review regardless of their accreditation status. The other four programs would receive a discretionary review under the proposed rules at a cost of \$4,500. This would amount to \$18,000 in new revenues for the state government and \$18,000 in new costs for EPPs that are complying with the rule's enactment.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §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 TGC, §2006.002, is required.

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

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

GOVERNMENT GROWTH IMPACT: Texas Education Agency (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, proposed §229.3(f)(1) would create a new regulation for EPPs by requiring new data reporting collections of data related to legal authority, chief operating officer, and governing body chair. This helps ensure that multiple role holders at each EPP receive transparent communications regarding accreditation and governance status changes for their EPP.

Proposed §229.4(b)(3)(A) and §229.4(b)(4)(A) would create a new regulation for EPPs that results in the recommendation of accreditation statuses differently. It would require that an ASEP Index score that is below 80% in the first-year result in an Accredited-Warning status and an ASEP Index score that is below 80% in years two through four result in an Accredited-Probation status. This update creates more fluency in the accreditation status approval process and ensures that EPPs have adequate time to receive data and improve their program.

Proposed new §229.5(b) would create a new regulation for EPPs by requiring that they complete a Continuing Educator Preparation Program Approval if an EPP receives a status of Accredited-Warning or Accredited-Probation. This responds to stakeholder feedback to ensure that EPPs diagnose issues and are supported in remediating the issues.

PUBLIC BENEFIT AND COST TO PERSONS: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years the proposal is in effect, the public benefit anticipated would be aligning the rules with statute and reflecting current procedures. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have a data and reporting impact. New reporting requirements in proposed §229.3(f)(1) would include annual collection of data related to the names, addresses, and phone numbers of an EPP's legal authority, chief operating officer, and governing body chair. This collection is necessary under proposed §229.7(b)(4) and (c). EPPs are already required to create and retain this data locally, and allowing EPPs to report this data to TEA using the Educator Certification Online System would ensure that the appropriate personnel at an EPP receive notice of accreditation and governance findings and allow them to file an informal review on behalf of the EPP. This ensures that TEA is transparent with communications to personnel who make policy decisions for the EPP.

ENVIRONMENTAL IMPACT: The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

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

PUBLIC COMMENTS: The SBEC requests public comments on the proposal, including, per TGC, §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 August 14, 2026, and ends September 14, 2026. A form for submitting public comments is available on the TEA website at <https://tea.texas.gov/laws-and-rules/sbec-rules-tac/proposed-state-board-educator-certification-rules>. Comments on the proposal may also be submitted by calling (512) 475-1497. The SBEC will also take registered oral and written comments on the proposal during the September 2026 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

SUBCHAPTER A. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAM PROCEDURES

19 TAC §§229.1 - 229.3

STATUTORY AUTHORITY: The amendments are proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.1. General Provisions and Purpose of Accountability System for Educator Preparation Programs.

(a) The State Board for Educator Certification (SBEC) is responsible for establishing standards to govern the continuing accountability of all educator preparation programs (EPPs). The rules adopted by the SBEC in this chapter govern the accreditation of each EPP that prepares individuals for educator certification. No candidate shall be recommended for any Texas educator certification class or category except by an EPP that has been approved by the SBEC pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs) and is accredited as required by this chapter.

(b) The purpose of the accountability system for educator preparation is to assure that each EPP is held accountable for the readiness for certification of candidates completing the programs.

(c) The relevant criteria, formulas, calculations, and performance standards relevant to ~~[subsection (d) of this section and]~~ §229.4 of this title (relating to Determination of Accreditation Status) are prescribed in the *Texas Accountability System for Educator Preparation (ASEP) Manual* provided as a figure in this subsection.

Figure: 19 TAC §229.1(c)
~~[Figure: 19 TAC §229.1(e)]~~

§229.2. Definitions.

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

(1) Academic year--If not referring to the academic year of a particular public, private, or charter school or institution of higher education, September 1 through August 31.

(2) Administrator--For purposes of the surveys and information required by this chapter, an educator whose certification would entitle him or her to be assigned as a principal or assistant principal in Texas, whether or not he or she is currently working in such an assignment.

(3) Beginning teacher--For purposes of ~~[the]~~ Texas Education Code (TEC), §21.045(a)(3), and its implementation in this chapter, a classroom teacher with fewer than three years of experience as a certified classroom teacher.

(4) Candidate--An individual who has been formally or contingently admitted into an educator preparation program (EPP) who has not yet completed or exited the EPP.

(5) Certification category--A certificate type within a certification class, as described in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(6) Certification class--A certificate, as described in §230.33 of this title (relating to Classes of Certificates), that has defined characteristics; may contain one or more certification categories, as described in Chapter 233 of this title.

(7) Clinical experience--An assignment, as described in §228.2 of this title (relating to Definitions).

(8) Clinical teaching--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(9) Completer--A person who has met all the requirements of an approved EPP ~~[educator preparation program]~~. In applying this definition, the fact that a person has or has not been recommended for a standard certificate or passed a certification examination shall not be used as criteria for determining who is a completer.

(10) Consecutively measured years--Consecutive years for which a group's performance is measured, excluding years in which the small group exception applies, in accordance with §229.4(c) of this title (relating to Determination of Accreditation Status).

(11) Content pedagogy test ~~[Pedagogy Test]~~--Examination listed in the column labeled "Required Content Pedagogy Test(s)" in Figure: 19 TAC §230.21(e).

(12) Cooperating teacher--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who supports a candidate during a candidate's clinical teaching experience.

(13) Demographic group--Male and female, as to gender; and African American, Hispanic, White, and Other, as to race and ethnicity.

(14) Educator preparation program--An entity approved by the State Board for Educator Certification (SBEC) to recommend candidates in one or more educator certification classes or categories.

(15) Educator preparation program data--Data reported to meet requirements under TEC ~~[the Texas Education Code]~~, §21.045(b) and §21.0452.

(16) Examination--An examination or other test required by statute, or any other SBEC ~~[State Board for Educator Certification]~~ rule codified in the Texas Administrative Code, Title 19, Part 7, that governs an individual's admission to an EPP ~~[educator preparation program]~~, certification as an educator, continuation as an educator, or advancement as an educator.

(17) Field supervisor--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who is hired by an EPP ~~[educator preparation program]~~ to observe candidates, monitor their performance, and provide constructive feedback to improve their effectiveness as educators.

(18) First-year teacher--For purposes of TEC ~~[the Texas Education Code]~~, §21.045(a)(2), and its implementation in this chapter, an individual in his or her first year of employment as a classroom teacher.

(19) Governing body--A group or board of individuals responsible for oversight of EPP policies and activities, including, but not limited to, governance, administration, and accreditation functions. This body includes at minimum the governing body chairperson.

(20) Host teacher--An individual, as described in §228.2 of this title, who supports a teacher resident candidate during the candidate's teacher residency field placement experience.

(21) ~~[(19)]~~ Internship--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(22) ~~[(20)]~~ Intern mentor teacher ~~[Mentor]~~--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who supports a candidate during a candidate's internship experience.

(23) Legal authority--The person with final decision-making authority in an EPP such as a dean, director, owner, executive director, superintendent, or program director.

(24) ~~[(21)]~~ Pedagogy test ~~[Test]~~--Examination listed in the column labeled "Pedagogical Requirement(s)" in Figure: 19 TAC §230.21(e).

(25) ~~[(22)]~~ Practicum--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(26) ~~[(23)]~~ Reporting year ~~[Year]~~--September 1 through August 31.

(27) ~~[(24)]~~ Residency--A supervised educator assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(28) [(25)] Site supervisor--An individual, as described in §228.2 of this title [(relating to Definitions)], who supports a candidate during a candidate's practicum experience.

(29) [(26)] Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the SBEC's [State Board for Educator Certification's] administrative functions and services.

§229.3. *Required Submissions of Information, Surveys, and Other Data.*

(a) Educator preparation programs (EPPs), EPP candidates, first-year teachers, beginning teachers, field supervisors, administrators, intern mentor teachers [mentors], site supervisors, host teachers, and cooperating teachers shall provide to the Texas Education Agency (TEA) staff all data and information required by this chapter, as set forth in subsections (e) and (f) of this section.

(b) Any individual holding a Texas-issued educator certificate who fails to provide information required by this chapter and [the] Texas Education Code (TEC), §21.045 and §21.0452, as set forth in subsection (e) of this section, may be subject to sanction of his or her certificate, including the placement of restrictions, inscribed or non-inscribed reprimand, suspension, or revocation.

(c) Any Texas public school that fails to provide information required by this chapter and [the] TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, may be referred to the commissioner of education with a recommendation that sanctions upon its accreditation status be imposed for failure to comply with this section and [the] TEC, §21.0452.

(d) Any open-enrollment charter school that fails to provide information required by this chapter and [the] TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, may be referred to the commissioner of education with a recommendation that sanctions be imposed for failure to comply with this section and [the] TEC, §21.0452.

(e) All required EPP data for an academic year shall be submitted to the TEA staff annually by September 15 following the end of that academic year. All surveys and information required to be submitted pursuant to this chapter by principals shall be submitted by June 15 of any academic year in which an administrator has had experience with a first-year teacher who was a candidate or completer at an EPP. All surveys and information required to be submitted pursuant to this chapter by first-year teachers shall be submitted by June 15 of the first full academic year after the teacher completed the requirements of an EPP. All surveys and information required to be submitted pursuant to this chapter by EPP candidates shall be submitted by August 31 of the academic year in which the candidate completed the requirements of an EPP.

(f) The following apply to data submissions required by this chapter.

(1) EPPs shall provide data for all candidates as specified in the figure provided in this paragraph.

Figure: 19 TAC §229.3(f)(1)

[Figure: 19 TAC §229.3(f)(1)]

(2) Candidates in an EPP shall complete a survey, in a form approved by the State Board for Educator Certification (SBEC), evaluating the preparation he or she received in the EPP. Completion and submission to [the] TEA of the survey is a requirement for completion of an EPP.

(3) Administrators in Texas public schools and open-enrollment charter schools shall complete surveys, in a form to be ap-

proved by [the] SBEC, evaluating the effectiveness of preparation for classroom success based on experience with first-year teachers who were candidates or completers in an EPP.

(4) First-year teachers in a Texas public school, including an open-enrollment charter school, shall complete surveys, in a form to be approved by [the] SBEC, evaluating the effectiveness of preparation for classroom success.

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

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



SUBCHAPTER B. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION ACCREDITATION STATUSES

19 TAC §229.4

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making

staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.4. Determination of Accreditation Status.

(a) Accountability performance indicators. The State Board for Educator Certification (SBEC) shall determine the accreditation status of an educator preparation program (EPP) at least annually, based on the following accountability performance indicators, disaggregated by demographic group and other requirements of this chapter and determined with the formulas and calculations included in the figure provided in §229.1(c) of this title (relating to General Provisions and Purpose of Accountability System for Educator Preparation Programs). Data will be used only if the following indicators were included in the accountability system for that academic year. ~~[Except for the 2019-2020 and 2020-2021 academic years, when the data described in paragraphs (1)-(5) of this subsection will be reported to EPPs and will not be used to determine accreditation statuses,]~~ EPP accreditation statuses shall be based on:

(1) the EPP candidates' performance on pedagogy tests and content pedagogy tests. The EPP candidates' performance on pedagogy tests and content pedagogy tests shall provide separate accountability performance indicators for EPPs;

(A) For both pedagogy tests and content pedagogy tests, the performance standard shall be the percent of individuals admitted after December 26, 2016, who passed an examination within the first two attempts, including those examinations attempted after the individual has completed the EPP or when the EPP has not recommended the individual for a standard certificate. The pass rate is based solely on the examinations approved by the EPP. Examinations taken before admission to the EPP or specific examinations taken for pilot purposes are not included in the pass rate.

(B) For pedagogy tests, the performance standard shall be a pass rate of 85%.

(C) For content pedagogy tests, the performance standard shall be a pass rate of 75%.

(2) the results of appraisals of first-year teachers by administrators, based on a survey in a form to be approved by ~~[the]~~ SBEC. The performance standard shall be 70% of first-year teachers from the EPP who are appraised as "sufficiently prepared" or "well prepared". The first academic year for which a redesigned survey is distributed in replacement of a prior survey will be a reporting year only and will not be used to determine accreditation status;

(3) the growth of students taught by beginning teachers as indicated by the STAAR Annual Growth Points, determined at the student level as described in Figure: 19 TAC §97.1001(b) of Part II of this title (relating to Accountability Rating System), and aggregated at the teacher level as described in Figure: 19 TAC §229.1(c) of this title. For the 2024-2025 and 2025-2026 academic years, the performance standard shall be 60% of beginning teachers from the EPP reaching the individual performance threshold. For the 2026-2027 academic year, the performance standard shall be 65% of beginning teachers from the EPP reaching the individual performance threshold. Beginning in the 2027-2028 academic year, the performance standard shall be 70% of beginning teachers from the EPP reaching the individual performance threshold;

(4) the results of data collections establishing EPP compliance with SBEC requirements regarding the frequency, duration, and

quality of field supervision to candidates completing clinical teaching, residency, or an internship. The frequency and duration of field supervision shall provide one accountability performance indicator, and the quality of field supervision shall provide a separate accountability performance indicator;

(A) The performance standard as to the frequency, duration, and required documentation of field supervision shall be that the EPP meets the requirements for 95% of the EPP's candidates. EPPs that do not meet the standard of 95% for the aggregated group or for any disaggregated demographic group but have only one candidate not meet the requirement in the aggregated or any disaggregated group has met the standard for that group.

~~[(i)]~~ For the 2023-2024 and 2024-2025 academic years, individuals will be evaluated against the frequency and duration requirements in Chapter 228 of this title (relating to Requirements for Educator Preparation Programs) that were effective August 31, 2024.]

(i) ~~[(ii)]~~ Beginning in the 2025-2026 academic year, individuals will be evaluated against the frequency and duration requirements in Chapter 228, Subchapter F, of this title (relating to Support for Candidates During Required Clinical Experiences) that were effective beginning September 1, 2024.

(ii) Beginning in the 2026-2027 academic year, individuals will be evaluated against the frequency and duration requirements in Chapter 228, Subchapter F, of this title that were effective beginning September 1, 2026.

(B) The performance standard for quality shall be 90% of candidates rating the field supervision as "frequently" or "always or almost always" providing the components of structural guidance and ongoing support; and

(5) the results from a teacher satisfaction survey, in a form approved by ~~[the]~~ SBEC, of first-year teachers administered at the end of the first year of teaching as a teacher of record. The performance standard shall be 70% of teachers responding that they were "sufficiently prepared" or "well prepared" by their EPP. The first academic year for which a redesigned survey is distributed in replacement of a prior survey will be a reporting year only and will not be used to determine accreditation status.

(b) Accreditation status assignment. All approved EPPs may be assigned an accreditation status based on their performance in the Accountability System for Educator Preparation Programs (ASEP) Index system, as described in Figure: 19 TAC §229.1(c) of this title.

(1) Accredited status. An EPP shall be assigned an Accredited status if the EPP has met the standard of 80% [85%] of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and has been approved by ~~[the]~~ SBEC to prepare, train, and recommend candidates for certification.

(2) Accredited-Not Rated status.

(A) An EPP shall be assigned Accredited-Not Rated status upon initial approval to offer educator preparation, until the EPP can be assigned a status based on the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title. An EPP is fully accredited and may recommend candidates for certification while it is in Accredited-Not Rated status.

(B) An EPP shall be assigned Accredited-Not Rated status in any reporting year in which the EPP candidate group, aggregated or disaggregated by demographic group, does not meet the necessary number of individuals needed to measure against performance standards for that year, for all indicators.

(i) Any sanction assigned as a result of an Accredited-Warned or Accredited-Probation status in the prior year shall continue unless the SBEC modifies the sanction as deemed necessary based on subsequent performance.

(ii) If the EPP is assigned a status of Accredited-Not Rated this shall not break a count of consecutively measured years for the purpose of paragraph (5)(A) of this subsection.

(3) Accredited-Warned status.

(A) An EPP shall be assigned Accredited-Warned status if the EPP accumulates less than 80% [80% or greater but less than 85%] of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and it is the first consecutive year in which the EPP had accumulated less than 80% of the possible points.

(B) An EPP may be assigned Accredited-Warned status if the SBEC determines that the EPP has violated SBEC rules, orders, and/or Texas Education Code (TEC), Chapter 21.

(4) Accredited-Probation status.

(A) An EPP shall be assigned Accredited-Probation status if the EPP accumulates less than 80% of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and it is greater than the first consecutive year in which the EPP had accumulated less than 80% of the possible points.

(B) An EPP may be assigned Accredited-Probation status if [the] SBEC determines that the EPP has violated SBEC rules, orders, and/or TEC, Chapter 21.

(5) Not Accredited-Revoked status.

(A) An EPP shall be assigned Not Accredited-Revoked status and its approval to recommend candidates for educator certification revoked if it is assigned Accredited-Probation status for three consecutively measured years.

(B) An EPP may be assigned Not Accredited-Revoked status if the EPP has been on Accredited-Probation status for one year, and [the] SBEC determines that revoking the EPP's approval is reasonably necessary to achieve the purposes of [the] TEC, §21.045 and §21.0451.

(C) An EPP may be assigned Not Accredited-Revoked status if the EPP fails to pay the required ASEP technology fee by the deadline set by TEA as prescribed in §229.9(7) of this title (relating to Fees for Educator Preparation Program Approval and Accountability).

(D) An EPP may be assigned Not Accredited-Revoked status if the SBEC determines that the EPP has violated SBEC rules, orders, and/or TEC, Chapter 21.

(E) An assignment of Not Accredited-Revoked status and revocation of EPP approval to recommend candidates for educator certification is subject to the requirements of notice, record review, and appeal as described in this chapter.

(F) A revocation of an EPP approval shall be effective for a period of two years from the closure date, after which a program may reapply for approval as a new EPP pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs).

(G) Upon revocation of EPP approval, the EPP shall submit a letter as described in §228.21(a)(1) of this title (relating to Program Consolidation or Closure) no later than 14 days after the revocation identifying a closure date. If a letter is not submitted within 14 days after the revocation, the closure date shall be the last day of the current academic year.

(H) Upon revocation of EPP approval, the EPP shall adhere to the requirements for program closure contained in §228.21 of this title.

(c) Small group exception.

(1) For purposes of accreditation status determination, the performance of an EPP candidate group, aggregated or disaggregated by demographic group, shall be measured against performance standards described in this chapter in any one year in which the number of individuals in the group exceeds 10. The small group exception does not apply to compliance with the frequency and duration of field supervisor observations.

(2) For an EPP candidate group, aggregated or disaggregated by demographic group, where the group contains 10 or fewer individuals, the group's performance shall not be counted for purposes of accreditation status determination for that academic year based on only that year's group performance.

(3) If the current year's EPP candidate group, aggregated or disaggregated by demographic group, contained between one and 10 individuals, that group performance shall be combined with the group performance from the next most recent prior year subsequent to the 2020-2021 academic year for which there was at least one individual, and if the two-year cumulated group contains more than 10 individuals, then the two-year cumulated group performance must be measured against the standards in the current year. The two-year cumulated group shall not include group performance from years prior to the 2021-2022 academic year.

(4) If the two-year cumulated EPP candidate group described in subsection (c)(3) of this section, aggregated or disaggregated by demographic group, contains between one and 10 individuals, then the two-year cumulated group performance shall be combined with the next most recent group performance subsequent to the 2020-2021 academic year for which there was at least one individual. The three-year cumulated group performance must be measured against the standards in the current year, regardless of how small the cumulated number of group members may be. When evaluating a three-year cumulated group of fewer than 10 individuals, the candidate group will be measured against the performance standard of the current year, or a performance standard of up to one candidate failing to meet the requirement, whichever is more favorable. The three-year cumulated group performance shall not include group performance from years prior to the 2021-2022 academic year.

(5) In any reporting year in which subsection (c)(3) or (4) of this section results in an evaluation against the standard and the evaluated cumulated group does not meet the performance standard, the current year candidate group is separately evaluated against the performance standard. If the current year candidate group meets the performance standard, then the failure does not count as an additional consecutively measured year for the purposes of the ASEP Index as described in Figure: 19 TAC §229.1(c) of this title or for §229.5(d) [§229.5(e)] of this title (relating to Accreditation Sanctions and Procedures). If the current year candidate group does not meet the performance standard, then the failure does count as an additional consecutively measured year for the purposes of the ASEP Index and for §229.5(d) [§229.5(e)] of this title.

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 C. ACCREDITATION SANCTIONS

19 TAC §229.5

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.5. *Accreditation Sanctions and Procedures.*

(a) The State Board for Educator Certification (SBEC) may assign an educator preparation program (EPP) Accredited-Warned or Accredited-Probation status if [the] SBEC determines that the EPP has violated SBEC rules and/or Texas Education Code (TEC), Chapter 21.

(b) If an EPP has been assigned Accredited-Warned or Accredited-Probation status, SBEC shall require the EPP to complete

a continuing educator preparation program review, as described in §228.13 of this title (relating to Continuing Educator Preparation Program Approval). If, at the time this status is assigned by SBEC, an EPP is already in the process of a review under §228.13 of this title, the in-process review will satisfy this requirement.

(c) [(b)] If an EPP has been assigned Accredited-Warned or Accredited-Probation status, or if the SBEC determines that additional action is a necessary condition for the continuing approval of an EPP to recommend candidates for educator certification, [the] SBEC may take any one or more of the following actions, which shall be reviewed by [the] SBEC at least annually:

(1) require the EPP to obtain technical assistance approved by the Texas Education Agency (TEA) or SBEC;

(2) require the EPP to obtain professional services approved by [the] TEA or SBEC;

(3) require the EPP to provide TEA staff with verification of the EPP's compliance with SBEC rules and/or the TEC;

(4) require the EPP to post on its website:

(A) accreditation status;

(B) notice that [the] SBEC has instated conditions on the EPP's continuing approval;

(C) TEA's continuing approval review report; and/or

(D) official notification of recommended status;

(5) appoint a monitor to participate in the activities of the EPP and report the activities to [the] TEA or SBEC; and/or

(6) require the EPP to develop an action plan addressing the deficiencies and describing the steps the program will take to improve the performance of its candidates. TEA staff may prescribe the information that must be included in the action plan. The action plan must be sent to TEA staff no later than 45 calendar days following notification to the EPP that SBEC has ordered the action plan.

(d) [(e)] Notwithstanding the accreditation status of an EPP, if the performance of candidates on an examination required for certification (as listed in Figure: 19 TAC §230.21(e) of this title (relating to Educator Assessment)) in an individual certification class or category offered by an EPP fails to meet the performance standard on the content pedagogy test as described in §229.4(a)(1)(D) of this title (relating to Determination of Accreditation Status) for three consecutive years, the approval to offer that certification class or category shall be revoked.

(1) For purposes of determining compliance with this subsection [(e) of this section], candidate performance in individual certification classes or categories in only the 2016-2017 academic year and subsequent academic years will be considered.

(2) Performance indicators by demographic group shall not be counted for purposes of this subsection [(e) of this section] pertaining to performance standards for individual certification classes or categories. If the aggregated number of individuals counted for a certification class or category is 10 or fewer, the performance on the standard shall be cumulated and counted in the same manner as provided in §229.4(c) of this title.

(3) Upon revocation of certification class or category, the EPP shall submit a letter as described in §228.21(a)(1) of this title (relating to Program Consolidation or Closure) no later than 14 days after the revocation identifying a closure date. If a letter is not submitted within 14 days after the revocation, the closure date shall be the last day of the current academic year.

(4) Upon revocation of the approval to offer the certification class or category, the EPP shall adhere to the requirements for program closure contained in §228.21 of this title.

(c) [(d)] An EPP shall be notified in writing regarding any action proposed to be taken pursuant to this section, or proposed assignment of an accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked. The notice shall state the basis on which the proposed action is to be taken or the proposed assignment of the accreditation status is to be made.

(f) [(e)] All costs associated with providing or requiring technical assistance, professional services, or the appointment of a monitor pursuant to this section shall be paid by the EPP to which the services are provided or required, or its sponsor.

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

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SUBCHAPTER E. REVIEW PROCEDURES

19 TAC §229.7

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated

with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.7. *Informal Review of Texas Education Agency Recommendations.*

(a) Applicability. This section applies only to a notice required under §229.5(e) [§229.5(d)] of this title (relating to Accreditation Sanctions and Procedures) or under §229.6(c) of this title (relating to Continuing Approval) proposing to:

(1) require an educator preparation program (EPP) or a particular class or category of certification offered by an EPP to obtain technical assistance as provided by [the] Texas Education Code (TEC), §21.0451(a)(2)(A);

(2) require an EPP or a particular class or category of certification offered by an EPP to obtain professional services as provided by [the] TEC, §21.0451(a)(2)(B);

(3) appoint a monitor for an EPP or a particular class or category of certification offered by an EPP as provided by [the] TEC, §21.0451(a)(2)(C);

(4) assign a change in accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked, as specified in §229.4 of this title (relating to Determination of Accreditation Status);

(5) issue a public reprimand or impose conditions on the continuing approval of an EPP to recommend candidates for certification pursuant to §229.6(b) of this title;

(6) revoke the approval of an EPP to recommend candidates for certification in a particular class or category of certification; or

(7) revoke the approval of an EPP to recommend candidates for certification.

(b) Notice. Notice of a proposed recommendation for an order or change in accreditation status, subject to this section, shall be made as provided by §229.5(e) of this title [§229.5(d)] and §229.6(c) of this title, and this section.

(1) The notice shall attach or make reference to all information on which the proposed recommendation is based.

(A) Information maintained on the Texas Education Agency (TEA) and State Board for Educator Certification (SBEC) websites may be referenced by providing a general citation to the information.

(B) The TEA and SBEC reports previously sent to the EPP may be referenced by providing the title and date of the report.

(C) On request, [the] TEA shall provide copies of, or reasonable access to, information referenced in the notice.

(2) The notice shall state the procedures for requesting an informal review of the proposed recommendation or change in accreditation status under this section, including the name and department of the TEA staff to whom a request for an informal review may be addressed.

(3) The notice shall set a deadline for requesting an informal review, which shall not be less than 14 calendar days from the date of receipt of the notice. The notice may be delivered by mail, personal delivery, facsimile, or email.

(4) The notice shall be sent by email to the chief operating officer, legal authority, and chair of the governing body.

(c) Request. The chief operating officer, legal authority, or designee of the EPP may request, in writing, an informal review under this section.

(1) The request must be properly addressed to the member of the TEA staff identified in the notice under subsection (b)(2) of this section and must be received by TEA staff on or before the deadline specified in subsection (b)(3) of this section.

(2) The request must set out the reasons the EPP believes the proposed recommendation or change in accreditation status is incorrect, with citations to include supporting evidence. The EPP may submit any written information to TEA as evidence to support its request, without regard to admissibility under the Texas Rules of Evidence. The request for review shall concisely state, in numbered paragraphs:

(A) if alleging the proposed recommendation would violate a statutory provision, the statutory provision violated and the specific facts supporting a conclusion that the statute was violated by the proposed recommendation;

(B) if alleging the proposed recommendation would be in excess of the SBEC's statutory authority, the SBEC's statutory authority and the specific facts supporting a conclusion that the proposed recommendation would be in excess of this authority;

(C) if alleging the proposed recommendation was made through unlawful procedure, the lawful procedure and the specific facts supporting a conclusion that the proposed recommendation was made through unlawful procedure;

(D) if alleging the proposed recommendation is affected by other error of law, the law violated and the specific facts supporting a conclusion that the proposed recommendation violated that law;

(E) if alleging the proposed recommendation is not reasonably supported by a preponderance of the evidence, each finding, inference, or conclusion of the proposed recommendation that is unsupported by a preponderance of the evidence, and the evidence that creates a preponderance against the specific finding, inference, or conclusion at issue;

(F) if alleging the proposed recommendation is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion, each finding, inference, conclusion, or proposed recommendation affected and the specific facts supporting a conclusion that each is so affected;

(G) for each violation, error, or defect alleged under subparagraphs (A)-(F) of this paragraph, the substantial rights of the EPP that are prejudiced by such violation, error, or defect;

(H) a concise statement of the relief sought by the EPP (petitioner); and

(I) the name, mailing address, telephone number, facsimile number, and email address of the petitioner's representative.

(3) Failure to comply with the requirements of this subsection may result in dismissal of the request for informal review.

(d) No review requested. If [the] TEA staff does not receive the EPP's request for an informal review by the deadline set in accordance with subsection (b)(3) of this section, the proposed recommendation will become a final recommendation and will proceed in accordance with subsection (f) of this section.

(e) Informal review. In response to a request under subsection (c) of this section, TEA staff will review the materials and documents provided by the EPP and issue a final recommendation. The final recommendation may include changes or additions to the proposed recommendation and such modifications are not subject to another informal review.

(f) Final recommendation.

(1) If the final recommendation proposes revocation of approval of an EPP to recommend candidates for educator certification, within 14 calendar days of receipt of the final recommendation, the EPP may agree in writing to accept the final revocation without further proceedings or may request that TEA staff schedule the matter for a hearing before an administrative law judge at the State Office of Administrative Hearings (SOAH), as provided by §229.8 of this title (relating to Contested Cases for Accreditation Revocation).

(2) If the final recommendation does not propose revocation of approval of an EPP to recommend candidates for educator certification, the final recommendation will be submitted to SBEC for consideration of a final order.

(g) Other law. Texas Government Code, Chapter 2001, and [the] TEC, §7.057, do not apply to an informal review under 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.

Filed with the Office of the Secretary of State on August 3, 2026.

TRD-202603259

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: September 13, 2026

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



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 367. ENFORCEMENT

22 TAC §367.2

The Texas State Board of Plumbing Examiners (Board or TS-BPE) proposes amendment to the existing rule at 22 Texas Administrative Code (TAC), Chapter §367.2 to update the codes adopted under the authority of Texas Occupations Code, Sec. 1301.255 to the 2021 Uniform Plumbing Code and the 2021 International Plumbing Code. The proposed change is referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

Under Texas Occupations Code §1301.255(a), the Texas State Board of Plumbing Examiners is required to adopt the Uniform

Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials (IAPMO), and the International Plumbing Code (IPC), as published by the International Code Council (ICC), as those codes existed on May 31, 2001. Section 1301.255(b) authorizes the Board to adopt later editions of those codes by rule.

The IAPMO and ICC regularly update the UPC and IPC to incorporate advances in plumbing technology, construction methods, materials, and safety standards. The Board currently has the 2018 editions of the UPC and IPC adopted by rule. After reviewing the changes included in the 2021 editions and surveying plumbing code adoption by jurisdictions throughout Texas, the Board determined that updating its adopted codes to the 2021 editions is appropriate. The 2021 UPC and IPC are the editions most commonly adopted by local jurisdictions across the state and reflect nationally recognized plumbing standards.

Adopting the 2021 editions will allow the Board's rules to remain consistent with modern plumbing practices, enhance public health and safety by recognizing updated code provisions, and promote greater uniformity between state and local plumbing requirements, thereby reducing regulatory inconsistencies for licensees, inspectors, and the public.

SECTION BY SECTION SUMMARY

Proposed Rule 367.2 shows simply that the 2018 UPC and IPC, and the codes incorporated by reference of the 2018 International Fuel Gas Code and 2018 International Residential Code, are repealed, and the 2021 UPC and IPC codes, and the incorporated 2021 International Fuel Gas Code and 2021 International Residential Code, are adopted.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Lisa G. Hill, Executive Director for the TSBPE (Executive Director), has determined that for the first five-year period the amended rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the rule. The Executive Director has further determined that for the first five-year period the amended rule is in effect, there will be no foreseeable losses or increases in revenue for the state or local governments as a result of enforcing or administering the rule.

PUBLIC BENEFITS

The Executive Director has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing or administering the amended rule will be enhanced public safety through adoption of current nationally recognized plumbing standards and increased regulatory consistency among Texas jurisdictions.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH THE PROPOSAL

The Executive Director has determined that for the first five years the amended rule is in effect, there are no substantial economic costs anticipated to persons required to comply with the amended rule.

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

Given that the amended rule does not have a fiscal note which imposes a cost on regulated persons, including another state agency, a special district, or local government, proposal and

adoption of the rule is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

For each of the first five years the amended rule is in effect, the Board has determined the following: (1) the amended rule does not create or eliminate a government program; (2) implementation of the amended rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the amended rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the amended rule does not require an increase or decrease in fees paid to the agency; (5) the amended rule does not create a new regulation; (6) the amended rule does not expand, limit, or repeal an existing regulation; (7) the amended rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the amended rule does not positively or adversely affect this state's economy.

LOCAL EMPLOYMENT IMPACT STATEMENT

No local economies are substantially affected by the amended rule. As a result, preparation of a local employment impact statement pursuant to Texas Government Code §2001.022 is not required.

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

The amended rule will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the amended rule. As a result, preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Texas Government Code §2006.002, are not required.

TAKINGS IMPACT ASSESSMENT

There are no private real property interests affected by the amended rule. As a result, preparation of a takings impact assessment, as provided by Texas Government Code §2007.043, is not required.

REQUEST FOR PUBLIC COMMENT

Written comments regarding the amended rule may be submitted by mail to Patricia Latombe at 7915 Cameron Rd., Austin, Texas 78754, or by email to rule.comment@tsbpe.texas.gov with the subject line "Rule Amendments." All comments must be received no later than 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

This proposed rule is made under the authority of Texas Occupations Code, Sec. 1301.251(2) which authorizes the TSBPE to adopt rules as necessary to implement the Section, and Texas Occupations Code, Sec. 1301.255 which requires the TSBPE to adopt the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials and the International Plumbing Code, as published by the International Code Council, as they existed on May 31, 2001 and allows any later editions of the codes to be adopted in rule.

No other statutes or rules are affected by the proposal.

§367.2. *Code Requirements.*

(a) To protect the health and safety of the citizens of this state, the Board adopts the following plumbing codes:

(1) the 2021 [2018] Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and

(2) The 2021 [2018] International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the 2021 [2018] International Plumbing Code, including:

(A) the 2021 [2018] International Fuel Gas Code; and

(B) the 2021 [2018] International Residential Code.

(b) To ensure the proper design, installation, and maintenance of plumbing systems within its jurisdiction, a political subdivision may adopt a plumbing code with any amendments necessary to address local concerns provided that the amendments do not substantially vary with the rules or laws of this state.

(c) Plumbing must be installed in accordance with all applicable plumbing codes adopted by the political subdivision in which the plumbing is being installed.

(1) Plumbing installed by an individual licensed under the PLL in an unincorporated area of the county or other area where no plumbing code has been adopted must be installed in accordance with a plumbing code adopted under subsection (a) of this section.

(2) A plumbing installation that was started prior to the Board's adoption of the plumbing codes listed in subsection (a) of this section may be completed under the requirements of the codes in effect at the time permits for the installation were issued or work on the installation commenced.

(3) In addition to all applicable plumbing codes, Liquefied Petroleum Gas (LP-Gas) piping must be installed in accordance with all applicable rules adopted by the Texas Railroad Commission.

(d) Any piping connecting a plumbing fixture, including a water closet, to a potable water supply shall be installed to prevent the back flow of nonpotable substances into the potable water system in accordance with the applicable plumbing code and state laws. Water closet fill valves (ball cocks) shall be of the antisiphon, integral vacuum breaker type with the critical level (the air inlet portion of the vacuum breaker) installed at least one (1) inch above the flood level rim of the fixture (the inlet of the water closet overflow tube).

(e) Plumbing installed in compliance with a code adopted under subsection (a) or (b) of this section must be inspected by a Plumbing Inspector licensed under the PLL and Board rules.

(f) A licensee or registrant shall not install, and a person shall not require a licensee or registrant to install, plumbing that is not in compliance with the Plumbing License Law or any other laws of this state, Board Rules, or any applicable plumbing codes.

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 July 31, 2026.

TRD-202603248

Patricia Latombe

General Counsel

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 936-5216

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 3. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES

SUBCHAPTER E. MOU--COORDINATION OF SPECIAL EDUCATION SERVICES TO STUDENTS WITH DISABILITIES IN RESIDENTIAL FACILITIES

26 TAC §3.251

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Texas Administrative Code (TAC), Title 26, Chapter 3, Subchapter E, which consists of §3.251, concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an unnecessary rule from the TAC. Texas Education Code §29.012(d) requires the Texas Education Agency (TEA), HHSC, the Department of Family and Protective Services, and the Texas Juvenile Justice Department to have a memorandum of understanding (MOU) for the provision of public education in residential facilities as required by the Individuals with Disabilities Education Act. House Bill 2 and Senate Bill 568, 89th Legislature, Regular Session, 2025, amended Texas Education Code §29.012(d) by removing the requirement to have the MOU in rule. Section 3.251 adopts by reference a TEA rule, 19 TAC §89.1115, that provides the terms of the MOU in rule. While the MOU is still required by statute and is in place, since the MOU is no longer required to be in rule, HHSC is repealing §3.251.

The proposal also supports regulatory reform by removing unnecessary rules in the TAC making the TAC easier to use and understand.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule 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 HHSC 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 HHSC;

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

- (6) the proposed rule will repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

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

Victoria Grady, Deputy Chief, Finance, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small businesses, micro-businesses, or rural businesses.

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 rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Laura Cazabon, State Supported Living Centers Associate Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the removal of an unnecessary rule in TAC, which will reduce the number of rules with similar information and streamline the TAC for easier navigation and improve clarity.

Victoria Grady has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the rule does not include costs to persons required 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 26R044" in the subject line.

STATUTORY AUTHORITY

The rule 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 and Texas Education Code §29.012(d) which allows the adoption of a memorandum of understanding without incorporating that agreement in rule.

The rule repeal affects Texas Government Code §524.0151 and Texas Education Code §29.012(d).

§3.251. Interagency Coordination of Special Education Services to Students with Disabilities in Residential 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 August 3, 2026.

TRD-202603268

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3049



CHAPTER 300. STATE AUTHORITY RESPONSIBILITIES

SUBCHAPTER B. INTERAGENCY AGREEMENTS

26 TAC §300.101

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Texas Administrative Code (TAC), Title 26, Chapter 300, Subchapter B, which consists of §300.101, concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an unnecessary rule from the TAC. Texas Education Code §29.012(d) requires the Texas Education Agency (TEA), HHSC, the Department of Family and Protective Services, and the Texas Juvenile Justice Department to have a memorandum of understanding (MOU) for the provision of public education in residential facilities as required by the Individuals with Disabilities Education Act. House Bill 2 and Senate Bill 568, 89th Legislature, Regular Session, 2025, amended Texas Education Code §29.012(d) by removing the requirement to have the MOU in rule. Section 300.101 adopts by reference a TEA rule, 19 TAC §89.1115, that provides the terms of the MOU in rule. While the MOU is still required by statute and is in place, since the MOU is no longer required to be in rule, HHSC is repealing §300.101.

The proposal also supports regulatory reform by removing unnecessary rules in the TAC making the TAC easier to use and understand.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule 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 HHSC 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 HHSC;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

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

Victoria Grady, Deputy Chief, Finance, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small businesses, micro-businesses, or rural businesses.

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 rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Laura Cazabon, State Supported Living Centers Associate Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the removal of an unnecessary rule in TAC, which will reduce the number of rules with similar information and streamline the TAC for easier navigation and improve clarity.

Victoria Grady has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the rule does not include costs to persons required 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 HHSCRulesCoordinationOffice@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 26R044" in the subject line.

STATUTORY AUTHORITY

The rule 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 and Texas Education Code §29.012(d) which allows the adoption of a memorandum of understanding without incorporating that agreement in rule.

The rule repeal affects Texas Government Code §524.0151 and Texas Education Code §29.012(d).

§300.101. Interagency Coordination of Special Education Services to Students with Disabilities in Residential 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 August 3, 2026.

TRD-202603269

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3049



CHAPTER 554. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §554.2403, concerning Medical Necessity Determination; §554.2407, concerning Denied Medical Necessity; §554.2413, concerning Determination of Payment Rate Based on the MDS Assessment Submission; §554.2601, concerning Vendor Payment (Items and Services Included); and §554.2611, concerning Retroactive Vendor Payment.

BACKGROUND AND PURPOSE

This proposal is necessary to align Medicaid program rules with the fiscal rules that implement House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023 (Article II, Health and Human Services Commission (HHSC), Rider 25), which require HHSC to implement a Texas version of the Patient Driven Payment Model for Long-Term Care (PDPM LTC) methodology for the reimbursement of long-term stay nursing facility (NF) services in the Medicaid program.

Under Title 42 Code of Federal Regulations §441.302(e) and (f), changing the NF reimbursement methodology from the

Resource Utilization Group (RUG) to the PDPM LTC requires HHSC to incorporate the PDPM LTC methodology into the individual cost limit methodologies and related cost limit methodology. This proposal updates references to the former RUG reimbursement methodology with the term "reimbursement rate" in the Texas Administrative Code (TAC) for the state's two NF waiver programs, the STAR+PLUS Home and Community-Based Services Program and the Medically Dependent Children Program.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §554.2403 replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413, updates citations to reflect the current statute and TAC references, corrects outdated agency acronyms, and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2407 replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413, clarifies language, updates citations to reflect the current TAC references, and corrects outdated agency acronyms.

The proposed amendment to §554.2413 updates citations to reflect the current TAC references, corrects outdated agency acronyms, adds a definition of "Reimbursement Rate" that provides a reference to the HHSC reimbursement rules in 1 TAC §355.318, replaces references to the former RUG reimbursement methodology with the term "reimbursement rate" and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2601 clarifies language, updates citations to reflect the current TAC references; corrects outdated agency acronyms; clarifies the requirements for items included in the NF daily vendor rate; and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2611 updates citations to reflect the current TAC references; corrects outdated agency acronyms; replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413; and makes other minimal changes to grammar and rule structure for clarity.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;

- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will 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) the proposed rules will not affect the state's economy.

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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not have a cost to small businesses, micro-businesses, or rural communities because the rules are codifying current processes and MCO capitation rates were addressed in rule project 24R019.

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 do not impose a cost on regulated persons; are necessary to receive a source of federal funds or comply with federal law; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, has determined that for each year of the first five years the rules are in effect, the public will benefit from having these rules use terminology consistent with the new PDPM LTC reimbursement methodology being implemented in 26 TAC Chapter 554.

Victoria Grady 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 proposed rules don't require affected persons to alter current business practices and MCO capitation rates were addressed in rule project 24R019.

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 24R074" in the subject line.

SUBCHAPTER Y. MEDICAL NECESSITY DETERMINATIONS

26 TAC §§554.2403, 554.2407, 554.2413

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 system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§554.2403. *Medical Necessity Determination.*

(a) Purpose. A recipient must have a determination of medical necessity for nursing facility care to participate in the Texas Medicaid Nursing Facility Program.

(1) The state Medicaid claims administrator makes a medical necessity determination by evaluating a recipient's medical and nursing needs. This determination is based on the admissions MDS assessment that is required by HHSC [DADS].

(2) A recipient must have a determination of medical necessity for nursing facility care before the nursing facility can be paid for services. Exceptions to this requirement are [; except as] provided in §554.2413 [§19.2413] of this subchapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission) and §554.2611 [§19.2611] of this chapter (relating to Retroactive Vendor Payment).

(b) Admission MDS assessment review.

(1) The admission MDS assessment review process begins [is initiated] when the state Medicaid claims administrator receives an admission MDS assessment and the Long-Term Care Medicaid Information Section, in accordance with §554.2413 [§19.2413] of this subchapter, indicating that a Medicaid applicant or recipient is asking for [requesting] vendor payment for care in a contracted nursing facility. A registered nurse must sign and certify that the MDS assessment is completed in accordance with §554.801 [§19.801] of this chapter (relating to Resident Assessment).

(2) The review of the admission MDS assessment [review] determines medical necessity and authorizes [establishes the authorization for] payment of a reimbursement [calculated RUG] rate. Reimbursement rate as used in this paragraph has the meaning defined in §554.2413 of this subchapter.

(c) Role of the state Medicaid claims administrator. The state Medicaid claims administrator reviews all MDS assessments, including significant change in status assessments, modifications, and significant corrections, and approves or denies medical necessity in accordance with §554.2401 [§19.2401] of this subchapter (relating to General Qualifications for Medical Necessity Determinations).

(d) Effective period.

(1) A determination of medical necessity based on the admission MDS assessment review remains in effect for the time period determined by the federal MDS submission schedule.

(2) If a nursing facility submits a recipient's MDS assessment after the due date established by the federal MDS submission schedule, the recipient's medical necessity remains in effect for the period between the due date and the date the state Medicaid claims administrator received the MDS assessment.

(3) If a nursing facility submits a recipient's MDS assessment after the due date established by the federal MDS submission schedule and, after reviewing the MDS assessment, the state Medicaid claims administrator determines that the recipient does not meet the criteria for medical necessity, the effective date of the denial of medical necessity is the date the state Medicaid claims administrator received the MDS assessment. A denial of medical necessity is conducted in accordance with §554.2407 [§19.2407] of this subchapter (relating to Denied Medical Necessity).

(e) Permanent medical necessity.

(1) A recipient's permanent medical necessity status is established on the completion date of any MDS assessment approved for medical necessity no less than 184 calendar days after the recipient's admission to the Texas Medicaid Nursing Facility Program.

(2) A nursing facility must submit a recipient's MDS assessment in compliance with the federal MDS submission schedule even after the recipient achieves permanent medical necessity status.

(3) A recipient's permanent medical necessity status moves with the recipient, unless the recipient is discharged to home for more than 30 days.

(4) If a recipient who has permanent medical necessity status transfers to another Medicaid-certified nursing facility, the nursing facility to which the recipient transfers must complete a new MDS assessment in compliance with the federal MDS submission schedule.

(f) Insufficient information. If an MDS assessment does not have sufficient information for the state Medicaid claims administrator to make a medical necessity determination, the MDS assessment is put in suspense for 21 days with a message from the state Medicaid claims administrator informing the nursing facility that the MDS assessment has been put in suspense for 21 days. Unless the nursing facility provides sufficient information on the MDS assessment to determine medical necessity within 21 days, medical necessity is denied.

§554.2407. *Denied Medical Necessity.*

(a) If the state Medicaid claims administrator determines that a Medicaid applicant or a Medicaid recipient does not meet the criteria for medical necessity described in §554.2401 [§19.2401] of this subchapter (relating to General Qualifications for Medical Necessity Determinations), the state Medicaid claims administrator notifies the attending physician and the nursing facility in writing. The state Medicaid claims administrator gives the attending physician and the nursing facility [and provides them] an opportunity to present additional information about the applicant's or recipient's medical need for nursing facility care.

(1) If the attending physician or a nursing facility physician does not respond or contest the findings of the state Medicaid claims administrator within 10 working days after receipt of the written notice about the decision, the findings are final.

(2) If the attending physician or a nursing facility physician contests the findings of the state Medicaid claims administrator, at least one physician with the state Medicaid claims administrator must review the case. If the state Medicaid claims administrator's physician

determines that the applicant's or recipient's admission or stay is not medically necessary, the determination becomes final.

(3) The state Medicaid claims administrator sends a written notice ~~[notification]~~ of the final determination of denied medical necessity to:

(A) the attending physician; [;]

(B) the nursing facility; [;] and

(C) the applicant, ~~[or]~~ recipient, or responsible party ~~[(or responsible party)]~~.

(b) After an applicant receives written notice of a determination of denied medical necessity, the applicant or responsible party must request a fair hearing within 90 days after the date of denied medical necessity, or the applicant loses the right to a fair hearing.

(c) After a recipient receives written notice of a determination of denied medical necessity, the recipient or responsible party must request a fair hearing within 10 days after the date of the written notice in order to have nursing facility services paid for during the appeal.

(1) If the recipient requests a fair hearing within 10 days after the date of the written notice and the determination of denied medical necessity is upheld, the effective date of the denial is 10 days after the hearing officer's written decision.

(2) If the recipient does not request a fair hearing within 10 days after the date of the written notice, HHSC ~~[DADS]~~ makes vendor payments to the nursing facility at the previously established reimbursement [RUG] rate for 15 days or until the recipient is discharged, whichever happens ~~[occurs]~~ first. Reimbursement rate as used in this paragraph has the meaning defined in §554.2413 of this subchapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission).

(3) If the recipient does not request a fair hearing within 10 days after the date of the written notice, the recipient must request a fair hearing within 90 days after the date of denied medical necessity, or the recipient loses the right to a fair hearing.

(d) Fair hearings are conducted by HHSC ~~[the Texas Health and Human Services Commission (HHSC)]~~ in accordance with HHSC rules at 1 TAC Chapter 357 (relating to Hearings).

§554.2413. Determination of Payment Rate Based on the MDS Assessment Submission.

(a) Definitions. In this section, the following words and terms have the following meanings unless the context clearly indicates otherwise.

(1) All conditions of eligibility--A recipient meets all conditions of eligibility when the state Medicaid claims administrator approves the recipient for medical necessity and the recipient meets financial eligibility for Medicaid.

(2) On-time MDS assessment--An MDS assessment that is submitted in accordance with the federal MDS submission schedule and is received by the state Medicaid claims administrator within 31 days after the completion date.

(3) Missed MDS assessment--An MDS assessment that is received by the state Medicaid claims administrator outside the time period that the MDS assessment covers.

(4) Reimbursement rate--The reimbursement rate is described by the Patient Driven Payment Model for Long-Term Care located in 1 TAC §355.318 (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025).

(b) MDS submission requirement. A nursing facility must:

(1) complete all MDS assessments according to CMS' instructions;

(2) submit a recipient's MDS assessment, including an admission MDS assessment, a quarterly MDS assessment, and a significant change in status assessment, to the state MDS database in compliance with the federal MDS submission schedule;

(3) submit the Long-Term Care Medicaid Information Section to the state Medicaid claims administrator; and

(4) submit the recipient's MDS assessment in compliance with the federal MDS submission schedule even after the recipient has permanent medical necessity as described in §554.2403(e) ~~[\$19.2403(e)]~~ of this subchapter (relating to Medical Necessity Determination).

(c) Admission MDS assessments.

(1) If a nursing facility discharges a recipient who is not expected to return ~~[with a status of return not anticipated]~~, and the recipient does return ~~[returns]~~ to the facility, the nursing facility must complete an admission MDS assessment to determine ~~[for a determination of]~~ medical necessity and to establish ~~[establishment of]~~ a reimbursement [RUG] rate. The facility must complete an admission MDS assessment ~~[;]~~ regardless of the amount of time between the recipient's discharge and return.

(2) A nursing facility must complete and submit an admission MDS assessment to receive payment for a recipient's period of stay in the nursing facility, even if the recipient leaves the nursing facility before the MDS assessment is completed and never returns long enough for the MDS assessment to be completed. See subsection (i) of this section for completion of an admission MDS assessment in the event of a recipient's death.

(3) HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate for an admission MDS assessment starting from the date the recipient was admitted to the nursing facility, except as provided in §554.2611 ~~[\$19.2611]~~ of this chapter (relating to Retroactive Vendor Payments).

(d) Payment of a reimbursement [calculated RUG] rate. If a recipient meets all conditions of eligibility, HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate for an MDS assessment if the assessment ~~[it]~~ is received by the state Medicaid claims administrator during the [time] period that is covered on the MDS assessment ~~[covers]~~.

(e) On-time MDS assessment. If a recipient meets all conditions of eligibility, HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate starting from the completion date of the required MDS assessment, except for an admission MDS assessment as described in subsection (c)(3) of this section.

(f) MDS assessments that are not on time. The state Medicaid claims administrator stops payment for services if the state Medicaid claims administrator does not receive an on-time MDS assessment. Payment for services resumes when the state Medicaid claims administrator receives all the MDS assessments that are due as required by the federal MDS submission schedule.

(g) Missed MDS assessments. Except as described in paragraph (2) of this subsection, if the recipient meets financial eligibility for Medicaid, and ~~[When]~~ the state Medicaid claims administrator receives a missed MDS assessment, HHSC ~~[DADS]~~ pays the nursing facility a default reimbursement [RUG] rate for the entire period of the

missed MDS assessment, [if the recipient meets financial eligibility for Medicaid, except as provided in paragraph (2) of this subsection.]

(1) If an MDS assessment is missed for the purpose of calculating a reimbursement [RUG] rate, the nursing facility must still submit the MDS assessment to comply with §554.801 [§19.801] of this chapter (relating to Resident Assessment).

(2) For a newly contracted nursing facility and a nursing facility that undergoes a change of ownership, HHSC [DADS] pays the reimbursement [calculated RUG] rate for any missed MDS assessments that occur while the nursing facility is unable to submit MDS assessments to the state MDS database.

(h) Significant change in status assessment, modification, or significant correction. If a recipient meets all conditions of eligibility, HHSC [DADS] pays the reimbursement [calculated RUG] rate from the completion date of a significant change in status assessment, modification, or significant correction.

(i) Incomplete or erroneous MDS assessments. If a Medicaid [an] applicant meets all conditions of eligibility, HHSC [DADS] pays a default reimbursement rate for an MDS assessment that is incomplete or has errors.

(j) Prohibition against recourse. A nursing facility must not charge and must not take any other recourse against a recipient, the recipient's family members, the recipient's estate or the recipient's representative for a claim that is reduced because the facility did not meet the requirements of an HHSC [failed to comply with a DADS] rule or procedure pertaining to reimbursement.

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

Filed with the Office of the Secretary of State on August 3, 2026.

TRD-202603264

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-2910



SUBCHAPTER AA. VENDOR PAYMENT

26 TAC §554.2601, §554.2611

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 system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§554.2601. *Vendor Payment (Items and Services Included).*

(a) A facility provides, under the terms of the contract, for the total medical, nursing, and psychosocial needs of each recipient.

(b) The daily rate is compatible with reasonable charges consistent with efficiency, economy, and quality of total care. The facility

must provide care that addresses the unique health needs and well-being of every recipient [ensure that care meets the health needs and promotes the maximum well-being of recipients]. The payment rate that HHSC makes to the facility includes the following items and services, which [are included in the payment rate made to the facility by the Department of Aging and Disability Services (DADS) and, therefore,] the facility must provide:

(1) nursing care;

(2) social services;

(3) regular, special, and supplemental diets, including tube feedings;

(4) non-legend [nonlegend] drugs, with the exception of insulin; [; and]

(5) alcoholic beverages that are [unless] prescribed for medicinal purposes if the prescription includes the dosage and frequency of the alcohol; [; Alcoholic beverages:]

[(A) prescribed for medicinal purposes must include the dosage and frequency of the alcohol; and]

[(B) not prescribed for medicinal purposes are at the expense of the recipient or family;]

(6) [(5)] for a recipient who is not eligible for Medicare Part D benefits, legend drugs that are not covered by the Medicaid Vendor Drug Program;

(7) [(6)] for a recipient who is eligible for Medicare Part D benefits, legend drugs in a category that is not covered by Medicare Part D and that are not covered by the Medicaid Vendor Drug Program;

(8) [(7)] regular laundry services, except dry cleaning;

(9) [(8)] medical accessories, such as cannulas [canulas], tubes, masks, catheters, ostomy bags and supplies, IV fluids, IV equipment, and equipment that can be used by more than one person, such as wheelchairs, adjustable chairs, crutches, canes, mattresses, hospital-type beds, enteral pumps, trapeze bars, walkers, and oxygen equipment, such as tanks, concentrators, tubing, masks, valves, and regulators, and in addition: [;]

(A) the facility is [Facilities are] required to maintain, in good repair, equipment necessary to meet the needs of the recipient; [;]

(B) if [If] a recipient wants [desires] equipment for the recipient's exclusive use; [; its]

(i) the recipient is responsible for purchasing the desired equipment [purchase is the responsibility of the recipient]; [;]

(ii) [(i)] only [Only] the recipient can use the equipment[;] and the equipment [it] must be identified as the personal property of the recipient; [;]

(iii) [(ii)] upon [Upon] discharge from the facility, the recipient keeps [retains] the equipment the recipient [he] purchased; [; If]

(iv) if the recipient dies, the facility follows the requirements in §554.416 of this chapter (relating to Personal Property); [purchased equipment must be transferred to the estate. If it is donated or sold to the facility by the recipient or the estate, the transaction must be documented. (See §19.416 of this title (relating to Personal Property))];]

(v) [(C)] the facility must maintain and repair a piece of equipment [If] a recipient owns [a piece of equipment] that is medi-

cally necessary; and [; the facility must maintain and repair the equipment.]

(vi) [(D)] when the recipient's [When] Part B Medicare benefits are used [accessed] to pay for equipment and accessories, the facility or supply company may not charge the recipient or family [may not be charged by the facility or supply company] for any portion of these items;

(10) [(9)] medical supplies, including[; but not limited to] tongue depressors, swabs, band-aids [bandaids], cotton balls, and alcohol; and

(11) [(10)] routine [basic] personal hygiene items and services to meet the needs of the recipients, as described in §554.405 of this chapter (relating to Additional Requirements for Trust Funds in Medicaid-certified Facilities), and in addition: [residents (See §19.405(h) of this title (relating to Additional Requirements for Trust Funds in Medicaid-Certified Facilities) for a list of such items and services);]

(A) the facility must tell the recipient the [The] specific type or brand of personal hygiene items [used by] the facility uses [must be disclosed to the recipient];

(B) [then;] if a recipient prefers to use a specific type or brand of a personal hygiene item [item(s)] rather than the item [item(s)] furnished by the facility, the recipient [he] may use [his] personal funds to purchase the item; [item(s);]

(C) [(A)] before the facility purchases or charges [Before purchasing or charging] for the preferred item: [item(s);]

(i) the facility must get [secure] written authorization from the recipient or family indicating the recipient's [his] desired preference; [;]

(ii) the written authorization must include the date; [;] and signature of the person requesting the preferred item; and [item(s); The]

(iii) the signature may not be from [that of] an employee of the facility; [;]

(D) [(B)] if [If] the recipient's personal funds are used to purchase an item: [an item(s); the item(s) is for his sole use;]

(i) the item is for the recipient's sole use; and

(ii) the facility must ensure that the item is in an individual container or package that is labeled with the recipient's name; and

(E) [(C)] the [When the facility purchases personal hygiene item(s) with the recipient's personal funds, the facility must ensure that the item(s) is in an individual container or package that is labeled with the recipient's name. The] facility is not [held] responsible for labeling personal hygiene items brought into the facility if the items are [and] not reported to the management.

(c) Facilities may [are not required to] provide any [particular] brand of non-legend drug, medical accessory, equipment, or supply[; but only those items] necessary to ensure appropriate recipient care unless the physician orders a specific brand or the recipient or family prefers a specific brand of item rather than the one the facility provides. Before purchasing or charging for an item the recipient or family prefers, rather than one furnished by the facility, the facility must:

(1) get written authorization from the recipient or family indicating the recipient's desired preference;

(2) the written authorization must include the date and signature of the person requesting the preferred item; and

(3) the signature may not be from an employee of the facility.

[(1) Unless the physician orders a specific type or brand, the facility may choose the type or brand.]

[(2) If the recipient or family prefers a specific type or brand of item rather than the one furnished by the facility, the recipient, responsible party, or family may be billed for the item, or the recipient's personal funds may be used to purchase the item, or both.]

[(3) Before purchasing or charging for the preferred item, the facility must secure written authorization from the recipient or family indicating his desired preference, the date, and signature of the person requesting the preferred item. The signature may not be that of an employee of the facility.]

(d) If a recipient or family requests [resident has requested] and freely chooses [chosen] to participate in an activity, or to have an item or service provided that is not included, or is different than that provided, in the daily vendor rate, then the resident may be charged for the activity, item, or service.

(1) When there is documentation [is present] that supports the [above] criteria in subsection (d) of this section [;] and that is required by §554.405(d)(5) of this chapter (relating to Additional Requirements for Trust Funds in Medicaid-certified Facilities) [§19.405(d)(5) of this title], the amount may be paid from the recipient's [resident's] trust fund.

(2) When the facility collects payment [acts as a collection agent] for any item, service, or activity that is not included in the daily rate, the facility must be able to provide clear documentation indicating [that clearly indicates] that any charges made to the recipient or the recipient's [his] trust fund are pass-through costs only. The facility may not charge any fees, including handling fees, for these types of transactions.

(e) Except as described in paragraphs (1) and (2) of this subsection, HHSC [DADS] makes vendor payments to nursing facilities [Nursing Facilities] for the day a recipient enters a nursing facility, but not for the day a recipient leaves a facility. The two exceptions are as follows.

(1) If entrance and departure are on the same day, and the recipient does not enter another Title XIX facility on that day, HHSC [DADS] pays for the entire day.

(2) If departure is because of the recipient's death and the deceased recipient is not sent to another Title XIX facility for legal procedures necessary upon the death of the recipient, HHSC [DADS] pays for the entire day.

(f) Vendor payments are made to Medicaid nursing facilities [Nursing Facilities] that comply with the PASARR requirements.

§554.2611. *Retroactive Vendor Payment.*

(a) In this section, retroactive vendor payment is payment HHSC [DADS] makes retroactively to a nursing facility for services the nursing facility provided to an individual who was eligible for, but had not yet applied for, Medicaid. A nursing facility is eligible for up to three months retroactive vendor payment for services it provided, if:

(1) the individual resided in a Medicaid-certified nursing facility, or a distinct part, during the time services were provided;

(2) the individual did not receive Supplemental Security Income cash benefits;

(3) the individual met Medicaid financial eligibility requirements;

(4) the state Medicaid claims administrator has a current MDS assessment for the individual that the facility submitted in compliance with the federal MDS submission requirements; and

(5) the nursing facility met physician certification and plan of care requirements during the time services were provided.

(b) After receipt of an application for Medicaid, HHSC [Texas Health and Human Services Commission (HHSC)] Medicaid eligibility staff notify the applicant whether the applicant meets financial eligibility. The state Medicaid claims administrator uses the applicant's current MDS assessment to make the MN determination and determine the effective date of the MN determination. For the purpose of establishing three months prior eligibility, the effective date of the MN determination for a new recipient is the first day of the month in which the recipient qualified for MN.

(c) If the requirements in subsection (a) of this section are met, HHSC [DADS] makes a retroactive vendor payment using the reimbursement [based on the recipient's calculated RUG] rate for the period that is covered by the retroactive vendor payment. Reimbursement rate as used in this subsection has the meaning defined in §554.2413 of this chapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission).

(d) [DADS or] HHSC may verify that the recipient's record includes the required physician's certification, recertification, and plans of care, and that the plans were reviewed as required during the applicable periods.

(e) If a recipient paid the nursing facility for services for which the facility later receives retroactive vendor payment, the facility must reimburse the recipient the full amount the recipient paid, beginning with the effective date of Medicaid eligibility, minus any applied income or co-payment as determined by HHSC Medicaid eligibility staff.

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 August 3, 2026.

TRD-202603265

Karen Ray
Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-2910



CHAPTER 562. LICENSED CHEMICAL DEPENDENCY COUNSELORS

26 TAC §562.19

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §562.19, concerning Inactive Status, and an amendment to §562.21, concerning Standards for the Training and Supervision of Counselor Interns.

BACKGROUND AND PURPOSE

The purpose of the proposal is to reduce potential costs and confusion regarding the license status for licensed chemical dependency counselors (LCDCs) by repealing §562.19 and to improve

clarity and remove outdated information in the rule for LCDC counselor interns at §562.21.

The proposed repeal of §562.19 eliminates potential costs to LCDCs by removing the rule that allows an LCDC to apply for inactive status. An LCDC with an inactive license must pay an inactive status fee and maintain continuing education requirements while the license is inactive. An LCDC with a license on inactive status may miss the license renewal deadline and become ineligible for license renewal. The former LCDC would then need to reapply to be licensed as an LCDC again. Repealing §562.19 will reduce the frequency of late fees and new license fees for individuals who would have been able to renew their license if it hadn't expired while on inactive status.

The proposed amendment of §562.21 simplifies the standards for supervising counselor interns (CIs) by removing references to the CTI and CCS Assessment Form, which HHSC no longer requires. CIs who want to file a complaint about their supervisor will now file a complaint through the HHSC complaint process and not through the CTI and CCS Assessment Form. Requiring CIs to file a complaint through the HHSC complaint process ensures consistency in complaint processes across Health Care Regulation rulesets.

This proposal supports regulatory reform by reducing unnecessary regulatory burden, lowering potential compliance costs, and improving the clarity and accuracy of the rules.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §562.19 removes the rule section.

The proposed amendment to §562.21 simplifies the CI supervisor assessment process by removing references to the CTI and CCS Assessment Form.

The proposed amendment requires the Clinical Training Institution or Certified Clinical Supervisor to instead give the CI information about how to file a complaint with HHSC during the orientation process.

The proposed amendment corrects the spelling of several defined terms, consistently uses "CI" instead of sometimes using "counselor intern," updates a reference to "HHSC", and updates rule references.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated loss of revenue to state government as a result of enforcing and administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state government.

The effect on state government for each of the first five years the proposed repeal is in effect is an estimated loss of revenue because LCDCs may no longer request an inactive status, or request to reactivate the license, each requiring a fee. However, HHSC is unable to estimate the loss of revenue because it is unknown how many providers would apply for an inactive status and pay the \$50 inactive status fee and how many would return to active status and pay the applicable fees.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because there is no requirement to alter current business practices, and there are no new fees imposed.

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 rule does not impose a cost on regulated persons and is amended to reduce the burden or responsibilities imposed on regulated persons by the rule.

PUBLIC BENEFIT AND COSTS

David Kostroun, Chief Regulatory Services Officer, has determined that for each year of the first five years the rules are in effect, the public benefit will be removing potential costs and burdens on license holders and reducing the administrative burden on the counselor intern training and supervision process.

Victoria Grady 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 there are no requirements to alter current business practices and there are no new fees or costs imposed on those required 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 HHSCRulesCoordinationOffice@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 26R029" 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, and Texas Occupations Code §504.051, which authorizes the executive commissioner to adopt rules governing the performance, conduct, and ethics for persons licensed as LCDCs.

The repeal implements Texas Government Code §524.0151 and Texas Occupations Code §504.051.

§562.19. *Inactive Status.*

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

Filed with the Office of the Secretary of State on August 3, 2026.

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 834-4591



26 TAC §562.21

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, and Texas Occupations Code §504.051, which authorizes the executive commissioner to adopt rules governing the performance, conduct, and ethics for persons licensed as LCDCs.

The amendment implements Texas Government Code §524.0151 and Texas Occupations Code §504.051.

§562.21. *Standards for the Training and Supervision of Counselor Interns.*

(a) A Clinical Training Institution (CTI) [CTI] shall appoint a single training coordinator who is a Qualified Credentialed Counselor (QCC). The CTI coordinator or a Certified Clinical Supervisor (CCS) [CCS] shall oversee all training activities of a counselor intern (CI) and ensure compliance with the Texas Health and Human Services Commission (HHSC) [department] requirements and rules relating to the training and supervision of a CI [CIs].

(b) The CTI or CCS shall not accept an applicant for training and establish acceptance criteria for CIs. No applicant shall be accepted to a CTI or accepted for CCS supervision without:

(1) documentation that the applicant is registered as a CI [~~counselor intern~~] with HHSC [~~the department~~]; and

(2) a signed ethics agreement that is consistent with the standards in §562.23 [~~§140.423~~] of this chapter [~~title~~] (relating to Professional and Ethical Standards for all License Holders).

(c) The CTI or CCS shall [~~establish the following level system to~~] classify a CI [~~counselor interns~~] according to the CI's hours of supervised work experience using the following level system:

- (1) Level I: 0-1,000 hours of work experience;
- (2) Level II: 1,001-2000 hours of work experience;
- (3) Level III: 2,001-4,000 hours of work experience; and
- (4) Graduate Status: over 4,000 hours of work experience.

(d) [~~The CTI or CCS shall have a supervision structure that includes all intern levels.~~] The CTI or CCS shall designate each CI's [~~intern's~~] level in writing and provide the CI [~~intern~~] with a copy of the documentation.

(e) The CCS, or the CTI coordinator or intern's supervising QCC at a CTI, shall supervise a CI as outlined in §562.22 of this chapter (relating to Direct Supervision of Interns). [~~All counselor interns at a CTI must be under the direct supervision of a QCC as described in §140.422 of this title (relating to Direct Supervision of Interns). A CCS must directly supervise a counselor intern under the CCS's supervision, as described in §140.422 of this title.~~]

(f) The CTI or CCS shall provide each CI designated as Level I, II, or [~~and~~] III, [~~intern~~] with reading assignments and training activities for the supervised work experience that includes material in each Knowledge, Skills, and Attitudes (KSA) [~~KSA~~] dimension.

(g) [~~The CTI or CCS shall use the department's counselor intern evaluation forms to structure the intern's 4,000 hours of supervised work experience.~~] The CCS or the CI's supervising QCC, under the oversight and monitoring of the CTI coordinator, shall perform the CCS' or CTI's responsibilities as follows [~~in the following paragraphs of this subsection~~].

(1) The CCS or CTI shall set weekly objectives with the CI based on areas targeted for improvement.

(2) The CCS or CTI shall provide the CI reading, computer, or [~~and/or~~] video assignments that address areas needing improvement. The CTI or CCS shall allow the CI [~~intern~~] two hours per month to complete these assignments.

(3) The CCS or CTI shall monitor the CI's [~~intern's~~] progress and provide verbal and written feedback during weekly supervision meetings.

(4) The CCS or CTI shall require the CI to complete [~~intern shall complete~~] a written KSA self-evaluation during the first 50 hours of work experience.

(5) The CCS or [~~the~~] CTI, and the CI, [~~intern~~] shall complete and discuss a written KSA evaluation at the completion of each level listed in subsection (c)(1) - (3) of this section [~~of experience~~] (after 1,000 hours, 2,000 hours, and 4,000 hours).

(h) The CTI or CCS shall not allow a CI designated as Level I, II, or III [~~intern~~] to accrue more than 40 hours of work experience per week.

(i) A CI with Graduate Status (over 4,000 hours) [~~graduate intern~~] may continue to provide chemical dependency counseling services at a registered CTI [~~clinical training institution~~] or with a CCS for

as long as the CI's registration is valid [~~during that individual's maximum CI registration period~~].

(j) The CTI coordinator or CCS shall send the following documents [~~directly~~] to HHSC [~~the department~~] and provide the CI [~~intern~~] with copies within ten working days after [~~from~~] the date the CI [~~intern~~] completes the required 4,000 hours or after the date the CI leaves the CTI or the CCS. [~~agency~~];

(1) The HHSC Intern Supervised Work Experience Documentation [~~the department's supervised work experience documentation~~] form, fully completed and signed by the CCS or the CI's supervising QCC and the CTI Coordinator. [~~;~~ and]

(2) A [~~a~~] copy of the CI's [~~intern's~~] job description showing job responsibilities within the KSAs.

(k) The CTI or CCS shall ensure all training [~~All~~] activities counted towards the CI's [~~intern's~~] supervised work experience are [~~shall be~~] within the scope of chemical dependency counseling services as defined by the KSAs.

(l) The CTI or CCS shall not approve hours of work experience for which the CI [~~intern~~] fails to substantially complete reading assignments and training activities for the supervised work experience [~~related activities and supervision assignments~~]. The CTI or CCS shall document any [~~Any~~] failure by the CI to complete assignments [~~shall be documented~~] on the Intern Supervised Work Experience Documentation [~~weekly supervision~~] form located on the HHSC website.

(m) After the CTI or CCS accepts an applicant as a CI, the CTI or CCS, as part of the orientation process, shall give each CI information in writing on how to file a complaint with HHSC about the CTI, CCS, or other LCDC or CI. [~~The CTI or CCS shall give each CI the department's CTI and CCS Assessment Form with instructions to complete the assessment and mail it directly to the department.~~]

[~~(n) The CTI or CCS shall use current department forms for all training and supervision documentation mandated by the department.~~]

(n) [~~(o)~~] The CTI shall ensure that each CTI coordinator and supervising QCC obtains three hours of continuing education in clinical supervision every two years.

(o) [~~(p)~~] The CTI or CCS shall inform a CI [~~interns~~] of licensure examination requirements and procedures, as well as examination schedules and information provided by HHSC [~~the department~~].

(p) [~~(q)~~] The CTI or CCS shall ensure that:

(1) a CI designates the CI's [~~interns designate their~~] status by using "counselor intern," "intern" or "CI" when signing client record entries; [~~;~~ and

(2) [~~that~~] only a registered CI uses one of these designations when signing client record entries [~~CI's use this designation~~].

(q) [~~(r)~~] The CTI or CCS shall maintain a complete file for each CI [~~counselor intern~~] for five years from the end of the CI's employment with a CTI or supervision by a CCS, as applicable, to include:

- (1) letter of registration;
- (2) ethics agreement signed by the CI [~~intern~~];
- (3) copies of KSA evaluations;
- (4) documentation of all supervision activities;
- (5) documentation of CI [~~intern~~] levels and accumulated hours of work experience at each level; and
- (6) copy of the HHSC Intern Supervised Work Experience Documentation [~~supervised work experience documentation~~] form.

(r) [(s)] The CTI or CCS shall give the CI [intern] a copy of all information contained in the CI's [intern] file when the CI [intern] completes the required supervised work experience or [and/or] leaves the CTI or the CCS [agency].

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) 834-4591



CHAPTER 746. MINIMUM STANDARDS FOR CHILD-CARE CENTERS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§746.1107, 746.1317, and 746.4301; the repeal of §§746.201, 746.301, 746.303, 746.607, 746.609, 746.611, 746.625, 746.705, 746.709, 746.805, 746.1021, 746.1045, 746.1057, 746.1309, 746.1311, 746.1313, 746.1329, 746.3605, 746.3607, 746.4201, 746.4203, 746.4205, 746.4207, 746.4401, 746.4403, 746.4405, and 746.4407; and new §§746.201, 746.301, 746.303, 746.609, 746.705, 746.1021, 746.1045, 746.1309, 746.1313, 746.1329, 746.3605, 746.4201, 746.4401, and 746.4407, in Texas Administrative Code, Chapter 746, concerning Minimum Standards for Child-Care Centers.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement changes due to an accelerated review of Chapter 746, Minimum Standards for Licensed Child-Care Centers, conducted by Child Care Regulation (CCR). The project involved reviewing low-weighted minimum standards to identify rules that could be amended, simplified, or removed to streamline requirements necessary to protect the health, safety, and well-being of children in the care of licensed child care centers.

HHSC conducted a review of existing child care rules related to record keeping and reporting to determine if any rules needed to be revised to ensure accountability of child care providers receiving Texas Workforce Commission Child Care Services (CCS) subsidies or improve the accuracy of the information reported. The proposal includes a provision requiring compliance with CCS program rules and requirements and amends rules to make non-substantive changes which remove the hyphen between "child" and "care."

SECTION-BY-SECTION SUMMARY

Proposed new §746.201 uses the standard format for the title rather than the question-and-answer format. The rule outlines permit holder responsibilities and requires compliance with CCS program requirements if receiving CCS subsidies.

The proposed repeal of §746.201 deletes the rule. The content of the rule is added to proposed new §746.201 with substantive changes.

Proposed new §746.301 uses the standard format for the title rather than the question-and-answer format. The rule outlines situations that must be reported to CCR in writing and situations that require notification and approval by CCR before changes are made to the child care center.

Proposed new §746.303 uses the standard format for the title rather than the question-and-answer format. The rule describes situations in which the child care center must notify CCR of changes concerning certain employees or controlling persons.

The proposed repeal of §746.301 deletes the rule. The content of the rule is added to proposed new §746.301 with substantive changes.

The proposed repeal of §746.303 deletes the rule. The content of the rule is added to proposed new §746.303 with substantive changes.

Proposed new §746.609 uses the standard format for the title rather than the question-and-answer format. The rule provides that the child's records must be updated with the child's parent annually, that the parent must sign and date updates and that the records must be maintained in the child's file.

The proposed repeal of §746.607 deletes the rule requiring a parent's signature on the enrollment form as no longer necessary because parents enrolling children in child care centers must already sign other specific authorizations that make this requirement duplicative.

The proposed repeal of §746.609 deletes the rule. The content of the rule is added to proposed new §746.609 with substantive changes.

The proposed repeal of §746.611 deletes the rule as no longer necessary because there is no statutory authority for the requirement of parents to provide health statements for their children to attend care.

The proposed repeal of §746.625 deletes the rule as no longer necessary and to comply with Texas Human Resources Code §42.043(e). This rule allowed for an exception to operations maintaining immunization records for children enrolled in preschool or school at another location provided the child's parent signed a statement that the records were on file at the school.

The title of Subchapter C, Division 2, is amended.

Proposed new §746.705 uses the standard format for the title rather than the question-and-answer format. The rule requires the child care center director or another employee designated by the director to review incident and illness reports and requires the reports to be signed by the director or designated employee.

The proposed repeal of §746.705 deletes the rule. The content of the rule is added to proposed new §746.705 with substantive changes.

The proposed repeal of §746.709 deletes the rule as no longer necessary because §746.603(a)(7) already outlines that incident and illness reports must be kept in the child's file and §746.803(a) already outlines records retention periods for all records at the licensed child care center.

The proposed repeal of §746.805 deletes the rule as no longer necessary. The rule was adopted in 2010 to notify centers that the centers are permitted to keep electronic records, which is no longer a new practice. The rule indicates children's records must be accessible to caregivers which is already established

in §746.601 and it indicates that records must be available for review by CCR upon request which is already established in §746.601, §746.801, and §746.901.

Proposed new §746.1021 uses the standard format for the title rather than the question-and-answer format. The rule describes child care experience that may qualify a person to work as a child care center director.

Proposed new rule §746.1045 uses the standard format for the title rather than the question-and-answer format. The rule provides the requirements for submission and review of transcripts for foreign education.

The proposed repeal of §746.1021 deletes the rule. The content of the rule is added to proposed new §746.1021 with substantive changes.

The proposed repeal of §746.1045 deletes the rule. The content of the rule is added to proposed new §746.1045 with substantive changes.

The proposed repeal of §746.1057 deletes the rule as no longer necessary because it is duplicative of §746.201(4) which outlines the requirement for a qualified director.

The proposed amendment of §746.1107 uses the standard format for the title rather than the question-and-answer format. The amendment consolidates acceptable documentation of high school equivalency completion into one section and updates language to improve readability and understanding.

Proposed new §746.1309 uses the standard format for the title rather than the question-and-answer format. The rule outlines the required annual training for directors and caregivers in child care centers; includes required topics, number of training hours required, and statutory citations for reference; prohibits certain training hours from counting toward a caregiver's annual training; and prohibits a director from earning training hours by presenting training to others.

Proposed new §746.1313 uses the standard format for the title rather than the question-and-answer format. It provides the requirement for caregiver and director annual training to occur within a 12-month period, outlines that the operation may choose to establish their training year in one of two ways, and outlines that the option selected for how the child care center will determine annual training years must be consistent for all operation staff.

The proposed amendment to §746.1317 uses the standard format for the title rather than the question-and-answer format, includes statutory citations for reference, eliminates the requirement for operations to maintain records related to instructor led and self-instructional training, and updates language to improve readability and understanding.

Proposed new §746.1329 uses the standard format for the title rather than the question-and-answer format. The rule outlines documentation requirements for annual training for employees of a child care center.

The proposed repeal of §746.1309 deletes the rule. The content of the rule is added to proposed new §746.1309 with substantive changes.

The proposed repeal of §746.1311 deletes the rule. The content of the rule is added to proposed new §746.1309 with substantive changes.

The proposed repeal of §746.1313 deletes the rule. The content of the rule is added to proposed new §746.1313 with substantive changes.

The proposed repeal of §746.1329 deletes the rule. The content of the rule is added to proposed new §746.1329 with substantive changes.

Proposed new §746.3605 uses the standard format for the title rather than the question-and-answer format. The rule outlines how operations should respond to illnesses and injuries to children in care.

The proposed repeal of §746.3605 deletes the rule. The content of the rule is added to proposed new §746.3605 with substantive changes.

The proposed repeal of §746.3607 deletes the rule. The content of the rule is added to proposed new §746.3605.

Proposed new §746.4201 uses the standard format for the title rather than the question-and-answer format. The rule outlines the indoor activity space requirements and restrictions.

The proposed repeal of §746.4201 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4203 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4205 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4207 deletes the rule. The content of the rule is added to proposed new §746.4201.

The proposed amendment of §746.4301 uses the standard format for the title rather than the question-and-answer format. The amendment reduces the outdoor square footage requirement per child and updates language to improve readability and understanding.

Proposed new §746.4401 uses the standard format for the title rather than the question-and-answer format. The new rule outlines hand-washing sink requirements for child care centers.

Proposed new §746.4407 uses the standard format for the title rather than the question-and-answer format. The rule outlines toilet requirements for child care centers.

The proposed repeal of §746.4401 deletes the rule. The content of the rule is added to proposed new §746.4401 with substantive changes.

The proposed repeal of §746.4403 deletes the rule. The content of the rule is added to proposed new §746.4401 with substantive changes.

The proposed repeal of §746.4405 deletes the rule. The content of the rule is added to proposed new §746.4401.

The proposed repeal of §746.4407 deletes the rule. The content of the rule is added to proposed new §746.4407 with substantive changes.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable

implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create a new regulation;
- (6) the proposed rules will expand, limit, 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

Victoria Grady 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 the 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 reduce the burden or responsibilities imposed on regulated persons by the rules.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Deputy Executive 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 reduced administrative burdens in licensed child care centers by easing or eliminating certain regulations, and streamlining requirements necessary to protect the health, safety, and well-being of children in child care centers.

Victoria Grady 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 require any significant updates to training that would result in a cost 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 HHSCRulesCoordinationOffice@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 26R057" in the subject line.

SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §746.201

STATUTORY AUTHORITY

The repealed rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeal implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.201. What are my responsibilities as the permit holder?

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

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For further information, please call: (512) 438-3269



DIVISION 2. REQUIRED NOTIFICATION

26 TAC §746.301, §746.303

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.301. *What changes regarding my child-care center must I notify Licensing about before making the change?*

§746.303. *What changes must I notify Licensing of regarding the child-care center's designee, governing body, director, and employees?*

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 C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §§746.607, 746.609, 746.611, 746.625

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.607. *Must the child's parent sign the admission information?*

§746.609. *Must I update the admission information?*

§746.611. *Must I have a health statement for children in my care?*

§746.625. *If a child's immunization record is already on file at a pre-kindergarten program or school away from the child-care center, must I also have a copy of the child's immunization record in my files?*

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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Chief Counsel

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DIVISION 2. RECORDS OF ACCIDENTS AND INCIDENTS

26 TAC §746.705, §746.709

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.705. *Must someone from my child-care center sign the Incident/Illness Report form?*

§746.709. *Where must I file the Incident/Illness Report form and how long must I keep it?*

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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For further information, please call: (512) 438-3269



DIVISION 3. RECORDS THAT MUST BE KEPT ON FILE AT THE CHILD-CARE CENTER

26 TAC §746.805

STATUTORY AUTHORITY

The repealed rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeal implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.805. May I keep electronic records or a combination of paper and electronic records?

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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Chief Counsel

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SUBCHAPTER D. PERSONNEL

DIVISION 1. CHILD-CARE CENTER DIRECTOR

26 TAC §§746.1021, 746.1045, 746.1057

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1021. What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?

§746.1045. Does education received outside of the United States substitute for the education requirements for a child-care director?

§746.1057. What happens if my Child-Care Center Director's Certificate expires?

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

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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§746.1309, 746.1311, 746.1313, 746.1329

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1309. What areas of training must the annual training for caregivers cover?

§746.1311. What areas of training must the annual training for my child-care center director cover?

§746.1313. When must annual training for my caregivers and director be obtained?

§746.1329. What documentation must I provide to Licensing to verify that employees have met training requirements?

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

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SUBCHAPTER R. HEALTH PRACTICES

DIVISION 3. ILLNESS AND INJURY

26 TAC §746.3605, §746.3607

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.3605. How must caregivers respond when a child becomes ill?

§746.3607. How must caregivers respond when a child is injured and requires immediate treatment by a health-care professional?

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SUBCHAPTER T. PHYSICAL FACILITIES

DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §§746.4201, 746.4203, 746.4205, 746.4207

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4201. How many square feet of indoor activity space must I have for children?

§746.4203. Am I required to care for children younger than 18 months separately from older children?

§746.4205. Must I limit the number of children in each room based on the indoor activity space measurements for that room?

§746.4207. Do these indoor activity space requirements apply to my child-care center if it was licensed before September 1, 2003?

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DIVISION 3. TOILETS AND SINKS

26 TAC §§746.4401, 746.4403, 746.4405, 746.4407

STATUTORY AUTHORITY

The repealed rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas

Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4401. How many hand-washing sinks must I have in my child-care center for children's use?

§746.4403. Must I have a hand-washing sink in the diaper-changing area?

§746.4405. Where must I locate the hand-washing sinks for children's use?

§746.4407. How many toilets am I required to have in my child-care center?

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CHAPTER 746. MINIMUM STANDARDS FOR CHILD CARE CENTERS

SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §746.201

STATUTORY AUTHORITY

The new rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.201. Permit Holder Responsibilities.

The permit holder must:

(1) develop and follow operational policies that comply with the minimum standards specified in this chapter;

(2) establish written personnel policies, including detailed job descriptions, responsibilities, and requirements;

(3) ensure training requirements in this chapter are met;

(4) appoint a qualified director who is present at the child care center to oversee daily operations;

(5) require employees, contract service providers, and volunteers report suspected abuse, neglect, or exploitation to the Texas Abuse and Neglect Hotline as required by Texas Family Code §261.101 and ensure:

(A) this duty is not delegated to another person; and

(B) any person reporting abuse, neglect, or exploitation is not required by the child care center to seek permission or notify the child care center before making a report;

(6) keep all information about background checks confidential and protect background check information from disclosure to unauthorized persons, as required by law;

(7) allow a parent to visit the child care center any time during operating hours without prior approval;

(8) follow the liability insurance requirements in this division;

(9) ensure the number of children in care, both at the child care center and away from the child care center, such as during a field trip, does not exceed the licensed capacity;

(10) comply with Texas Human Resources Code Chapter 42, all minimum standards, and any other Texas Administrative Code rules that apply;

(11) report Department of Justice substantiated complaints from Title III of the Americans with Disabilities Act to Child Care Regulation; and

(12) comply with all Texas Workforce Commission Child Care Services (CCS) requirements when receiving CCS subsidies. Failure to follow the CCS requirements, including knowingly or negligently failing to meet any provider requirements or responsibilities outlined in Title 40, Texas Administrative Code, Chapter 809 (relating to Child Care Services), is considered a violation of the Texas Health and Human Services Commission minimum standards.

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DIVISION 2. REQUIRED NOTIFICATION

26 TAC §746.301, §746.303

STATUTORY AUTHORITY

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executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.301. Child Care Regulation (CCR) Notification Requirements.

(a) A child care center must notify Child Care Regulation (CCR) in writing before:

(1) changing hours, days, or months when care is provided;

(2) closing for five consecutive days or more when the closure is planned or, when there is an unplanned closure, as soon as possible;

(3) closing permanently; or

(4) completing a change of ownership. Ensuring a completed application for a new permit is submitted by the intended new owner at least 60 days before the change of ownership is completed may make it possible for the intended new owner to operate under the new permit without a break in service.

(b) A child care center must notify CCR in writing and receive CCR approval before changing:

(1) the address or location of the child care center, as specified in Texas Human Resources Code §42.048(e-3) and Chapter 745, Subchapter D, Division 10 of this title (relating to Relocation of Operation);

(2) indoor or outdoor facilities, equipment, or space; or

(3) any of the services offered by the child care center in a manner that would require CCR to amend the permit.

§746.303. Controlling Persons or Employee Change Notification Requirements.

(a) A child care center must notify Child Care Regulation (CCR) in writing within five days after any person that is a child care center director, designee, governing body board member, or other executive officer departs from the person's role or changes a mailing address.

(b) If a person at the child care center newly becomes a controlling person, the child care center must submit controlling person information within two days after the person becomes a controlling person.

(c) A child care center must report how many employees left the center's employment during the previous calendar year. The information must be submitted through the provider portal account no later than January 15 of each year.

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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §746.609

STATUTORY AUTHORITY

The new rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.609. Child Record Requirements.

(a) At least once every year, a child care center must review each child's record, whether maintained in physical or electronic form, with the child's parent to confirm that all information is current and accurate.

(b) As part of the annual review of each child's record, the parent must sign and date any changes to the information. A child care center must keep the updated information in the child's record.

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DIVISION 2. INCIDENT AND ILLNESS

RECORD KEEPING

26 TAC §746.705

STATUTORY AUTHORITY

The new rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.705. Incident and Illness Report Requirements.

A director or another employee designated by the director of a child care center must review incident and illness reports within 24 hours of the incident or illness. Once reviewed, the director or another employee designated by the director must sign and date all reports to indicate the reports are complete. The completed reports must be maintained in the child's record.

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SUBCHAPTER D. PERSONNEL

DIVISION 1. CHILD CARE CENTER

DIRECTOR

26 TAC §746.1021, §746.1045

STATUTORY AUTHORITY

The new rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1021. Director Experience Requirements.

(a) Child care center experience means providing direct care to children in a licensed or certified center. A position qualifies only if it involved providing direct care in the child care center setting. Positions such as director, assistant director, or caregiver may qualify.

(b) Child care home experience means providing direct care to children in a licensed or registered child care home. A position qualifies only if it involved providing direct care in the child care home setting. Positions such as primary caregiver, assistant caregiver, or substitute caregiver may qualify.

(c) Child Care Regulation calculates experience requirements on a full-time 30-hour work week. Part-time experience may be credited on an hour-by-hour basis toward the full-time requirement.

§746.1045. Director International Education Requirements.

Official transcripts must be provided to Child Care Regulation to verify course work completion and equivalency. All documents must be translated into English for 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.

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DIVISION 2. CHILD CARE [CHILD-CARE] CENTER EMPLOYEES AND CAREGIVERS

26 TAC §746.1107

STATUTORY AUTHORITY

The amended rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1107. Minimum Caregiver Age and Education Requirements. [What additional minimum qualifications must each of my caregivers meet?]

Except as otherwise provided in this division, each caregiver who works directly with children [must comply with minimum standards for employees and] must:

(1) be [Be] at least 18 years of age; and

(2) have a high school diploma, high school equivalent, or high school certificate of coursework completion as defined in Texas Education Code §28.025(d). [Have a:]

[(A) High school diploma;]

[(B) High school equivalent; or]

[(C) High school certificate of coursework completion as defined in Texas Education Code, §28.025(d).]

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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§746.1309, 746.1313, 746.1317, 746.1329

STATUTORY AUTHORITY

The amendment and new rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment and new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1309. Director, Caregiver, and Other Employee Required Annual Training.

(a) Director annual training must be relevant to the ages of the children cared for by the child care center. Caregiver annual training must be relevant to the ages of the children cared for by the caregiver.

(b) At least six hours of the annual training for caregivers must be in one or more of the following topics:

(1) child growth and development;

(2) guidance and discipline;

(3) age-appropriate curriculum; and

(4) caregiver-child interaction.

(c) At least two hours of the annual training for any employee at the child care center must be about preventing, recognizing, and reporting child abuse, neglect, or exploitation, in accordance with the Texas Human Resources Code §42.04261(b), including:

(1) factors indicating a child is at risk for abuse, neglect, or exploitation;

(2) warning signs indicating a child may be a victim of abuse, neglect, or exploitation;

(3) the procedures that mandatory reporters must use to report child abuse, neglect, or exploitation; and

(4) a list of community organizations that have training programs on preventing, recognizing, and reporting child abuse, neglect or exploitation that are available to employees, children, and parents.

(d) If the child care center provides care for children younger than 24 months of age, the director and caregivers responsible for those children's care must complete one hour of annual training, in accordance with the Texas Human Resources Code §42.0421(b), that includes the following topics:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(e) Directors and caregivers must complete training in the following topics annually:

(1) emergency preparedness;

(2) preventing and controlling the spread of communicable diseases and immunization requirements;

(3) administering medication;

(4) preventing and responding to emergencies caused by allergic reactions to food or other allergens;

(5) understanding physical premises safety, including identifying and preventing injuries from common hazards; and

(6) handling, storing, and disposing of hazardous materials and biological contaminants.

(f) The remaining annual training hours for directors and caregivers must be in one or more of the following topics:

(1) caring for children with special needs;

(2) promoting child health;

(3) safety practices;

(4) risk management;

(5) recognizing and caring for children who are ill;

(6) professional development topics;

(7) planning developmentally appropriate learning activities;

(8) observation and assessment;

(9) attachment and responsive caregiving; and

(10) minimum standards and how they apply to the caregiver.

(g) Instructor-led training must make up at least six hours of the director's and five hours of a caregiver's required annual training.

(h) Training hours related to orientation, pre-service training, pediatric first aid and pediatric cardiopulmonary resuscitation do not count toward the director and caregiver annual training hours required in this section.

(i) A director may not earn training hours by presenting training to others.

§746.1313. Annual Training Timeframes.

(a) Each caregiver and director must complete annual training hours within 12 months of the date of employment and during each subsequent 12-month period. Training hours must be counted in the year in which they are completed and may not be carried over into the next training year.

(b) A child care center may designate a single start date for the annual training year for all employees that corresponds with the school or calendar year rather than each employee's date of employment. For staff hired after the designated date, the child care center must:

(1) prorate the staff member's required training hours from the date of employment to the end of the designated annual training year; and

(2) require the staff member to begin a new 12-month period aligned with the designated school or calendar year.

(c) A child care center may use either subsection (a) or (b) of this section to determine annual training requirements. The child care center must apply the selected option consistently to all staff.

§746.1317. Approved Training Sources. [Must the training for my caregivers and the director meet certain criteria?]

[(a)] All training [Training] may include clock hours or Continuing Education Units (CEUs) [CEUs] provided by the following in accordance with Texas Human Resources Code §42.0421(f):

(1) a [A] training provider registered with the Texas Early Childhood Professional Development System Training Registry, maintained by the Texas Head Start State Collaboration Office;

(2) an [An] instructor who teaches early childhood development or another relevant course at a secondary school or institution of higher education accredited by a recognized accrediting agency;

(3) an [An] employee of a state agency with relevant expertise;

(4) a [A] physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) a [A] person who holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6) the designated [A] director at the child care [your child-care] center if:

(A) the [The] director has demonstrated core knowledge in child development and caregiving;

(B) HHSC has not placed the child care [your] center on probation or suspended, revoked, or refused to renew the [your] permit in the two years preceding the training;

(C) HHSC has not assessed an administrative penalty against the child care [your] center during the previous two years while the [your] director was serving in that role; and

(D) the [The] only caregivers receiving the training are employees at the director's [of your] center; or[.]

(7) a [A] person who has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) has [Has] a current Child Development Associate [(CDA)] credential; or

(B) holds [Holds] at least an associate degree in child development, early childhood education, or a related field.

[(b)] Training may include clock hours or CEUs obtained through self-instructional materials, if the materials were developed by a person who meets one of the qualifications in subsection (a) of this section.]

[(c)] Instructor-led and self-instructional training, but not self-study training, must include:]

[(1)] Specifically stated learning objectives;]

[(2)] A curriculum, which includes experiential or applied activities;]

[(3)] An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and]

[(4)] A certificate of successful completion from the training source.]

§746.1329. Required Training Documentation.

(a) A child care center must keep records showing that each employee completed annual training. These records must be maintained in the employee's personnel file.

(b) All certificates or letters documenting completion of training must include:

- (1) participant's name;
- (2) date of the training;
- (3) title or subject of the training;
- (4) the trainer's name, or the source of the training for self-instructional training;
- (5) how the trainer qualifies as a training provider, in accordance with Texas Human Resources Code §42.0421(f); and
- (6) length of the training specified in hours, CEUs, or college credit hours, as appropriate.

(c) Documentation of pediatric first aid and pediatric cardiopulmonary resuscitation training must also include the date the certification expires or the renewal due date. The training organization determines the expiration or renewal date.

(d) For orientation and pre-service training, a child care center can maintain letters or certificates showing completion or the employee and person who provided the training can execute a signed and dated statement verifying completion.

(e) Documentation of any completed training on preventing, recognizing, and reporting child abuse, neglect, or exploitation, in accordance with Texas Human Resources Code §42.0426(a-1), must include the signature of the employee who completed the training.

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SUBCHAPTER R. HEALTH PRACTICES

DIVISION 3. ILLNESS AND INJURY

26 TAC §746.3605

STATUTORY AUTHORITY

The new rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.3605. Illness and Injury Response Requirements.

(a) If a child becomes ill or injured and needs urgent care from a health-care professional or hospital admission, a child care center's employee or caregiver must:

- (1) call emergency medical services or take the child to the closest emergency room;
- (2) provide first aid or cardiopulmonary resuscitation when needed; and
- (3) notify the child's parent.

(b) If a child becomes ill or injured and does not need urgent care from a health-care professional or hospital admission, a child care center's employee or caregiver must:

- (1) contact the child's parent to pick up the child who is ill or to notify the parent of the minor injury;
- (2) provide first-aid treatment, when needed;
- (3) care for the child who is ill and separate the child from other children, as needed; and
- (4) follow proper health and sanitation practices to prevent the spread of illness.

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SUBCHAPTER T. PHYSICAL FACILITIES

DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §746.4201

STATUTORY AUTHORITY

The new rule 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4201. Indoor Activity Space Requirements.

(a) A child care center must have at least 30 square feet of activity space for each child counted in the capacity of the child care center.

(b) Children less than 18 months old must be cared for separately from children over 18 months, unless there are fewer than 12 children in care.

(c) A child care center must not exceed room capacity unless children over 18 months old are taking part in a shared activity in the same space.

(d) Kindergarten and nursery schools, as well as schools with kindergarten or higher grades, licensed before September 1, 2003, are required to provide at least 20 square feet of space for each child. This reduced space requirement is allowed only while the permit issued before September 1, 2003, remains valid.

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DIVISION 2. OUTDOOR SPACE REQUIREMENTS

26 TAC §746.4301

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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4301. Outdoor Space Requirements. [How many square feet of outdoor activity space must I have?]

(a) A child care center [You] must have 75 [80] square feet of [outdoor] activity space per [for each] child in [using] the outdoor activity area at one time unless a child care center is licensed to provide only alternate or get-well care.[; unless you are licensed to provide only:]

[(1) An alternate care program; or]

[(2) A get-well care program.]

(b) A child care center's [You must have enough square footage in the] outdoor activity space must be large enough to accommodate [to equal] at least 25 percent [25%] of the [your] licensed [indoor] capacity.

(c) A child care center [If you were] licensed before September 1, 2003, does not have to comply with subsection (b) of this section if

the permit remains valid [you do not have to comply with the outdoor activity space requirements specified in subsection (b) of this section unless the permit issued prior to September 1, 2003, is no longer valid].

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 July 27, 2026.

TRD-202603194

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3269



DIVISION 3. TOILETS AND SINKS

26 TAC §746.4401, §746.4407

STATUTORY AUTHORITY

The new rules 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, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4401. Hand-washing Sink Requirements.

(a) A child care center must have at least one hand-washing sink for every 17 children who are 18 months old and older, except:

(1) a child care center licensed before September 1, 2003, as a kindergarten and nursery school or school grades kindergarten and above, must have at least one hand-washing sink for every 20 children, if the permit issued before that date remains valid; and

(2) a drop-in child care center licensed before September 1, 2003, must have at least one hand-washing sink for every 25 children, if the permit issued before that date remains valid.

(b) A child care center must have one hand-washing sink in each diaper changing area. A child care center licensed before September 1, 2003, as a day care center, group day care home, or drop-in child care center, that is unable to provide a hand-washing sink in the diaper changing area is exempt from this requirement if the permit issued before that date remains valid.

(c) A hand-washing sink must be easy for a child 18 months old or older to reach. Each sink must have soap, running water, and either single-use disposable towels or a hot-air hand dryer that children can use.

§746.4407. Toilet Requirements.

(a) A child care center must have at least one flush toilet for every 17 children who are 18 months old and older, except for:

(1) a child care center licensed before September 1, 2003, as a kindergarten and nursery school or school grades kindergarten and above, must have at least one flush toilet for every 20 children; and

(2) a drop-in child care center licensed before September 1, 2003, must have at least one flush toilet for every 25 children.

(b) The exceptions in this section are allowed only if the permit issued before September 1, 2003 remains valid.

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 July 27, 2026.

TRD-202603195

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3269



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 30. OCCUPATIONAL LICENSES AND REGISTRATIONS

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes the amendments to §§30.7, 30.24, 30.26, 30.30, 30.33, 30.192, 30.317, 30.340, 30.355, 30.390, 30.392, and 30.400.

Background and Summary of the Factual Basis for the Proposed Rules

Legislative Implementation

House Bill (HB) 1237 amended Texas Water Code (TWC), §37.006, to allow individuals additional time to renew any license or registration up to 180 days past expiration. The bill allows TCEQ to charge up to 1.5 times the normal fee to renew a license or registration that is up to 90 days past expiration and up to two times the normal renewal fee to renew a license or registration that is more than 90 days but not more than 180 days past expiration. Previously, the statute only allowed an individual to renew their license up to 30 days past the expiration date and allowed a licensing agency to charge up to 1.5 times the normal fee. TCEQ proposes setting the renewal fees for 1.5 times the normal fee and 2 times the normal fee for license and registration applications that are submitted up to 90- and 180-days past expiration respectively.

HB 5629 amended Texas Occupations Code (TOC) Chapter 55, *Licensing of Military Service Members, Military Veterans, and Military Spouses*, specifically the reciprocal process for military service members, veterans, and military spouses with an occupational license from another state seeking an occupational license in Texas. The review process for reciprocal licenses will be based on whether the license in the other state is similar in scope of practice to a license in Texas, regardless of whether the requirements are substantially equivalent to Texas or how the license was obtained. A military member, veteran, or military

spouse, applying for a reciprocal license in Texas, would need to provide supporting documentation to prove that he or she is in good standing with the state from which he or she holds a license by submitting a notarized affidavit. HB 5629 gives TCEQ 10 days to respond to an applicant as to whether they qualify for the reciprocal license, the application is incomplete, or the agency is unable to recognize the applicant's out-of-state license. HB 5629 also requires TCEQ to waive the application fee for all military service members, veterans, or military spouses' applications for a new or reciprocal license. HB 5629 also requires TCEQ to maintain a record of complaints made against military service members, veterans, or military spouses with reciprocal licenses and publish these complaints quarterly on the agency's website.

SB 1818 amended TOC Chapter 55, *Licensing of Military Service Members, Military Veterans, and Military Spouses*, by requiring state licensing authorities to promptly issue a provisional license or license to military members, veterans, and military spouses who apply for a reciprocal license. The provisional license would expire when the agency approves or denies the application for a reciprocal license or 180 days after the provisional license is issued, whichever comes first.

SB 1080 amended TOC Chapter 53, *Consequences of Criminal Conviction*, specifically TOC §53.021, to amend the requirement to automatically revoke a license following a felony conviction. The bill continues to require TCEQ to automatically revoke a license for a felony conviction that results in imprisonment for an offense that directly relates to the duties and responsibilities of the licensed occupation, an offense listed in Article 42A.054, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedures. However, instead of continuing to require automatic revocation for all other felony convictions that resulted in imprisonment, the bill makes revocation discretionary. Previously, the statute required automatic revocation for all licensees that received any felony conviction that resulted in imprisonment.

Staff Recommended Changes

The statute allows for an individual who submits a renewal application within 90 days after the license expiration date to continue performing duties that require the license. Although the statute does not expressly address completion of required training during this 90-day period, the proposed rulemaking would allow an individual who submits a renewal application during that period to complete the required training within that 90-day period.

This rulemaking proposes to correct the Class B Wastewater required hours from 100 hours to 120 hours in the figure in §30.340(a). TCEQ added the Basic Wastewater course as a requirement for the Class A and Class B Wastewater licenses in §30.340(f) during the last rulemaking for this chapter (2024-004-030-WS) to be consistent with the requirements of the Class A and Class B Public System Water Operator licenses. However, the number of required hours for the Class B Wastewater was not adjusted in §30.340(a) to include the added 20-hour Basic Wastewater Course. This rulemaking proposes to make that correction and change the required number of hours for the Wastewater B license from 100 to 120. The proposed change is consistent with TWC, §§37.002 and 37.008.

The rulemaking also proposes to amend the requirement for TCEQ to notify the licensee of the impending expiration of their license to allow TCEQ to send the notification via email. Currently, the rule requires TCEQ to "mail a renewal notification".

TCEQ proposes to amend the language to "send written notice of the impending expiration." This would allow TCEQ to send the renewal notice via email, rather than just via paper mail. The proposed change is consistent with TWC, §37.006(c).

Other minor updates to 30 Texas Administrative Code (TAC) Chapter 30 will be made, as necessary, to provide clarification or consistency with other licensing requirements and rules.

Section by Section Discussion

TCEQ proposes to amend 30 TAC §30.7 to add definitions for "provisional license", "temporary license", and "written notice". "Provisional license" is defined as a non-renewable license issued for certain license types authorizing the person to engage in an activity covered by 30 TAC Chapter 30. "Temporary license" is defined as a specific type of license issued to a military service member, military veteran, or military spouse who apply for a reciprocal license with TCEQ. A temporary license is granted if the executive director does not issue or deny a reciprocal license within 10 days of receiving a complete application. It authorizes the person to engage in an activity covered by 30 TAC Chapter 30 and is valid for up to 180 days. These definitions were added to distinguish between the existing provisional licenses and the new temporary licenses for military service members created by SB 1818. "Written notice" is defined as a notice sent by the executive director to an applicant, registrant, or licensee via email or mail. This definition supports the proposed changes to 30 TAC §30.24(b)(1). The subsequent definitions in 30 TAC §30.7 have been re-numbered.

TCEQ proposes to amend 30 TAC §30.24(a) to allow an individual to submit an application to renew a license up to 180 days past the expiration date of the license, to reflect the amendments to TWC, §37.006 made by HB 1237. After 180 days past expiration, an individual must submit an application for a new license and re-take the applicable licensing exam. The current rule allows an individual up to 30 days after expiration to renew their license.

Additionally, TCEQ proposes to amend 30 TAC §30.24(b)(1) to change the language from the ED "shall mail a renewal notification" to an individual whose license is about to expire to "shall send written notice of the impending expiration". TCEQ is required under TWC, §37.006(c) to send a notice to all licensees 60 days before the date an individual's license is scheduled to expire to remind them to renew. The current rules state that TCEQ shall "mail notice"; however, TWC, §37.006(c) specifies "written notice." TCEQ is proposing to change the rule language to better align with the statutory text, which would allow the ED to send the notifications via email.

TCEQ proposes to amend §30.24(d) to allow an individual who applies for a renewal within 90 days after the expiration date of the license or registration to complete the required training credits within 90 days after the license expiration date. While not expressly addressed in the statute, this would be in line with the flexibility added by HB 1237, which allows a licensee additional time to submit a renewal application and allows for an individual who submits a renewal application within 90 days after license expiration date to continue performing duties that require a license. A person who applies for a renewal license more than 90 days after the expiration date may not complete training credits to meet the requirements of an expired license or registration.

TCEQ proposes to amend 30 TAC §30.24(f) and (g) to allow an individual up to 180 days after expiration to renew their license, per HB 1237. The current rule allows an individual up to 30 days

after expiration to renew their license. The proposed change is consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.24(r) such that an applicant has 30 days or until 90 days past the expiration date of the license, whichever is later, to notify the executive director that the application deficiencies have been resolved. Currently, an applicant has only 30 days from the date of the letter to notify the executive director that all deficiencies have been met. The proposed amendments are consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.24(s) to add that an individual may engage in activities that require a license or registration when TCEQ receives the application to renew if the renewal is received within 90 days past the expiration date of the license or registration, as amended by HB 1237. Currently, the rule states that an individual would not be able to engage in activities that require a license or registration until the license or registration is renewed. The proposed change is consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.26(f)(1) to add that the executive director may issue a temporary license to a military service member, military veteran, or military spouse that applies for a reciprocity license, per SB 1818. Additionally, the rule-making proposes to amend §30.26(f)(1)(A) to change that a military service member, veteran, or military spouse must hold a license in another state, rather than a jurisdiction, that is similar in scope to the license for which they are applying, as amended by HB 5629. Currently, a military service member, military veteran, or military spouse must hold a license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of the license for which they are applying. These proposed changes are consistent with the statutory text of TWC, §§37.002, 37.005, 37.006, TOC, §§55.004 and 55.0041.

TCEQ proposes to add 30 TAC §30.26(f)(2) to require military service members, veterans, and military spouses to submit a notarized affidavit stating that he or she is in good standing with other states' licensing authority with which they hold a license, as required by HB 5629. This new subsection outlines that an applicant is in good standing if the applicant holds a current license that has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct; has not been disciplined by a licensing authority with respect to the license or occupation; and is not currently under investigation by a licensing authority for unprofessional conduct related to the license or profession. These proposed changes are consistent with the statutory text of TOC, §§55.004, 55.0041, and 55.0042.

To implement HB 5629, TCEQ also proposes to add 30 TAC §30.26(f)(3) to require TCEQ to issue a temporary reciprocal license for military service members, veterans, and military spouses if the license is not issued or denied within 10 days. The temporary reciprocal license will expire when the agency approves or denies the application for a reciprocal license or 180 days after the temporary license is issued, whichever comes first. The subsequent subsections have been renumbered. The proposed change is consistent with the statutory text of TOC, §§55.004, 55.0041, 55.0042, 55.005.

Also to implement HB 5629, TCEQ proposes to amend 30 TAC §30.26(f)(6) (previously §30.26(f)(4)) to require TCEQ, within 10

days of receipt of the application, to issue a reciprocal license to military service members, veterans, or military spouses, notify the applicant the application is incomplete, or notify the applicant that the commission is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's license. The current rule requires TCEQ to issue the reciprocal license within 30 days of receipt of the application unless the applicant is deficient. The proposed change is consistent with the statutory text of TOC, §§55.004, 55.0041, 55.0042, 55.005.

TCEQ proposes to amend 30 TAC §30.30(c) to establish the fees to renew a license past the expiration date, as authorized by HB 1237. Applications to renew a license or individual registration received before the expiration date are subject to the \$111 fee. Applications to renew a license received after the expiration date, but not more than 90 days after the expiration, are subject to a fee of \$166.50. Applications to renew a license received after 90 days after the expiration date, but not more than 180 days after expiration, are subject to a fee of \$222. These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend 30 TAC §30.30(d) to waive the fee for all new licenses from military service members, rather than just for initial licenses to implement HB 5629. Currently, language that waives the fee for just the initial license for military service members, veterans, and military spouses that hold a license in another jurisdiction is in 30 TAC §30.30(c). Subsequent subsections have been renumbered. The proposed change is consistent with the statutory text of TWC, §§37.006, 37.009, TOC, §55.009.

TCEQ proposes to amend 30 TAC §30.30(d) (proposed 30 TAC §30.30(e)) to establish the fees to renew a company registration past the expiration date, as authorized by HB 1237. Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to a fee 1.5 times the normal fee to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee two times the normal fee to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend 30 TAC §30.33(h) to implement SB 1080. TCEQ proposes to amend 30 TAC §30.33(h)(2) to specify that the commission is *required* to revoke a license or registration upon an individual's imprisonment following a felony conviction *only* if the offense is directly related to the license or registration; a violent offense as defined by the Code of Criminal Procedure (CCP), Article 42.054; or a sexually violent offense listed in the Code of Criminal Procedure, Article 62.001. TCEQ proposes to add §30.33(h)(3) to clarify that TCEQ *may* revoke a license or registration following a felony conviction that is not listed in §30.33(h)(2). The requirement for TCEQ to revoke a license or registration upon an individual's imprisonment following a felony community supervision revocation, revocation of parole, or revocation of mandatory supervision has been moved to new §30.33(h)(4). These proposed changes are consistent with the statutory text of TOC, §§51.4014, 53.021, and 53.0211.

TCEQ proposes to amend §30.192 to establish the fees to renew a leaking petroleum storage tank (LPST) corrective action specialist registration past the expiration date, as authorized by HB 1237. Applications to renew an LPST corrective action specialist registration received after the expiration date but not more than

90 days after the expiration are subject to a fee of \$348 to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$465 to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend §30.317 to establish the fees to renew an underground storage tank (UST) contractor registration past the expiration date, as authorized by HB 1237. Applications to renew an UST contractor registration received after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348 to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$465 to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend §30.340(a) to correct the number of hours required for a Class B Wastewater Operator from 100 hours to 120 hours. TCEQ made a correction during the last rulemaking for this chapter (Rulemaking Project Number 2024-004-030-WS) to add the Basic Wastewater as a requirement for the Class A and Class B Wastewater license to be consistent with the requirements of the Class A and Class B Public System Water Operator licenses. However, the number of required hours to obtain a Class B Wastewater Operator license was not adjusted to include the 20-hour Basic Wastewater Course. The chart format has been updated to make it easier to understand. These proposed changes are consistent with the statutory text of TWC, §§37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.355 to establish the fees to renew a Wastewater System Operations Company registration past the expiration date, as authorized by HB 1237. TCEQ proposes to amend §30.355(c) to specify that the fees shown in Figure: 30 TAC §30.355(c) apply to applications to renew a wastewater system operation company's registration applies to new applications and renewal applications received on or before the expiration date of the registration. Proposed new §30.355(d) sets the fees for applications received after the expiration date but not more than 90 days after the expiration date of the registration as 1.5 times the fee shown in Figure: 30 TAC §30.355(c). Proposed new §30.355(e) sets the fees for applications received after 90 days after the expiration date of the registration but not more than 180 days past the expiration date as two times the fee shown in Figure: 30 TAC §30.355(c). These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend Figure: 30 TAC §30.390(a) to update the format of the table to make it easier to understand and to be consistent with the format of amended Figure: 30 TAC §30.340(a). The proposed change is consistent with the statutory text of TWC, §§37.002.

TCEQ proposes to amend 30 TAC §30.392 to remove the date for which the resiliency training requirement was previously applicable. All individuals renewing a water operator license are now required to take resiliency training, so the date in the current rule is no longer necessary. The proposed change is consistent with the statutory text of TWC, §§37.002 and 37.008.

TCEQ proposes to amend 30 TAC §30.400 to establish the fees to renew a public water system operating company registration past the expiration date, as authorized by HB 1237. TCEQ proposes to amend §30.400(c) to specify that the fees shown in

Figure: 30 TAC §30.400(c) apply to applications to renew a public water system operating company's registration applies to new applications and renewal applications received on or before the expiration date of the registration. Proposed new §30.400(d) sets the fees for applications received after the expiration date but not more than 90 days after the expiration date of the registration as 1.5 times the fee shown in Figure: 30 TAC §30.400(c). Proposed new §30.400(e) sets the fees for applications received after 90 days after the expiration date of the registration but not more than 180 days past the expiration date as two times the fee shown in Figure: 30 TAC §30.400(c). These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule unless any individual opts to renew their license after its expiration date. Should any licensee that is subject to this rulemaking apply for renewal of their license after it is expired and within 90 or 120 days of the expiration, TCEQ would receive additional revenue in the amounts specified in 30 TAC §§30.30(c), 30.30(e), 30.192(3), 30.355(d), 30.355(e), and 30.400(c) of the proposed rulemaking. These sections of the rule would provide for an increase in the fee by one-and-a-half times the normal amount for applications received within 90 days after the expiration date, and two times the normal amount for applications received after 90 days but not more than 180 days. This language is consistent with the flexibility provided for in HB 1237 from the 89th Regular Legislative Session (2025).

Public Benefits and Costs

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public will benefit from rule language that is consistent and compliant with state law, specifically HB 1237, HB 5629, SB 1818, and SB 1080 from the 89th Regular Legislative Session (2025). Licensees will benefit from additional flexibility to renew their licenses up to 180 days past the expiration date, as proposed in §30.24(a) of the rulemaking. The public will also benefit from minor corrections and clarifications in the rule.

The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect unless any individuals opt to renew licenses after they have expired.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does 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 commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. 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 agency. 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 rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, 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

TCEQ reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225 and determined that the proposed rules are not subject to that statute because the proposed rules do not meet the criteria for "Major environmental rules" as defined in TGC, §2001.0225(g)(3).

TGC, §2001.0225 applies only to rules that are specifically intended 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. During the 89th Legislature, 2025, HB 1237, HB 5629, SB 1818, and SB 1080 were passed which added to and amended provisions of the occupational licensing and registration programs administered by TCEQ.

The specific intent of the proposed rules is: to ensure consistency between the rules and their applicable statutes as amended by recent legislation; to clarify the procedure for renewing applications after expiration and extend the renewal period; to provide flexibility for professionals who may miss the renewal deadline due to unforeseen circumstances, while maintaining accountability through increased fees for late renewals; to address the procedure relating to reciprocal licensing of military service members, military veterans, and military spouses; to reduce barriers to employment, support military families, and encourage participation in the state workforce; to make revocation of a license following a felony conviction discretionary in some circumstances, in accordance with SB

1080; and to modify or add language to improve clarity and strengthen alignment with the applicable statute.

The proposed rules would streamline and update the agency's licensing and registration programs. The specific intent of the proposed rules is to improve procedural aspects of occupational licensing and training requirements, not to protect the environment or reduce risks to human health from environmental exposure. Therefore, the proposed rules do not meet the definition of a "Major environmental rule" found in TGC, §2001.0225(g)(3). Because the proposed rules are not major environmental rules, a Regulatory Impact Analysis under TGC, §2001.0225 is not required.

Furthermore, even if the proposed rules did meet the definition of a major environmental rule, the proposed rules are not subject to TGC, §2001.0225, because they do not meet any of the four applicability requirements specified in TGC, §2001.0225(a). TGC, §2001.0225(a) applies to rules adopted by an agency, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed rules do not meet any of these requirements: there are no federal standards for the occupational licenses and registrations program administered by the commission; the rules do not exceed an express requirement of state law; there is no delegation agreement that would be exceeded by the rules; and the proposed rules would implement requirements of HB 1237, HB 5629, SB 1818, SB 1080, TWC, §37.006, and TWC, §37.008.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

TCEQ has prepared a takings impact assessment for these proposed rules pursuant to TGC, §2007.043. Under TGC, §2007.002(5), "taking" means: "(A) 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 (B) a governmental action that: (i) 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 (ii) 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 the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect." TGC, §2007.002(4) defines "private real property" as "an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned

by the federal government, this state, or a political subdivision of this state."

The proposed rules do not burden "private real property" as defined by TGC, §2007.002(4) because the proposed rules update and improve licensing procedures and training requirements and do not concern interests in real property recognized by common law. Further, this proposed rulemaking does not burden, restrict, or limit an owner's right to private real property, nor reduce the market value of any private real property. Therefore, the proposed governmental action does not constitute a taking under TGC, §2007.002.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the proposed rules are not subject to the Texas 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.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 9, 2026, at 2:00 p.m. in building E, room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 7, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 8, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/3e5e0072-0b2a-4c8f-b7aa-c7597329a161@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

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

TCEQ Public Comments system. All comments should reference Rule Project Number 2025-027-030. The comment period closes at 11:59 p.m. on September 15, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Rebecca Morigan, Occupational Licensing and Registration Division, (512) 239-2463.

SUBCHAPTER A. ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

30 TAC §§30.7, 30.24, 30.26, 30.30, 30.33

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC; Texas Code of Criminal Procedure (TCP), Article 42A.054, concerning Limitation on Judge-Ordered Community Supervision, which lists violent offenses to which judge-ordered community supervision is not applicable; TCP, Article 62.001, concerning Definitions, which defines sexually violent offenses; Texas Occupations Code (TOC) §53.021(a-2), concerning Authority to Revoke, Suspend, or Deny License, which authorizes a licensing authority to revoke a license on the grounds of the license holder's imprisonment following a felony conviction; TOC §53.021(b), concerning Authority to Revoke, Suspend, or Deny License, which requires that a license be revoked following a license holder's imprisonment for certain felony convictions; TOC §53.0211, concerning Licensing of Certain Applicants with Prior Criminal Convictions, which authorizes licensing authorities to issue provisional licenses to an applicant with certain kinds of prior criminal convictions and outlines requirements for these provisional licenses; TOC §55.001, concerning Definitions, which provides a definition of state agency as it pertains to licensing of military service members, military veterans, and military spouses; TOC §55.004(b-1),

concerning Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to promptly issue a six-month provisional license to military service members, veterans, and military spouses, while the agency processes those applications for a license; TOC §55.004(a), concerning Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to issue a license to military service members, veterans, and military spouses who hold a license in another state with a similar scope of practice in good standing; TOC §55.0041, concerning Recognition of Out-of-state License of Military Service Members and Military Spouses, which provides requirements for reciprocal licensing of military service members and military spouses who hold current licenses in other states; TOC §55.0042, concerning Determination of Good Standing, which provides a definition of good standing for purposes of licensing out-of-state license of military service members and military spouses; TOC §55.005(a), concerning Expedited License Procedure for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to process applications and issue licenses to qualified applicants who are military service members, military veterans, and military spouses within 10 days; TOC §55.009, concerning License Application and Examination Fees, which requires state agencies to waive the license application and exam fees for new licenses for all military service members, military veterans, and military spouses.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h); HB 5629, 89th Legislature, 2025, which amended TOC §55.004(a) and (d), amended TOC §55.0041(a), (b), (d), and (d-1), added TOC §55.0041(b-1), added TOC §55.0042, added TOC §55.0043, amended TOC §55.005(a), amended TOC §55.009; Senate Bill (SB) 1818, 89th Legislature, 2025, which added TOC §55.004(b-1) and added TOC §55.041(b-1); SB 1080, 89th Legislature, 2025, which amended TOC §51.4014(a) and added Subsection (a-1), added TOC §53.021(a-2) and amended Subsection (b).

§30.7. Definitions.

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

(1) Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(2) Approved application--An application submitted to the Occupational Licensing Section that contains all the information the executive director has deemed necessary to be accurately processed and that the executive director has determined to be approved.

(3) Approved training providers--Entities that have been approved by the executive director to provide training after demonstration of hands-on subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

(4) Approved training--Training which provides the knowledge and skills necessary to perform occupational job tasks and is used for obtaining or renewing a license or registration, as determined by the executive director.

(5) Approved training delivery method--Methods approved by the executive director that currently include in-person, live-online, self-paced, and may include other technologies approved by the executive director.

(6) Association--The term association as used in the context of this chapter is an industry-related non-profit association whose members hold licenses or registrations issued by the commission or whose members are required to employ or contract with individuals who hold licenses or registrations issued by the commission.

(7) Association meetings--Sessions conducted by an Association that may be delivered in-person, live-online, or a combination of both.

(8) Classroom training--Training that is an instructor-led course held in real-time in a classroom environment and may be held in-person, live-online, or a combination of both.

(9) Conference--The term conference as used in the context of this chapter includes TCEQ-approved conferences, seminars, workshops, symposiums, expos, and any other such training venues and may be delivered in-person, live-online, or a combination of both and conducted by a governmental entity or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education.

(10) Continuing education--Job-related training credit approved by the executive director used for renewal of licenses or registrations.

(11) Core training--Courses required to obtain an occupational license or registration that are approved by the executive director.

(12) Correspondence training--The term correspondence training as used in the context of this chapter is self-paced training that can either be paper-based and conducted through a postal system, electronic-based, or a blend of these delivery systems.

(13) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses or registrations administered by the agency.

(14) High school diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development (GED) test that indicates a high school graduation level.

(15) Home school diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or by a person in parental authority, in or through the child's home.

(16) In-person training delivery method-- Training that is interactive instructor-led and delivered in real time at the same physical location.

(17) License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(18) Live-online training delivery method-- Training that is delivered virtually in real time as either instructor-led classroom, conference, or association meeting.

(19) Maintenance provider--A person that, for compensation, provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(20) Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(21) Person--As defined in §3.2 of this title (relating to Definitions).

(22) Prerecorded training--Training that has previously been recorded or developed through a virtual or online platform and is not delivered in person nor in real time.

(23) Provisional License--A non-renewable license issued for certain license types authorizing the person to engage in an activity covered by this chapter.

(24) [(23)] Qualified instructor--An individual approved to teach a TCEQ-approved core occupational licensing or registration course who has instructional experience, work-related experience, and subject matter expertise that enables the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(25) [(24)] Qualified presenter--An individual approved to present TCEQ-approved continuing education training who has instructional experience, work-related experience, and subject matter expertise that enables the individual to answer students' questions and to communicate course information in a relevant, informed manner.

(26) [(25)] Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(27) [(26)] Self-paced training delivery method--Training that is delivered using various technologies with a separation of place and time between the instructor or learning resources and the learner. Self-paced training may include correspondence training, prerecorded training, and other technologies approved by the executive director.

(28) [(27)] Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(29) [(28)] Subject matter expert--A person having a minimum of three years of hands-on work-related experience and expert knowledge in a particular content area or areas as relates to training.

(30) Temporary license--A specific type of license issued to a military service member, military veteran, or military spouse who apply for a reciprocal license authorizing the person to engage in an activity covered by this chapter for up to 180 days. A temporary license is granted if the executive director does not issue or deny a reciprocal license within 10 days of receiving a complete application.

(31) [(29)] Training credit--Hours awarded by the executive director for successful completion of approved training.

(32) [(30)] Training provider--An administrative entity and its designated personnel who are responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording, and reporting attendance accurately and promptly as required by the executive director.

(33) Written notice--A notice sent by the executive director to an applicant, registrant, or licensee via mail or email.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 180 [30] days and an application has not been received by the executive director or postmarked within 180 [30] days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall send written notice of the impending expiration [mail a renewal notification] at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal notification, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) Approved training to renew a license must be successfully completed after the issuance date and before the expiration date of the current license unless a person applies for renewal within 90 days after the expiration date of the license or registration. In that case, the person may complete required training credits within 90 days after the expiration date. A person who applies for a renewal license more than 90 days after the expiration date may not complete training credits to meet the requirements of an expired license or registration. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 180 [30] days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 180 [30] days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) An individual whose license renewal application is not received by the executive director or is not postmarked within 180 [30] days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 180 [30] days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) Persons failing to renew their license or registration in a timely manner due to serving as a military service member may renew their license within two years of returning from active duty by submitting the following:

- (1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

- (3) the applicable license renewal fee.

(i) For good cause the executive director may extend the two years period for a military service member seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) Completion of the required continuing education will be waived for the renewal cycle for military service members outside of this state who were unable to complete the requirements.

(k) These procedures apply only to military service members who are outside this state and not to military contractors.

(l) All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration.

(p) The license or registration shall be valid for the term specified.

(q) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies.

(r) An [All deficiencies must be resolved, and the] applicant notified that their application is deficient as outlined in subsection (q) of this section must notify the executive director that the deficiency has been resolved[;] within 30 days of the date printed on the notification or within 90 days past the expiration date of the license, whichever is later, or the renewal application shall be considered expired [after the license expiration date].

(s) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained unless the person has applied for renewal within 90 days of the expiration date of the license or registration. A person who has applied for renewal within 90 days of the expiration date of the license or registration may engage in activities that require the license or registration from the date of the submittal of the application, after the expiration of the license or registration, until the license or registration is renewed or denied.

(t) The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to denying an individual the opportunity to renew a license based on the individual's prior conviction of an offense.

§30.26. Recognition of Licenses from Out-of-State; Licenses for Military Service Members, Military Veterans, or Military Spouses.

(a) Except for landscape irrigators the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

- (1) the state in which the other license or registration was issued;
- (2) the current status of the other license or registration; and
- (3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) To maintain a license that was issued on the basis of reciprocity, applicants must comply with the renewal requirements of this subchapter. Reciprocity will not be granted for the issuance of lower level licenses of the same type as the one that was initially issued on the basis of reciprocity.

(f) Military Service Members, Military Veterans, or Military Spouses.

(1) The executive director shall issue a temporary license or license to an applicant who is a military service member, military veteran, or military spouse and:

(A) holds a current license issued by another state [jurisdiction] that is similar in scope to the license for which they are applying [has licensing requirements that are substantially equivalent to the requirements for the license]; or

(B) within the five years preceding the application date held the license in this state.

(2) The applicant shall submit a notarized affidavit stating that he or she is in good standing with other states' licensing authorities with which they hold a license. An applicant is in good standing if the applicant:

(A) holds a current license that has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(B) has not been disciplined by a licensing authority with respect to the license or practice of occupation for which the license is issued; and

(C) is not currently under investigation by a licensing authority for unprofessional conduct related to the license or profession.

(3) The executive director shall issue a temporary license to an applicant who is a military service member, military veteran, or military spouse if the license is not issued or denied within 10 days of the date the reciprocal license application was submitted. The temporary license shall expire when the agency approves or denies the application for a reciprocal license or 180 days after the temporary license is issued, whichever comes first.

(4) [(2)] A license issued under this subsection shall be valid for the term specified in §30.18(i) of this title (relating to Applications for an Initial License).

(5) [(3)] The executive director shall notify the license holder of the requirements for renewing a license issued under this

subsection as specified in §30.24(b)(1) of this title (relating to License and Registration Applications for Renewal).

(6) [(4)] Within 10 days of receipt of application, the [The] executive director shall:

(A) issue a license to an individual who meets the requirements in paragraph (1) of this subsection; [§30.26(f)(1) within 30 days of receipt of application unless the applicant is deficient.]

(B) notify the applicant the application is incomplete;
or

(C) notify the applicant that the commission is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's license.

(g) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

- (1) education;
- (2) continuing education;
- (3) examinations (written, practical, or a combination of written and practical);
- (4) letters of good standing;
- (5) letters of recommendation;
- (6) work experience; or
- (7) other methods or options as determined by the executive director.

(h) Military service members or military veterans. The executive director shall credit verified military service, training, or education toward the licensing requirements.

(1) Verified military service, training, or education shall not be credited toward an examination requirement.

(2) The executive director may not apply this credit provision to an applicant who:

- (A) holds a restricted license issued by another jurisdiction; or
- (B) has an unacceptable criminal history.

§30.30. Terms and Fees for Licenses and Registrations.

(a) Licenses and registrations are valid for three years from the date of issuance, unless specified otherwise by Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification, respectively).

(b) The executive director may adopt a system under which licenses or registrations expire on various dates.

(c) The license fee is \$111 for a three-year license. The total amount shall be paid with each initial and renewal application and is

nonrefundable. Applications to renew a license received before the expiration date are subject to the \$111 fee. Applications to renew a license received after the expiration date, but not more than 90 days after the expiration, are subject to a fee of \$166.50. Applications to renew a license received more than 90 days after the expiration date, but not more than 180 days after expiration, are subject to a fee of \$222.00. [The initial fee is waived for military service member, military veteran, or military spouse applicants if they:]

~~[(1) meet all other requirements for the license; or]~~

~~[(2) hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license the applicant is applying for in this state.]~~

(d) The fee is waived for new license applications for military service members, military veterans, or military spouses.

(c) ~~[(d)]~~ Applications to renew a registration received prior to the expiration date are subject to the registration [Registration] fees [are] established in the applicable subchapters of this chapter. Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to a fee 1.5 times the normal fee to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee 2 times the normal fee to renew the registration.

(f) ~~[(e)]~~ The executive director may charge a \$20 fee to process a duplicate certificate or pocket card.

(g) ~~[(f)]~~ A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(h) ~~[(g)]~~ An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

(i) ~~[(h)]~~ The executive director may charge an individual requesting a criminal history evaluation letter under §30.13 of this title (relating to Eligibility of Certain Applicants for Occupational Licenses or Registrations) a fee adopted by the commission. Fees adopted by the commission under §30.13 of this title must be in an amount sufficient to cover the cost of administering §30.13 of this title.

§30.33. License or Registration Denial, Warning, Suspension, or Revocation.

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) Cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute.

(b) If an individual causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the individual's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the individual may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing upon a second suspension.

(e) The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(f) The following procedures for renewal apply to individuals that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, an individual may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters of this chapter.

(2) A license or registration suspended in accordance with subsection (j) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) After the suspension period has ended, the license or registration shall be automatically reinstated unless the individual failed to renew the license or registration during the suspension period.

(g) Individuals that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, an individual may apply for a new license or registration according to this chapter.

(h) Criminal Conviction.

(1) After notice and hearing, the commission may deny, suspend, or revoke a license on the grounds that the individual has been convicted of an offense, other than a Class C misdemeanor that:

(A) directly relates to the duties and responsibilities of the licensed occupation;

(B) is listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(C) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(2) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction that is: ~~felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.~~

(A) directly related to the license;

(B) a violent offense as defined in the Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense listed in the Code of Criminal Procedure, Article 62.001.

(3) The commission may revoke the license or registration upon an individual's imprisonment following a felony conviction that is not listed in paragraph (2) of this subsection.

(4) The commission shall revoke the license or registration upon an individual's imprisonment following a felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(5) [(3)] Prohibited Employment.

(A) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(B) For purposes of this subsection:

(i) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(ii) "Supervision" means direct, continuous visual observation of the individual at all times.

(6) [(4)] Except as provided by paragraph (7) [(5)] of this subsection, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(A) the individual entered a plea of guilty or nolo contendere;

(B) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(C) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(7) [(5)] The executive director may consider an individual to have been convicted of an offense for purposes of this section regard-

less of whether the proceedings were dismissed and the individual was discharged as described by paragraph (6) [(4)] of this subsection if:

(A) the individual was charged with:

(i) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(ii) an offense other than an offense described by clause (i) of this subparagraph if:

(I) the individual has not completed the period of supervision or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(II) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(B) after consideration of the factors described by Texas Occupations Code, §53.022 and §53.023(a), the executive director determines that:

(i) the individual may pose a continued threat to public safety; or

(ii) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(i) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(j) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) made an immediate payment of not less than \$200 toward child support arrearages owed and established with the child support agency a satisfactory repayment schedule for the remainder or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments; or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(5) For purposes of this subsection, the suspension period for a license or registration shall be until:

(A) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(B) the expiration of the license or registration.

(k) The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to the denial of an initial license, the revocation of a license, or renewal of a license based on the individual's prior conviction of an offense.

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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Amy L. Browning

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-6087



SUBCHAPTER E. LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALISTS

30 TAC §30.192

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC §37.006(f) and (g) and added Subsection (h).

§30.192. Qualifications for Registration Renewal.

To renew a registration, a person must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration); and

(3) pay the applicable [a] registration renewal fee. Applications to renew a registration received prior to the expiration date are subject to a fee of \$232. Applications to renew a registration after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348. Applications to renew a license or registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$464.

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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Amy L. Browning

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SUBCHAPTER I. UNDERGROUND STORAGE TANK ON-SITE SUPERVISOR LICENSING AND CONTRACTOR REGISTRATION

30 TAC §30.317

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC §37.006(f) and (g) and added Subsection (h).

§30.317. Qualifications for Registration Renewal.

To renew an underground storage tank (UST) contractor registration a person must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) and of a type approved by the executive director;

(3) certified that the UST contractor has a net worth of not less than \$25,000; and

(4) submitted the applicable [a] renewal fee. Applications to renew a registration received prior to the expiration date are subject to a fee of \$232. Applications to renew a registration after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348. Applications to renew a license or registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$464.

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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Amy L. Browning

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Texas Commission on Environmental Quality

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SUBCHAPTER J. WASTEWATER OPERATORS AND OPERATIONS COMPANIES

30 TAC §30.340, §30.355

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which

requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h).

§30.340. Qualifications for Initial License.

(a) To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), the following requirements for each class of license, and pass an examination.

Figure: 30 TAC §30.340(a)

[Figure: 30 TAC §30.340(a)]

(b) At least one-half of the total experience required for a wastewater treatment license must be in actual domestic wastewater treatment facility operation or maintenance duties. Related experience, which involves tasks similar to those required for operation of wastewater treatment facilities, will count at a rate of 50% toward meeting the total experience requirement. For laboratory experience to be applicable, the laboratory must be owned and operated by the permittee and the laboratory technician must consult daily with operational personnel.

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for wastewater experience that is not directly connected with collection system operation or maintenance shall be approved if the experience involves tasks that are similar to that required for the operation and maintenance of collection systems. Each year of related experience shall count as 1/2 year of experience. Each year of experience in collection system operation and maintenance shall only count as 1/2 year of experience toward a wastewater treatment facility operator license.

(d) Individuals who request to substitute a bachelor's or master's degree for experience at the Class A, Class B, or Class III level must have a major in chemistry, biology, engineering, microbiology, bacteriology, or another similar discipline approved by the executive director.

(e) For each license, applicants may substitute either college hours or training credit hours to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the required work experience;

(2) Class C and Class II applicants may only substitute up to one year of the required work experience; and

(3) Class A, Class B, and Class III applicants may only substitute up to two years of the required work experience.

(f) The hours of training credit required for a license must be in approved courses, which include the following or their equivalents. Figure: 30 TAC §30.340(f) (No change.)

(g) An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title

(relating to Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

§30.355. Additional Requirements for Wastewater Operations Companies.

(a) When a wastewater operations company submits an application to obtain or renew a registration, it must submit a report to the executive director. For each wastewater treatment facility or wastewater collection system the report shall include:

- (1) the operations company name, location, and mailing address;
- (2) the permittee's name and mailing addresses;
- (3) the commission permit number, if applicable;
- (4) the dates of operation during the registration validity period;
- (5) the names and license numbers of all licensed operators employed by the operations company;
- (6) the name of the licensed chief operator for each facility; and
- (7) any additional information required by the executive director.

(b) A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.

(c) Wastewater system operations companies shall pay a three year registration fee based on the number of facilities and collection systems served as indicated in the following table. The fees in the following table apply to applications for new registrations and applications to renew a registration received on or before the expiration date of the registration.

Figure: 30 TAC §30.355(c) (No change.)

(d) Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to 1.5 times the fee in subsection (c) of this section.

(e) Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee 2 times fee in subsection (c) of 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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Amy L. Browning

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-6087



SUBCHAPTER K. PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

30 TAC §§30.390, 30.392, 30.400

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h).

§30.390. Qualifications for Initial License.

(a) To obtain a license, an individual must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license, and pass an examination.

Figure: 30 TAC §30.390(a)

[Figure: 30 TAC §30.390(a)]

(b) An individual who applies for a Class C, B, or A license, and relies on a bachelor's or master's degree to meet the educational requirements, must have a bachelor's or master's degree with a major in chemistry, biology, engineering, microbiology, bacteriology, or other similar discipline approved by the executive director.

(c) An individual who applies for a Class C or B license must obtain at least one-half of the total work experience requirement in the specific field for the license that is requested:

(1) for Class C and B surface water licenses, the experience must be obtained through operations activities at the production or treatment facilities for surface water or groundwater under the direct influence of surface water;

(2) for Class C and B groundwater licenses, the experience must be obtained through operations activities at the production or treatment facilities for groundwater source or groundwater under the direct influence of surface water; or

(3) for Class C and B distribution licenses, at least one-half of the required experience must be obtained as a result of operations activities at treated water storage, pumping, or distribution facilities; and

(4) once the work experience has been met from paragraphs (1), (2), or (3) of this subsection, the executive director may

count any remaining experience to meet up to 50% of the remaining requirement.

(d) For all classes of licenses, laboratory experience must:

(1) be obtained at a laboratory that is owned and operated by the public water system; and

(2) involve daily consultation with individuals who perform process control duties in production or distribution of drinking water for the water system.

(e) For each license, applicants may substitute either college hours or training credits to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the experience;

(2) Class C applicants may only substitute up to one year of the required work experience; and

(3) Class B and Class A applicants may only substitute up to two years of the required work experience.

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f) (No change.)

(g) An individual who previously held a Class D license or higher shall not apply for a new Class D license if the individual:

(1) currently operates facilities at groundwater treatment systems of 250 connections or more;

(2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;

(3) currently operates facilities at surface water treatment systems;

(4) currently operates facilities at groundwater systems under the influence of surface water;

(5) performs supervisor, crew chief, or foremen duties for distribution systems that have over 250 connections; or

(6) operates multiple groundwater systems and the cumulative number of connections exceeds 250.

§30.392. *Qualifications for License Renewal.*

(a) To renew a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount of approved continuing education equal to that of ten hours per year the license is valid, two of which must qualify as resiliency training [for licenses that expire on or after April 1, 2024].

(b) The basic water training course shall not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

(1) at groundwater treatment systems of 250 connections or more;

(2) at groundwater treatment systems serving a population of 750 or more;

(3) at surface water treatment systems;

(4) at groundwater systems under the influence of surface water;

(5) who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

(e) Individuals with a license that expires on or after April 1, 2024, are required to take the Resiliency Overview Course once as part of the continuing education requirement to renew a license.

§30.400. *Additional Requirements for Public Water System Operations Companies.*

(a) When a public water system operating company submits an application to obtain or renew a registration, it must submit a report to the executive director. The report shall include:

(1) the public water system operating company name, registration number, location, and mailing address;

(2) the public water system identification number and name for each system operated;

(3) the dates of operation during the reporting period;

(4) the names and license numbers of all licensed operators employed by the operations company;

(5) the names of the licensed chief operators and licensed supervisors; and

(6) any additional information required by the executive director.

(b) A person that operates a public water system under contract must apply for a new registration and submit an amended report if a company is bought or sold and the name of the company changes.

(c) Public water system operating companies shall submit a registration fee based on the number of public water systems served as indicated in the following table. The fees in the following table apply to applications for new registrations and applications to renew a registration received on or before the expiration date of the registration.
Figure: 30 TAC §30.400(c) (No change.)

(d) Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to 1.5 times the fee in subsection (c) of this section.

(e) Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to 2 times the fee in subsection (c) of 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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Amy L. Browning

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-6087



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 429. FIRE INSPECTOR AND FIRE PLANS [~~PLAN~~] EXAMINER

The Texas Commission on Fire Protection (Commission) proposes amendments to 37 Texas Administrative Code, Chapter 429, Fire Inspector and Plan Examiner, including a rename of the chapter to Fire Inspector and Fire Plans Examiner, concerning §§429.11, 429.201, and 429.205.

Background and Purpose

The purpose of the proposed amendments is to update terminology in Chapter 429 to align with changes made to the National Fire Protection Association (NFPA) standards resulting from NFPA's consolidation process. Specifically, the references to "Inspector I" and "Inspector II" are updated to reflect the consolidated "Fire Inspector" designation, and the term "Plan Examiner I" is updated to "Fire Plans Examiner" to align with the current NFPA standard nomenclature. These are title and naming changes only and do not alter the substantive requirements for certification.

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period these rules are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering these rules.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years these rules are in effect, the anticipated public benefit will be improved clarity and consistency in certification terminology aligned with current NFPA standards. There are no anticipated economic costs to individuals required to comply with the proposed rules.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the rules are in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing these rules; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code § 2006.002.

Government Growth Impact Statement

Under Texas Government Code § 2001.0221, the Commission has determined that during the first five years the rules are in effect:

The rules will not create or eliminate a government program;

The rules will not create or eliminate any existing employee positions;

The rules will not require an increase or decrease in future legislative appropriations;

The rules will not result in an increase or decrease in fees paid to the agency;

The rules will not create a new regulation;

The rules will not expand, limit, or repeal an existing regulation;

The rules will not increase the number of individuals subject to the rule; and

The rules are not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed rules do not restrict or burden private real-property rights and therefore do not constitute a taking under Texas Government Code § 2007.043.

Costs to Regulated Persons

The proposed rules do not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore are not subject to Texas Government Code § 2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed rules do not require an environmental impact analysis because the rules are not major environmental rules under Texas Government Code § 2001.0225.

Request for Public Comment

Comments on the proposed rules may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

37 TAC §429.11

Statutory Authority

The proposed amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

Cross Reference to Statute: Texas Government Code, Chapter 419.

§429.11. *International Fire Service Accreditation Congress (IFSAC) Seal.*

[(a)] Individuals who pass the applicable sections of the state examination may be granted IFSAC seal(s) for Inspector I and Inspector II by making application to the commission for the IFSAC seal(s) and paying the associated fees, provided they meet the following provisions:

(1) To receive the IFSAC Fire Inspector [~~Inspector I~~] seal, the individual must:

(A) complete the Fire Inspector [~~Inspector I~~] section of a commission approved course; and

(B) pass the Fire Inspector [Inspector I section of a] commission examination.

[(2) To receive the IFSAC Inspector II seal, the individual must:]

[(A) complete the Inspector II section of a commission approved course;]

[(B) document possession of an IFSAC Inspector I seal; and]

[(C) pass the Inspector II section of a commission examination.]

(2) [(b)] In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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 July 29, 2026.

TRD-202603223

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Earliest possible date of adoption: September 13, 2026

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



SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.201, §429.205

Statutory Authority

The proposed amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

§429.201. *Minimum Standards for Plan Examiner Personnel.*

Fire Plans Examiner [Plan examiner] duties are defined as the review of building or other structure plans for the purpose of determining compliance with adopted fire codes and standards.

§429.205. *International Fire Service Accreditation Congress (IF-SAC) Seal.*

(a) Individuals who pass the state examination may be granted an IFSAC seal for Fire Plans Examiner [Plan Examiner I] by making application to the commission for the IFSAC seal and paying the associated fee.

(b) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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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Mike Wisko

Agency Chief

Texas Commission on Fire Protection

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



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 25. TRAFFIC OPERATIONS

SUBCHAPTER A. GENERAL

43 TAC §25.1

The Texas Department of Transportation (department) proposes the amendments to §25.1 concerning Uniform Traffic Control Devices.

EXPLANATION OF PROPOSED AMENDMENTS

Under Transportation Code, §544.001, the Texas Transportation Commission (commission) is required to adopt a manual for a uniform system of traffic control devices. The statute further states that the manual must be consistent with the state traffic laws and to the extent possible conform to the system approved by the American Association of State Highway Transportation Officials. The edition of the manual that is currently effective is the 2025 version.

The national Manual on Uniform Traffic Control Devices (MUTCD) is adopted and published by the Federal Highway Administration (FHWA) under Title 23, Code of Federal Regulations, Part 655, Subpart F. The national MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all streets, highways, pedestrian and bicycle facilities, and site roadways open to public travel. The Texas Manual on Uniform Traffic Control Devices (Texas MUTCD) is required to substantially conform with the federal MUTCD to allow use of a single manual for local, state, and Federal-aid highway projects. The Texas MUTCD is periodically updated to maintain substantial conformance with the national MUTCD.

FHWA issued Revision 1 of the 11th Edition of the national MUTCD on March 5, 2026. Amendments to §25.1 adopt Revision 1 of the 2025 Texas MUTCD by reference, to maintain substantial conformance with the national MUTCD. Amendments to §25.1 also clarify language in subsection (c).

The purpose of Revision 1 to the TMUTCD is primarily to correct FHWA known errors, omissions, and clarify language. In addition, TxDOT is modifying several sections throughout Chapters 2A and 2B (regarding FHWA disclaimers, adding supporting statements, and updating a sign name), 2F (regarding tolling) and 2E (regarding Left Exit signs), and Section 7C.02 (regarding school zone pavement markings) in accordance with an agreement with FHWA regarding issues that were still outstanding when the 2025 Texas MUTCD was first adopted in January 2026.

Revision 1 to the 2025 Texas MUTCD is available for review online at the department's website at www.txdot.gov and at the department's Traffic Safety Division office at 6230 East Stassney

Lane in Austin, Texas. The federal MUTCD is available online at <https://mutcd.fhwa.dot.gov>.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

George Villarreal, P.E., Director, Traffic Safety Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Villarreal has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be a more uniform use of traffic control devices statewide. This uniformity increases user comprehension and therefore improves safety and mobility for all users on all streets and highways open to public travel.

COSTS ON REGULATED PERSONS

Mr. Villarreal has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Villarreal has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

- (1) it would not create or eliminate a government program;
- (2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;
- (3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;
- (4) it would not require an increase or decrease in fees paid to the agency;
- (5) it would not create a new regulation;
- (6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Villarreal has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §25.1. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "TMUTCD." The deadline for receipt of the information or comments is 5:00 p.m. on September 14, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code §544.001, which requires the commission to adopt a manual of uniform traffic control devices.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 544

§25.1. Uniform Traffic Control Devices.

(a) The 2025 Texas Manual on Uniform Traffic Control Devices, Revision 1 was prepared by the Texas Department of Transportation to govern standards and specifications for all traffic control devices to be erected and maintained upon any street, highway, bikeway, public facility, or private property open to public travel within this state, including those under local jurisdiction, and is adopted by reference. Copies of the manual are available online through the Texas Department of Transportation web site, www.txdot.gov, and a copy is available for public inspection at the department's Traffic Safety Division office located at 6230 East Stassney Lane, Austin, Texas 78744.

(b) This manual will be periodically updated. In the intervals between updates, standards contained in "Official Rulings on Requests for Interpretations, Changes, and Experimentation" to the United States Department of Transportation's Manual on Uniform Traffic Control Devices for Streets and Highways will be inserted in this manual and may be used as interim standards.

(c) This manual is not intended to preclude the use of sound engineering judgment and experience in the application and installation of devices, [and] particularly in those cases not specifically covered in the manual. However, decisions based on engineering judgment and experience [which] must not conflict with the manual or other applicable state laws.

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 July 30, 2026.



TRD-202603228

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 416-3200

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §24.3 relating to Definitions, §24.25, relating to Form and Filing of Tariffs, §24.27, Notice of Intent and Application to Change Rates, §24.41, relating to Cost of Service, and §24.43, relating to Rate Design. The commission also adopts new 16 TAC §24.26, relating to Test Year and §24.28, relating to Review of Test Year. The commission adopts these rules with changes to the proposed text as published in the April 10, 2026 issue of the *Texas Register* (51 TexReg 2292). The rules will be republished.

The amended and new rules will implement Texas Water Code §§13.1831, 13.184(d), and 13.185(l) and (m) as enacted by House Bill (HB) 2712 during the Texas 89th Regular Legislative Session (89R). The adopted amendments will implement Texas Water Code §§13.183(a)(1), 13.184(a), 13.185(b), (d)(1), and (j) as amended by HB 2712 (89R); Texas Water Code §13.185(k) as enacted by HB 2712 (89R); as well as Texas Water Code §13.002 of the Texas Water Code, as enacted by Senate Bill (SB) 740, Section 2 (89R) by adding the definition of "public utility agency."

Implementation of HB 2712

Addition of combined test year and future test year

Prior to HB 2712, water utilities have only been authorized to use a "historic test year" when filing a comprehensive base rate change application under Chapter 13 of the Texas Water Code. A historic test year requires a utility to reference past operational performance to set rates (e.g., the most recent 12 calendar months of available operating data). In accordance with HB 2712, the adopted rules will enable water and sewer utilities to select and use a combined test year (i.e., a combination of past performance and predicted future performance) or a future test year (i.e., exclusively predicted future performance) in a comprehensive base rate proceeding. The adopted rules will also establish minimum requirements for a utility's test year selection in a rate change application, including requiring the usage of a "base period" for a combined test year or future test year. A base period serves as a historical reference and point of comparison for any forecasts, projections, or estimates a utility has provided for its anticipated future performance when applying for a base

rate change. The adopted rules also include minor and conforming changes to the rule text.

Post-test year report (combined test year and future test year)

For utilities that select a future test year or a combined test year, the adopted rules require such utilities to file a post-test year report with the commission. A post-test year report requires a utility to verify and compare the utility's projected test year data against the utility's actual results.

Retrospective analysis (combined test year and future test year)

The adopted rules also require a utility that selects a combined test year or future test year to file a "retrospective analysis" for the commission to review the utility's projected test year report in the utility's next comprehensive base rate proceeding. The commission will review the utility's retrospective analysis to determine whether a refund is necessary based on an overall comparison of the utility's projected year data and the utility's actual results. The commission may also determine in the retrospective analysis whether a utility's projections for revenues and costs reasonably aligned with the utility's actual results accounting for any mitigating factors presented by the utility; and identify any rate base items that were not used and useful in providing service to customers.

Construction Work In Progress (CWIP)

HB 2712 requires CWIP projected to be placed into service through the end of a combined test year or future test year to be included in rate base, notwithstanding the higher burden of proof generally applied to CWIP for a utility that enters a historic test year.

Statutory refund (combined test year and future test year)

The adopted rules further require the commission to order a utility to issue a refund to customers through a regulatory liability if the utility's combined or future test year information used resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public. Specifically, the refund will be any money in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected.

Changes to commission-prescribed forms

The commission also adopts conforming changes to the Class A Utility Annual Report for a utility that elects to use a combined test year or a future test year such that a utility that selects a combined test year or future test year must indicate any differences (i.e., variance) between the amounts approved in the utility's last comprehensive base rate proceeding and the utility's actual results as they become available. The commission also adopts revisions to the Class A, B, C, and D Water and Sewer

Annual Report General Instructions (Annual Report General Instructions) to conform with recent electronic filing changes.

The commission received comments on the proposed rule from Aqua Texas, Inc. (Aqua); the City of Houston; CSWR-Texas Utility Operating Company, LLC (CSWR); the Office of Public Utility Counsel (OPUC); SJWTX, Inc. d/b/a The Texas Water Company (SJWTX); and the Texas Association of Water Companies, Inc. (TAWC).

General Comments

CSWR emphasized that the adopted rules implementing HB 2712 should promote consolidation and rehabilitation of ailing water and wastewater utilities, including those in rural areas. Specifically, CSWR noted that the acquisition of such ailing systems requires significant initial capital investment to ensure the necessary repairs are made to benefit customers. CSWR also expressed general support for TAWC's comments.

Commission response

A primary policy rationale for the implementation of a combined test year or future test year for utility ratemaking is to promote consolidation and rehabilitation of ailing utilities. Specifically, the usage of future projections and estimates, which may include utility acquisitions that affect cost of service, instead of historical data implicitly reflects this consideration. In addition, adopted language in §24.28 explicitly contemplates acquisitions and consolidations as an example of an event that occurred during the test year that a utility must describe and quantify if it impacted the utility's actual test year results.

SJWTX and Aqua recommended the adopted rule implement a future test year process that is not unduly burdensome and does not create "negative incentives" or other unintended consequences. Specifically, SJWTX recommended the inclusion of specific mechanisms to ensure that (1) neither customers nor utilities are harmed or unjustly enriched; (2) forecasted and actual results are appropriately accounted for; and (3) completed capital investments are reflected in rates. SJWTX also recommended that the adopted rules do not include language that would result in retroactive ratemaking. SJWTX commented that, if prudently implemented, a future test year enables utilities to make essential upgrades to infrastructure while reducing the lag associated with cost recovery in accordance with the legislative intent of HB 2712. Similarly, Aqua recommended that the proposed rule should be revised to enhance regulatory certainty, reduce unnecessary administrative burdens, and effectuate the legislative intent of HB 2712. Specifically, the new legislation was intended to (1) provide flexibility for utilities in selecting a test year; (2) more accurately align a utility's rates with its actual costs of service; (3) promote infrastructure investment; and (4) decrease the frequency of rate cases and reduce the costs of such proceedings that are passed through to ratepayers.

Commission response

The adopted rule strikes the appropriate balance between regulatory certainty, utility flexibility, efficiency of rate proceedings, promotion of infrastructure investment, and ratepayer protections. Specific issues, such as the accounting of Construction Work In Progress (CWIP) and the retrospective analysis for a combined test year or future test year, are addressed under the appropriate header.

Questions for Comment

The proposal for publication included two questions for comments with two subparts each.

Question 1 (Revisions to commission-prescribed forms to implement HB 2712)

In addition to the proposed revisions to the Class A Annual Report Form and the Annual Report General Instructions in this rulemaking, the commission is contemplating a later rulemaking to update other commission-prescribed forms to accommodate utilities that select a combined test year and a future test year.

Question 1a (Specific water utility forms for comment and review)

The commission has identified the following commission-prescribed forms as potentially requiring changes. While the commission offers no edits to these forms and does not intend to change the forms in this rulemaking project, the commission requests comment from stakeholders to identify any necessary changes. Specifically, the commission requests redline edits or comments recommending changes to the following forms (15 total):

- i. Class B-D Water Sewer Annual Report;
- ii. CCN Form
- iii. STM and Expedited STM Form
- iv. Class A-C Utility Notice of Proposed Rate Change;
- v. Class B- D Rate/Tariff Change Application/Instructions/Notice (Schedule).

Aqua recommended that the commission update the Rate Filing Packages (RFPs) and associated Instructions as well as the Annual Reports used by each of the Class A, B, C, and D utilities. TAWC commented that there are no additional forms that require revision beyond those listed under Question 1a. TAWC recommended that any adopted version of the forms be updated to reflect the latest version of Chapter 24 of the commission's substantive rules and include optionality for applicants to incorporate their specific test year selection (i.e., historic, combined, or future) with any corresponding information.

Commission response

The commission will open one or more subsequent rulemaking projects to address conforming revisions to the relevant commission-prescribed forms listed under Question 1a to accommodate a utility's test year selection, beginning with the Class A RFP.

OPUC's proposed forms (New Schedule 1A and Schedule 1B)

OPUC recommended that, in lieu of revising the forms listed under Question 1a, that the commission should instead adopt the Schedule 1A and Schedule 1B forms in the present rulemaking or in a later rulemaking. OPUC explained that its recommended schedules consolidate the combined test year and future test year into a single set of templates without requiring existing form revisions. Specifically, the new Schedules are intended to supplement the commission's existing forms and instructions for water and sewer rate cases. OPUC noted that its proposed forms "capture the forecast support, base-period bridge, materiality screen, post-test-year reconciliation, and refund computation in a single set of templates" for all classes of water and sewer utilities. OPUC commented that adopting its proposed Schedules avoid disruptive, simultaneous edits to several commission forms and instead provide a standardized presentation in a single form. OPUC emphasized that its proposed form would help facilitate more efficient review by the com-

mission and promote intervenor participation and consumer protection without unduly burdening utilities. OPUC indicated that standardized forms are particularly important for combined test years and future test years, which use future data. Specifically, standardization ensures that data is presented consistently and can be meaningfully compared which in turn reduces discovery disputes, reduces costs, and benefits customers by promoting transparency and enforceability in the post-test year retrospective analysis. OPUC stated that Schedule 1A standardizes the presentation of "forecast assumptions, billing determinant forecasts, and material changes" while Schedule 1B standardize the disclosures required by Texas Water Code §13.185 and the retrospective analysis required by the proposed rule by establishing a defined set of reconciliation schedules. OPUC noted that the data required by Schedule 1B are intended "to assist in the retrospective analysis in determining whether the utility's forecast led to overcollection of rates, and if any refund should be issued to ratepayers" while maintaining base-rate case determinations, requiring true-up only for specific defined items, and producing a single refund for or credit for the covered period. OPUC commented that its schedules can be used by any class of water or sewer utility and only apply when a utility selects a combined test year or future test year.

Commission response

The commission declines to implement the new forms proposed by OPUC as they are out of scope. Specifically, other stakeholders have not had a reasonable opportunity to comment in accordance with Texas Government Code § 2001.029(a). OPUC's proposed Schedule 1A and 1B will be considered prior to publishing any revisions to commission-prescribed forms in a follow-on rulemaking. In the event a utility initiates a rate proceeding and selects a combined test year or future test year during the period between the adoption of the rules included in this rulemaking and the adoption of any conforming amendments or new commission-prescribed forms, the revisions to the Class A Utility Annual Report and the requirements of new §24.28 will be sufficient to address any discrepancies on an interim basis.

OPUC's proposed changes to the Class A Utility Annual Report

OPUC recommended that the Class A Utility Annual Report form be revised to incorporate the additional information recommended or referenced in its filed comments. Generally, OPUC recommended the Class A Utility Annual Report to be changed to include: (1) the refund determination required by Texas Water Code § 13.184(d); (2) the calculated variance between the utility's actual forecasted costs and revenues versus the authorized projected amounts; (3) identification of plant (i.e., CWIP) that was forecasted to be placed into service that did not materialized; and (4) identification of amounts collected under a SIC versus base rates to prevent double recovery. OPUC also recommended that the cover page or Schedule I of the Class A Utility Annual Report be revised to require disclosure of the utility's test year election. OPUC further recommended the addition of a column flagging the percent material change in specific schedules in the Class A Utility Annual Report if its proposed materiality screen is adopted. OPUC provided draft language for the Class A Utility Annual Report consistent with its recommendation.

Commission response

Variance columns

The commission agrees with OPUC regarding its proposed edits to the Class A Utility Annual Report adding variance columns

in the relevant worksheets. Specifically, the commission adds an additional column in the worksheets of the Class A Utility Annual Report recommended by OPUC to account for the variance between the utility's projected test year data and the utility's reporting period results. The new columns specifically require the disclosure of the differences expressed as a numerical amount in dollars and as a percentage. The commission also adds variance columns to Schedule 615 for affiliated transactions and deletes the variance columns from Schedule 206 because they are unnecessary for long-term debt.

Test Year Disclosures

The commission also agrees with OPUC that the Class A Annual Report should require disclosure of the utility's selected test year. The commission accordingly adds several line items on Schedule I which require identification of: (1) the utility's selected test year; (2) the date the applicant's test year began and ended; and (3) the year the applicant's last comprehensive base rate proceeding was initiated and the associated docket control number or project number; and (4) the date the commission final order was issued in the last comprehensive base rate proceeding. The commission also adds requirements for a utility that selected a combined test year or future test year to disclose the project number where its post-test year report is filed. Lastly, the commission adds disclosure requirements for utilities that selected a combined test year to disclose the date range of the historic portion and future portion of the combined test year, including the number of calendar months in each portion.

Refund Information

The commission also revises Worksheet "200-4 Current Liabilities & Credits" of the Class A Utility Annual Report by adding new line item 22 which refers to NARUC Account 254 "Other Regulatory Liabilities" to account for any statutory refund ordered by the commission in accordance with Texas Water Code §13.184(d) and renumbering all subsequent rows. The commission declines to implement OPUC's more substantial revisions regarding the statutory refund in the Class A Utility Annual Report. Such changes are unnecessary because the refund is a general determination of whether the "test year information used for the utility resulted in the utility's rates yielding more than a fair return." If that condition is present, the commission will require the utility to "refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected." (emphasis added) Therefore, the statutory refund applies to the utility's overall rate of return (i.e., excessive earnings above the utility's last commission-approved rate of return), not to specific line items (CWIP, operations and maintenance expense, etc.) Additional discussion of the statutory refund is provided under the appropriate header.

CWIP and SIC Information

The commission declines to implement OPUC's other proposed changes concerning specific identification of CWIP or amounts collected under a System Improvement Charge (SIC) because they are unnecessary. The statutorily required treatment of CWIP under Texas Water Code § 13.185(b) or (k) does not necessitate separate line-item treatment in the Class A Utility Annual Report. A utility that selects a combined test year or future test year is required to disclose in its post-test year report under §24.28 whether CWIP projected to be in service was actually placed into service during the test year. Additionally, the fact that CWIP may not have been placed into service may not

be sufficient to trigger a refund under §13.184(d). Stated differently, when considering all billing determinants or cost of service components that a utility has projected it is not necessarily true that projected CWIP that is not placed into service will trigger a refund on its own. Regarding OPUC's proposed SIC addition, overlap between a future test year or combined test year is already prohibited under §24.76(c)(1)(E), relating to System Improvement Charge. Specifically, the provision establishes that, after September 1, 2026, a SIC application by such utilities is limited to cost recovery of eligible plant placed into service subsequent to the end of the future test year or combined test year. Therefore, OPUC's CWIP and SIC proposed additions to the Class A Utility Annual Report are unnecessary. Additional discussion on CWIP and SIC related changes can be found under the appropriate header.

Other Changes

The commission revises the proposed text added in various worksheets to state "[a]mounts authorized by the commission in last comprehensive base rate proceeding" for clarity. This phrasing is clearer than the proposed language requiring "amounts authorized for recovery" as some worksheets do not concern recoverable amounts. The commission also adds a footnote to the worksheets with the added variance columns indicating that "[t]o the extent that a specific line item was not specified in the commission final order or settlement for its comprehensive base rate proceeding, the utility may enter N/A in the applicable cells." The commission also revises the terminology used in the variance columns where appropriate (e.g., "gallons" instead of "dollars" in Schedule 403, Gallons sold). The commission also adds formulas for the new column cells identifying the percentage difference.

Question 1b (Revisions to other commission-prescribed forms not included in proposal)

If there are other forms that require amendment that are not listed above, identify the additional form and any necessary changes in the same manner as requested in Question 1a.

Commission response

No commenters responded to Question 1b other than OPUC. OPUC's proposed Schedule 1A and Schedule 1B are discussed in the appropriate header above.

Question 2 (Statutory framework of post-test year report)

Texas Water Code §13.185(l) and (m) require a "post test-year report" for a utility that elects to use a "fully projected future test year." In the proposed draft of §24.28, the commission has extended the requirement to perform a test year report to a utility that has elected to use a "combined test year." This is due to the requirement in §13.184(d), which applies to "a utility that uses a future or combined historic and future test year." Specifically, §13.184(d) requires the commission to determine in the next rate proceeding for that utility, whether the test year information resulted in rates yielding a fair return and, if so, "require the utility to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected."

Question 2a (Extension of post-test year report requirement to utilities that select a combined test year)

Should the commission extend the post-test year report requirement to a utility that enters a combined test year? Please include the rationale for a response to this question.

City of Houston, OPUC, and TAWC responded in favor of extending the post-test year report requirement to combined test year utilities. Aqua responded against the proposal and CSWR did not specify whether it supported or disfavored the reporting requirement for a combined test year. City of Houston agreed that the commission obligation to determine whether a utility's rates yielded a fair return or otherwise require a refund to customers applies regardless of whether a combined or future test year is used. City of Houston explained that any test year that includes a future period should be subject to the same reporting requirements and that different reporting requirements are only appropriate if the use of a combined test year reduces the risk that a utility over-recovers relative to a future test year. City of Houston noted, however, that a combined test year with a larger future period (e.g., 11 future months and one historical month) "could have the same potential for over-recovery and need for refund as a fully projected year." City of Houston further remarked that equal reporting requirements for combined and future test years removes the perverse incentive for a utility to select a combined test year to avoid regulatory reporting and favor more aggressive cost forecasting methods as a result. CSWR commented that no additional forms should be required "beyond those listed" in the proposed rule. Aqua opposed applying the post-test year reporting requirement to a utility that selects a combined test year. Aqua maintained that any reporting associated with the results of a combined test year should occur in the utility's next base rate case where the commission reviews the utility's rates. OPUC recommended that the proposed language requiring utilities that select a combined test year to file a post-test year report to be preserved as it is consistent with legislative intent. OPUC noted that Texas Water Code §13.184(d) requires the commission to determine, in the utility's next base rate proceeding, whether combined or future test year information previously used by the utility resulted in rates yielding a fair return or otherwise require a refund of any over-collection. OPUC explained that the post-test year report is the primary mechanism for effectuating the statutory language and omitting the requirement for combined test years would impede any commission determination as to whether a refund is necessary. OPUC stated that not requiring a post-test year report for a combined test year would result in gamesmanship, which could harm residential and small commercial consumers. TAWC commented that it is reasonable to extend the post-test year report for utilities that select a combined test year. TAWC alternatively proposed that, because a post-test year report is not specifically required for a combined test year by Texas Water Code §13.185(l)-(m), the commission could perform the review in the utility's next comprehensive base rate proceeding by requiring the same information as the post-test year report.

Commission response

The commission agrees with City of Houston, OPUC, and TAWC and preserves the proposed language extending the post-test year reporting requirement to a utility that selects a combined test year. Requiring a post-test year report for utilities that utilize a combined test year is consistent with HB 2712's directive to safeguard consumers from the uncertainty associated with the use of forecasted costs in ratemaking.

Question 2b (Alternative methods to reconcile a combined test year forecasted costs and revenues)

Are there alternative methods to ensure forecasted costs and revenues for a combined test year are properly accounted for to facilitate reconciliation in a later base rate proceeding?

SJWTX recommended five alternative mechanisms to account for and reconcile forecasted costs and revenues associated with future data used in a combined test year or future test year. Specifically, SJWTX recommended (1) a sales reconciliation mechanism (SRM); (2) expense offsets; (3) memorandum accounts; (4) balance of accounts; (5) interim rates; and (6) rate base offsets. SJWTX explained that a SRM "addresses revenue fluctuations caused by drought, conservation, and fluctuating demand" by mitigating the inherent uncertainty associated with accurately forecasting water availability and usage. SJWTX indicated that it has observed water usage fluctuations of up to 10% due to drought in the south central regions of Texas. SJWTX explained that an SRM monitors the difference between the approved level of water sales against actual sales and therefore protects both customers and utilities against any extreme discrepancies. SJWTX noted that an SRM would be used for the time period between the end of one future test year and the beginning of the next future test year. If there is a variance of more than five percent, the SRM would automatically adjust rates to recover or refund half of the total variation. SJWTX commented that expense offsets pass through to customers any increases or decreases in certain costs that are beyond a utility's control and for which cost recovery by the utility is in the public interest. SJWTX noted that expense offsets are similar in nature to "energy cost adjustment clauses" but even more important in the context of rates based on forecasted amounts. In practice, a water utility would use a reserve account to track the difference between approved costs and actual costs for certain categories of expenses. Any over-collection or under-collection would then be subject to cost recovery or refund. Accordingly, the usage of expense offsets could potentially "eliminate separate minor tariff change proceedings to true-up and change purchased water pass-through rates because the test year amount for purchased water would be included in base rates with actual costs booked to a reserve account for future recovery or refund." SJWTX recommended that the commission adopt rules to allow expense offsets such as purchase power costs or otherwise add language to proposed §24.26(l) since such costs are subject to fluctuations beyond the control of a utility. SJWTX commented that memorandum accounts are accounting tools similar to regulatory assets that enable a utility to record various historical costs it incurs for later recovery without engaging in retroactive ratemaking. Specifically, once the commission authorizes the use of a memorandum account, the utility would then track the costs recorded in the account for future recovery either through a compliance filing or in a future base rate proceeding. SJWTX emphasized that commission authorization to use a memorandum account does not guarantee cost recovery and that a utility would still be required to demonstrate through evidence the prudence, reasonableness, and necessity of incurred costs. SJWTX explained that a memorandum account is appropriate for expenses or capital projects costs that cannot be accurately forecasted in a base rate case but are expected to be incurred prior to the next base rate proceeding and are of such a significant amount to justify the cost and effort of maintaining and reviewing the account. SJWTX proposed that costs entered into a memorandum account be required to meet specific criteria, such as (1) the cost must be due to exceptional circumstances outside the utility's control; (2) the expense is not reasonably foreseeable as of the utility's last base rate proceeding and will occur before the utility's next scheduled rate case; (3) the cost is substantial or otherwise significant; and (4) ratepayers will benefit from usage of the memorandum account. SJWTX recommended that utilities be authorized to implement

interim rates based on inflation if the commission is not able to issue a decision in time for new rates to become effective on the first day of the test year. SJWTX further recommended that the commission authorize utilities to track the difference between interim rates and the rates ultimately approved by the commission in a memorandum account for future recovery or refund. SJWTX stated that under Texas Water Code §13.187, a commission decision in a base rate proceeding must be rendered on or before the 185th day after a Class A utility files a statement of intent to change rates. SJWTX further commented that in base rate proceedings, rates must be effective as of the first day of the test year. SJWTX noted, however, that in some instances it can take more than 18 months for a final order to be issued, despite the statutory requirements. SJWTX remarked that the additional requirement for a retrospective analysis under §24.28(c)(2) for a utility that selects a combined test year or future test year would further extend the duration of a base rate proceeding. SJWTX concluded that the statutory and rule requirements risk that the 18-month period between the filing of a statement of intent to change rates and the test year provides insufficient time for a final order approving new rates to be issued in a base rate proceeding. SJWTX commented that a balancing account would track costs that the commission has authorized for amortization. Specifically, when the commission approves a cost recorded in a reserve account or memorandum account for recovery, the utility would move that balance to a balancing account where it would be amortized through surcharges or credits on customer bills over a time period determined by the commission. SJWTX recommended that the adopted rules include a provision authorizing a utility to make a compliance filing for a rate base offset to become effective at the end of a test year. SJWTX further recommended a process be implemented to "ensure that there is not a lag in the recovery of capital investments" for the interim years between the end of the previous test year and the beginning of the next test year. SJWTX remarked that this could involve annual rate base offset filings or changes to the SIC rulemaking to account for future test years. SJWTX commented that the usage of rate base offsets enable a utility to adjust rates to account for changes in utility plants in service that affect rate base. SJWTX explained that rate base offsets would include adjustments to related expenses, such as depreciation and taxes, and to specific charges that depend on gross revenues, such as franchise taxes and "uncollectibles." SJWTX explained that a compliance filing is appropriate because the underlying costs and investments associated with the rate base offset were reviewed as part of the previous base rate proceeding.

Commission response

The commission declines to implement the alternative proposals suggested by SJWTX because they are variously unnecessary, impractical, and detrimental to ratepayers. Moreover, it is not immediately apparent that any of the alternative reconciliation mechanisms would be more effective or more clearly in the public interest than the proposed retrospective analysis framework. The commission currently does not authorize the use of a sales reconciliation mechanism, memorandum account, or balancing account for rate setting purposes in base or interim rate proceedings. The various mechanisms, if implemented, would seemingly authorize the pass-through of certain costs, revenue shortfalls, or other rate impact without commission review and approval or additional notice to ratepayers, which is required by the current pass-through minor tariff change application process under §24.25(b)(2) and §24.25(b)(2)(F), respectively. It is also

not clear how such mechanisms would be available for review by the commission or otherwise visible to the public. As such, most of the proposed alternatives present risks to customers or are otherwise contrary to the public interest. For example, a sales reconciliation mechanism would shift revenue risk from the utility to captive ratepayers. Similarly, a memorandum account or balancing account would shift cost risk from the utility to captive ratepayers. Expense offsets would allow the direct pass-through of operating costs to customers between major rate cases and rate base offsets strongly resemble a SIC proceeding. The addition of interim rates as an alternative mechanism is unnecessary because commission rules already account for interim rates under §24.37, relating to Interim Rates. Specifically, §24.37(a) authorizes the commission to establish interim rates that will remain effective until a final decision is made in a base rate proceeding as authorized by Texas Water Code § 13.187(l) and §13.187(s).

Aqua recommended that any data that is necessary to reconcile forecasted costs and revenues should be included as part of a utility's filing package for a base rate proceeding to avoid unnecessary and duplicative reporting obligations.

Commission response

The commission generally agrees with Aqua that the data necessary to reconcile a utility's projected test year information with its actual test year results should be specified in the associated commission-prescribed RFP for each utility class, or the associated RFP instructions. Any revisions to commission-prescribed forms to facilitate the implementation of a combined test year and future test year will be undertaken in a future rulemaking.

OPUC recommended the addition of an explicit CWIP category be added for the retrospective analysis under §24.28 and the creation of a limited, standalone expedited reconciliation proceeding for commission review of a utility's post-test year report to determine whether the utility is over-earning and if a refund is necessary.

Commission response

The commission declines to specifically highlight CWIP as a category for review for a retrospective analysis under §24.28. As stated previously, CWIP is one of several cost components that the commission will review in a retrospective analysis and base rate proceeding. Therefore, it is unnecessary for the commission to singularly emphasize CWIP for analysis. Any determination as to whether projected CWIP was actually placed into service during the test year will be reviewed as part of the retrospective analysis. The commission also declines to establish a standalone proceeding for a retrospective analysis because it is more administratively efficient to review a utility's actual test year results contemporaneously with its next base rate proceeding, both for statutory refund and rate setting purposes. CWIP and the retrospective analysis are discussed more substantively under the relevant headings.

City of Houston and CSWR stated that alternative methodologies for reconciliation of a combined test year are unnecessary. City of Houston commented that the rate information entered into the record of a base rate proceeding for a utility with a future or combined test year should be generally sufficient to determine in a subsequent rate proceeding whether the utility over-earned. City of Houston noted that alternative cost tracking methods, such as balancing costs, are typically only established if it is necessary to reconcile and recover certain specific costs. City of Houston indicated that the commission is obligated to determine whether the approved rates yielded a fair return or were exces-

sive, which is a broader question. Accordingly, City of Houston recommended the commission utilize a comparative reporting approach to determine whether a utility that uses a future or combined test year has over-earned, assuming that there are no changes to the underlying accounting structure or methodologies used for recording the applicant utility's costs and revenues. City of Houston remarked that if a utility seeking a rate change believes that circumstances that are not directly related to the earned return should be considered by the commission, the utility can present evidence supporting such an argument in its comprehensive base rate proceeding. City of Houston emphasized that the commission should ensure that any rate case settlement contains sufficient information, including disaggregated account information, such that the commission can make a determination as to whether the utility has over-earned. CSWR noted that it has not identified any alternative methods for reconciling the forecasted costs and revenues for a combined test year in a later comprehensive base rate proceeding.

Commission response

The commission agrees with City of Houston and CSWR and declines to implement any alternative methodologies for reconciliation of forecasted costs and revenues for the reasons already stated.

Proposed §24.3 and proposed §24.3(17) - Definitions; Definition of "future test year"

Proposed §24.3 defines the terms used universally across Chapter 24. Proposed §24.3(17) defines the term "future test year" as a test year that includes only future data.

SJWTX recommended the commission expand the definition of "future test year" to also include reference to "historical data," rather than just "future data." Specifically, SJWTX recommended the definition be revised to "a test year that includes future data and forecasts, which may incorporate historical data." SJWTX noted that in many instances, a future test year is informed or based on historical data, such as historical expense averages which may be used to forecast future test year amounts. SJWTX indicated the revision would also more closely align the definition with §24.26(b). SJWTX provided draft language consistent with its recommendation.

Commission response

The commission agrees with SJWTX but revises the definition of "future test year" to mean "a test year that includes future data and forecasts, estimates, or projections, although such future data, forecasts, estimates, or projections may be derived in part from historical data."

Proposed §24.3(10) - Definition of "combined test year"

Proposed §24.3(10) defines the term "combined test year" as a test year that includes historic and future data.

The commission revises the definition of "combined test year" to refer to "a test year that includes historical data and future data" for clarity.

Proposed §24.3(40) - Definition of "historic test year"

Proposed §24.3(40) defines the term "historic test year" as a test year that includes only historic data.

TAWC recommended changing references to a "historic test year" be replaced with the term "historical test year" throughout the proposed rules as the latter is the grammatically correct term.

Commission response

The commission declines to implement the recommended change because the term "historic test year" is used by HB 2712, specifically Texas Water Code § 13.1831 and is a term of art. However, the commission revises all references of "historic data" to "historical data." The commission also makes minor revisions to the definition to indicate when a test must begin and end as well as minor grammatical revisions.

Proposed §24.25 - Form and Filing of Tariffs

New §24.25(b)(2)(A)(x) - Minor tariff changes; Refund or other commission action at conclusion of retrospective analysis for combined test year or future test year

OPUC recommended §24.25(b)(2)(A) be revised to include a commission-authorized refund or credit resulting from a retrospective analysis under §24.28 as a minor tariff change. OPUC explained that this revision would ensure the commission has flexibility in ensuring that a utility complies with the refund obligation without having to wait until the utility's next comprehensive base or otherwise requiring the utility to make a separate tariff filing at the commission's direction that would require full notice and review. OPUC further noted that allowing such a refund to be considered a minor tariff change would also ensure that customers are credited more quickly. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement OPUC's proposal because the statutory refund is not a minor tariff change and the addition is unnecessary. Texas Water Code §13.184(d) conditions a refund on a commission determination of whether the test year information used by a utility that selected a combined test year or future test year "resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public." If the commission determines the utility's rates did yield more than a fair return, the statute requires the commission to order the utility to "refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected." Accordingly, any order for a refund requires an express determination by the commission and does not align with the list of minor changes under §24.25(b)(2). Moreover, the retrospective analysis where the refund determination is made will occur in the utility's next base rate proceeding. Therefore, any necessary tariff changes to account for the refund will be made in that proceeding.

Proposed §24.26 - Test Year

Proposed §24.26 establishes the procedures to facilitate a utility's selection of a test year. The section also establishes the tariff and application requirements for a utility's test year selection.

SJWTX recommended that §24.26 be revised to include language that explicitly authorizes interim rates because base rates must be effective on the first day of a future test year.

Commission response

The commission declines to implement the recommended change because it is unnecessary. As stated previously, under §24.37 commission staff or a utility can request that the commission authorize interim rates during the pendency of a comprehensive base rate proceeding until a final order is issued.

Proposed §24.26(b) and proposed §24.26(b)(1) - Definitions; Definition of "base period"

Proposed §24.26(b) includes defined terms within the section. Proposed §24.26(b)(1) defines the term "base period" as a consecutive 12 calendar month period that ends on or before the date the applicant files its statement of intent to change rates. A base period must include historical data and begin no earlier than five years before the date the statement of intent to change rates was filed.

OPUC recommended revising the definition of "base period" under §24.26(b)(1) to refer to the average of a consecutive 36-month period rather than a consecutive 12 calendar month period in the last five years. OPUC stated that a 36-month period is preferable as it provides a "sufficient historical context to validate forecast inputs and to mitigate the cherry-picking risk inherent in a 12-month window." OPUC noted that there may be substantive differences in costs and revenues within a five-year period, whereas the average of 36 calendar months creates a more normalized representation of test year operations, similar to the standard regulatory practice of normalizing billing determinants when establishing rates. OPUC emphasized that a 36-month average does not replace the 12-month test year concept. Instead, it "produces a more representative 12-month average from which the test-year revenue requirement is built." OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with OPUC and changes the applicable timeframe for a base period from 12 months to 36 months but authorizes a shorter base period to be used for good cause shown. Additionally, the commission revises the definition to require a base period to begin on the first day of a calendar or fiscal year quarter to align with Texas Water Code § 13.1831(2). The base period should have the same timing requirements of a test year to ensure data aligns, but it is not necessary to limit it to the 18 months prior to the base rate case proceeding to ensure additional flexibility in a utility's selection of a base period. Specifically, the commission revises the general definition of the term "base period" as follows: "the most recent consecutive 36 month period beginning on the first day of a calendar- or fiscal-year quarter for which operating data for a retail public utility is available. A base period must include historical data. The commission may, for good cause shown, authorize a shorter base period for a utility that has operated for less than 36 months."

Proposed §24.26(b)(3) - Definition of "historical data"

Proposed §24.26(b)(3) defines the term "historical data" as data relied upon by the utility to support its actually incurred costs, usage, revenues, adjustments, and other information of the utility. Historical data may include, as one component, the utility's annual reports filed in accordance with §24.129 of this title (relating to Water and Sewer Utility Annual Reports).

OPUC recommended that the definition of "historical data" in proposed §24.26(b)(3) be revised to include specific additional accounting documentation and support to ensure compliance with Texas Water Code §13.184(d). OPUC specifically recommended the definition be revised to include "(i) tie-outs to audited or closed financial records; (ii) explanation of any normalizations or adjustments; (iii) a workpaper index; and (iv) an officer attestation specific to the base period." OPUC provided draft language consistent with its recommendation. OPUC stated that the definition should be revised to include information sufficient for the

commission to determine whether a utility's proposed rates under a combined test year or propose test year would yield a fair return. OPUC noted that such a determination requires the commission to compare the utility's actual costs and revenues with its forecasted amounts and therefore necessitates the utility to provide representative data that is auditable and connected to specific records. OPUC maintained that such information is necessary to ensure that the retrospective analysis involves verifiable information, rather than cost summaries that cannot be tested.

Commission response

The commission declines to implement the recommended change because it is unnecessary and overly prescriptive. The recommended revisions would result in detailed requirements that are unnecessary for describing what constitutes historical data. OPUC's proposed changes are more suitable for the Class A RFP Instructions and other commission-prescribed ratemaking forms for water and sewer service. The commission will revise these forms in a future rulemaking to conform with the new and amended rules.

Proposed §24.26(c) and proposed §24.26(c)(1) - General requirements for tariffs; requirements applicable to new utilities.

Proposed §24.26(c) establishes the general requirements for tariffs when a utility designates a test year. Proposed §24.26(c)(1) establishes the specific requirements applicable to new utilities that have obtained an approved tariff for the first time.

Aqua and TAWC recommended proposed §24.26(c)(1) be revised to explicitly specify that the provision only applies to utilities obtaining an approved tariff for the first time and not to existing utilities that receive a previously approved tariff for acquired systems through a Certificate of Convenience and Necessity (CCN) or Sale Transfer Merger (STM) proceeding. Aqua explained that approval of the tariff for an acquired system could be interpreted as a "new" tariff for the acquiring utility and therefore subject to the test year requirements under proposed §24.26(c)(1)(A) which require the filing of a rate change application within 30 months from the date service begins. Aqua noted such a revision would provide regulatory clarity and adhere to the legislative intent of HB 2712 in reducing the frequency of rate cases and associated expenses. Aqua noted implementation would effectuate Texas Water Code §13.3011 and §24.240, relating to Water and Sewer Utility Rates After Acquisition. Aqua provided draft language consistent with its recommendation.

Commission response

The commission agrees with Aqua and TAWC and implements Aqua's language with the condition "unless otherwise required by the commission." In some cases, an acquisition or merger may be so large or affect such a significant number of customers that a rate case should be required.

Proposed §24.26(c)(2); proposed §24.26(c)(2)(A) and new §24.26(c)(2)(C) - Utility designation of test year; compliance with definition; one test year limitation

Proposed §24.26(c)(2) establishes the requirements for a utility's designation of a test year. Proposed §24.26(c)(2)(A) requires a utility to present a test year that complies with the definition under §24.3(36). Proposed §24.26(c)(2)(B) requires the test year to include future data and identify a base period if the test year selected by the utility is a combined test year or a future test year.

The commission corrects the definitional cross-reference to §24.3 generally, rather than a specific definition. The commission also adds new §24.26(c)(2)(C) which provides that "[a] utility is limited to using one test year in a comprehensive base rate proceeding." This is to ensure a utility does not select a different type of test year for each type of service. (e.g., a historic test year for sewer service but a future test year for water). This addition is consistent with Texas Water Code §13.1831 which provides that the commission "shall fix rates for water and sewer services for a Class A, B, C, or D utility based on a test year the utility selects..." (emphasis added). The conjunctive "and" and the singular "test year" indicates the selection of only one test year is contemplated under the statute. The commission also makes clarifying revisions to proposed §24.26(c)(2)(B) to require the rate change application to identify a base period.

Proposed §24.26(c)(3) and proposed §24.26(c)(3)(A) - Application requirements; known and measurable changes

Proposed §24.26(c)(3) requires a utility to provide evidence in its rate change application that its proposed rates are just and reasonable using its selected test year, including providing all information in support of its selected test year used to establish rates. The provision further specifies the minimum required information. Proposed §24.26(c)(3)(A) requires a utility to include known and measurable changes in its rate case application. Such known and measurable changes must, at a minimum, include explicit and direct connections between the applicant's test year information and the applicant's audited financial accounts, billing system extracts, or other records such as the utility's annual report under §24.129 of this title.

TAWC recommended that language requiring "[a] utility [to] provide evidence in its rate change application that its proposed rates are just and reasonable using its selected test year" be preserved but omit the phrase "including providing all information in support of its selected test year used to establish rates." TAWC indicated that the latter phrase could be interpreted as suggesting that a utility's test year selection could be second-guessed. TAWC noted that Texas Water Code §13.1831 does not authorize the commission to countermand a utility's choice of test year.

Commission response

The commission disagrees with TAWC and declines to omit the language specified by TAWC. A utility may select a test year in accordance with Texas Water Code §13.1831, but that does not abrogate a utility's general burden of proof to show that rates are just and reasonable rates under Texas Water Code §13.184(c). Commission staff should therefore retain the discretion to review a utility's test year information which is not the same as reviewing the utility's test year selection. For example, if a utility selects a future test year and grossly over-projects its estimated costs without any supporting documentation, commission staff should be able to issue a recommendation stating that the test year data is not representative and request the utility provide additional justification or revision of the provided information. This would not alter the utility's selection of a future test year itself. However, the commission deletes the phrase "providing all" from the provision as all information supporting a utility's selected test year may not be necessary for the utility to meet its burden of proof. If additional information is necessary, commission staff can request it from the utility.

TAWC and CSWR recommended proposed §24.26(c)(3)(A) be revised to remove the requirement to "include explicit and direct connections between the applicant's test year information

and the applicant's audited financial accounts, billing system extracts, or other records such as the utility's annual report under §24.129 of this title." TAWC and CSWR indicated that the proposed language is unnecessary and ambiguous. TAWC and CSWR explained that what may constitute explicit and direct connections is subjective and would likely cause disputes over sufficiency. TAWC alternatively recommended the provision be revised with the following language: "which must be demonstrated using the applicant's test year information, audited financial accounts, billing system extracts, or other records such as the utility's annual report under §24.129 of this title." Similarly, CSWR alternatively requested clarity on how the language will be applied if it is preserved.

Commission response

The commission agrees with TAWC and CSWR and implements TAWC's alternative language. Any additional clarifications regarding known and measurable changes will be undertaken in a future rulemaking revising the commission-prescribed ratemaking forms for retail water and sewer service.

Proposed §24.26(c)(3)(B); proposed §24.26(c)(3)(B)(i)-(iii); proposed §24.26(c)(3)(C); and proposed §24.26(c)(3)(C)(i) and (ii) - Information supporting test year selection; additional requirements for combined test year or future test year selection (inflation data and forecasts, estimates, and projections)

Proposed §24.26(c)(3)(B) requires a utility to include supporting documentation, testimony, or other relevant information for all provided data in its rate case application. Proposed §24.26(c)(3)(B)(i)-(iii) respectively require such information to at least consist of data that substantiates all costs, revenues adjustments, offsets, normalizations, and other changes; an identification and explanation of any adjustment, offset, or normalization that includes the quantity and percentage of the change; and evidence that all adjustments, offsets, or normalizations for costs, revenues or other changes that would affect rates have been properly accounted for. Proposed §24.26(c)(3)(C) specifies additional application requirements specific to a utility that selects a combined test year or future test year. Proposed §24.26(c)(3)(C)(i) and its sub-clauses requires a utility to provide documentation or testimony supporting inflation-related forecasts, projections and estimates that is categorized by and proportional to an inflation index published by the United States Department of Labor, Bureau of Labor Statistics for the portion of the combined test year that immediately follows the utility filing its statements of intent to change rates or the future test year. Proposed §24.26(c)(3)(C)(ii) and its sub-clauses requires a utility to provide documentation or explanation supporting the reasonableness of any forecasts, projections or estimates sufficient to substantiate the methodology or calculations associated with each forecast, projection, or estimate for the portion of the combined test year that immediately follows the utility filing its statements of intent to change rates or the future test year.

OPUC recommended that proposed §24.26(c)(3)(B) and (C) be revised to require both testimony and supporting documentation, rather than just testimony by itself. OPUC noted that the usage of the conjunction "or" suggests that a utility is authorized to provide testimony alone without any supporting documentation. OPUC explained that doing so is inconsistent with the commission's historical practice of requiring additional documentation that supports whether a utility's proposed rates are just and reasonable. OPUC additionally noted that a retrospective analysis performed in accordance with Texas Water Code §13.184(d) cannot occur without such documentation, which is inconsistent with HB 2712.

OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement OPUC's recommendation for §24.26(c)(3)(B) because it is unnecessary. However, the commission agrees with OPUC regarding changes to §24.26(c)(3)(C). Specifically, the commission omits §24.26(c)(3)(B)(i)-(iii) as that information is more appropriate for inclusion in a commission-prescribed form. The commission accordingly revises §24.26(c)(3)(B) to state "supporting documentation, testimony, or other relevant information that supports the utility's selected test year and requested amounts" rendering OPUC's added language redundant. The commission also makes conforming and clarifying revisions to §24.26(c)(3)(C) to omit the cross-reference to §24.26(c)(3)(B) as it is unnecessary. Specifically, the provision is revised to state: "if the utility selects a combined test year or a future test year, documentation, testimony or other information supporting the following." The commission also omits §24.26(c)(3)(C)(i)(I) and (II) and §24.26(c)(3)(C)(ii)(I) and (II) and revises §24.26(c)(3)(C)(i) and (ii) to instead refer only to "any portion of a test year with future data" for clarity.

Proposed §24.26(c)(3)(E) - Attestation by executive officer

Proposed §24.26(c)(3)(E) requires a utility to include an attestation in its rate case application by an executive officer or owner of the utility that all information provided under subparagraphs (A)-(E) are true, accurate, and complete.

TAWC recommended a technical revision to subparagraphs (A)-(E) in because the internal cross-reference is misnumbered.

Commission response

The commission implements the recommended change.

New §24.26(c)(3)(F)

OPUC recommended proposed §24.26(c)(3) be revised to implement a two-part "materiality screen" similar to that proposed in the discussion draft for the forecast period to highlight any significant impacts of a utility's actual costs on customer bills and utility earnings. Specifically, OPUC recommended that the materiality screen "consolidate the percent and bill-impact functions into a single percent-of-revenue-requirement screen paired with a per-line-item percent screen. OPUC further recommended that the percent screen be accompanied by a customer class-dollar screen at thresholds deemed appropriate by the commission. Under OPUC's proposal, utilities would be required to provide a list of all forecasted changes by cost category that identify: (1) the corresponding "base value, forecast value, and absolute variance" for each listed category; (2) the percentage and dollar variance; and (3) a flag for each category considered material. OPUC noted that its proposal provides a manageable standard for commission review that protects customers at a lower cost of compliance for utilities. OPUC emphasized that a materiality screen promotes more efficient review by focusing commission and intervenor attention on forecasted cost items that affect customer rates the most. OPUC noted that its proposal would also highlight discrepancies between a utility's forecasted costs and actual costs, particularly if the retrospective analysis is merged into a base rate case rather than made into a limited, standalone proceeding. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement a materiality threshold or screen because it is unnecessary. A materiality threshold would be highly dependent on the applicant utility's financial health, the economy as a whole, and other circumstances. Moreover, there is a high likelihood that the information included in a utility's rate case application would be subject to substantial discovery. Commission staff will, as part of its review of a base rate application, identify any cost items or discrepancies that require further review and request additional information from the utility. Therefore, prematurely flagging certain items as "material changes" is redundant and only has the potential to increase rate case expenses.

Proposed §24.26(d), proposed §24.26(d)(1) - Base rate application requirements for historic test year

Proposed §24.26(d) specifies the requirements for a base rate change application and requires compliance with form and content requirements included in the commission-prescribed forms and instructions applicable to the utility's class. Proposed §24.26(d)(1) requires a utility's base rate change application to comply with the requirements of §24.26(d)(1)(A) or (B) based on its selection of test year in addition to the requirements of §24.26 and 24.27.

Proposed §24.26(d)(1)(A); proposed §24.26(d)(1)(A)(ii); proposed §24.26(d)(1)(A)(ii)(I)-(III); proposed §24.26(d)(1)(B); and proposed §24.26(d)(1)(B)(ii) - Historic test year content requirements; Combined test year or future test year content requirements

Proposed §24.26(d)(1)(A) requires a historic test year base rate change application to include comparative revenue and cost information across certain time periods. Proposed §24.26(d)(1)(B)(ii) and §24.26(d)(1)(B)(ii)(I)-(III) require, as specified and applicable in the commission-prescribed forms and instructions applicable to the utility's class, comparisons between the calendar years immediately preceding the date the historic test year was entered; the current year-to-date; and if available, the calendar year immediately subsequent to the date the historic test year ended. Proposed §24.26(d)(1)(B) requires a combined test year or future test year base rate change application to include comparative revenue and cost information across certain time periods. Proposed §24.26(d)(1)(B)(ii) requires information on, and comparisons of, revenues and costs in the combined test year or future test year, as applicable.

Aqua recommended proposed §24.26(d)(1)(A)(ii)(I) be revised to reference a single calendar year that precedes the historic test year to ensure filing requirements are accurate. Aqua provided draft language consistent with its recommendation. TAWC recommended deleting proposed §24.26(d)(1)(A)(ii)(I)-(III) as the provisions are unnecessary and ambiguous. TAWC indicated that the plain language of the Class A Rate Filing Package Instructions are sufficient without additional rule language. TAWC maintained that any specific requirements should be established in the Instructions and any Class A Rate Filing Package that the commission develops.

Commission response

The commission agrees with TAWC and deletes proposed §24.26(d)(1)(A)(ii)(I)-(III), rendering Aqua's proposed revision moot. The commission will clarify the time-specific parameters for comparison of costs and revenues applicable to each type of test year in a future rulemaking amending the relevant commission-prescribed forms. The commission therefore revises §24.26(d)(1)(A)(ii) to state "the time periods specified by the

commission-prescribed forms and instructions applicable to utility's class." The commission also mirrors §24.26(d)(1)(A)(ii) under §24.26(d)(1)(B) as new §24.26(d)(1)(B)(ii), which is identical. The commission rennumbers §24.26(d)(1)(B)(iii) and revises it to state "as applicable, the combined test year or the future test year, inclusive of any forecasts, projections, or estimates" for clarity.

Proposed §24.26(e) - Review of combined test year or future test year

Proposed §24.26(e) specifies that a combined test year or a future test year will be reviewed by the commission in accordance with §24.28 of this title.

As an alternative to adopting one of the cost recovery mechanisms SJWTX proposed in its response to Question 2b, SJWTX recommended that proposed §24.26(e) be revised to authorize a utility to implement cost recovery mechanisms that permit the tracking of forecasted and actual costs and enable rates to be adjusted through credits and surcharges to minimize the difference between the two. SJWTX explained that such an authorization promotes customer fairness, reduces lag in cost recovery of infrastructure investment, and prevents retroactive ratemaking. SJWTX emphasized that retroactive ratemaking would occur if the commission "authorizes or requires a utility to adjust current rates to make up for past errors in projections." SJWTX further emphasized that this revision is not proposed in response to Question 2b, but instead is recommended as a "a comprehensive approach to future test year ratemaking that results in just and reasonable rates for both utilities and the customers they serve." SJWTX provided draft language consistent with its recommendation.

Commission response

The commission declines to independently authorize the usage of alternative cost tracking or reconciliation mechanisms for the reasons previously stated under the heading for Question 2b. Moreover, under new §24.28(f)(2)(A), a refund will be tracked as a regulatory liability, rendering alternative tracking mechanisms unnecessary. In response to SJWTX's claim regarding retroactive ratemaking, the statutory refund is authorized by Texas Water Code §13.184(d). More substantive discussion of the refund and regulatory liability can be found under the appropriate headings.

Proposed §24.27 - Notice of Intent and Application to Change Rates

Proposed §24.27(b), proposed §24.27(b)(1), and proposed §24.27(b)(1)(E) - Contents of the application

Proposed §24.27(b) and (b)(1) identify the specific content requirements for a base rate change application. §24.27(b)(1)(E) requires a base rate change application to include the applicable information required under §24.26 for applicants that select a future or combined test year.

TAWC recommended the deletion of the portion of proposed §24.27(b)(1)(E) that limits the subsection's applicability only to applicants that select a future or combined test year. TAWC explained that the deletion would render the provision applicable to a utility that selects any of the three types of test year and is therefore more accurate under the proposed rule structure.

Commission response

The commission agrees with TAWC and implements the recommended change.

Proposed §24.28 - Review of Test Year

Proposed §24.28(a) - Applicability

Proposed §24.28(a) establishes that the subsection applies to a utility that elects to use a combined test year or a future test year under §24.26.

For clarity, the commission revises the provision to state that the section applies to a utility that elects to use a combined test year or a future test year under §24.26 and whose application was processed to a final decision and approval of a tariff by the commission

Proposed §24.28(b) - Post-test year report

Proposed §24.28(b) requires a utility that selects a combined test year or future test year to file a post-test year report with the commission. §24.28(b) also applies to the successor in interest of a utility that selects a combined or future test year. The provision further requires the post-test year report to be filed in a compliance docket opened contemporaneously with the utility's comprehensive base rate case.

Aqua and TAWC recommended that the post-test year report be limited only to the single filing required by Texas Water Code §13.185(l) rather than the three different instances required by proposed §24.28(b) which are needlessly duplicative. Aqua alternatively recommended that the desired effect could be reached if the additional filings are replaced with a requirement for the commission to reference the post-test year report filing compliance docket number in its annual report and as part of its rate filing package. Aqua explained that requiring multiple filings is unnecessary, costly, and increases administrative burdens. Aqua noted that Texas Water Code §13.185(l) only requires the filing of the post-test year report at the close of the test year, while the proposed rule also requires it to be filed in a separate compliance docket contemporaneous with the utility's comprehensive base rate proceeding and with the utility's annual report. TAWC specifically recommended that the post-test year report should be limited to filing in a single rate case docket. Alternatively, TAWC recommended that if the commission preserves the requirement to file the post-test year report in a compliance docket, the "contemporaneous base case" should be clarified to be the one where a combined or future test year is used, not the base rate case where the actual results of a combined test year or future test year are reviewed.

Commission response

The commission implements the recommended change. Specifically, the commission revises new §24.28(c)(1)(A) to state "[t]he information required under subparagraph (2)(A) of this subsection must be included as an attachment to or incorporated by reference into the utility's next annual report required by §24.129 of this title." This is reflected in Schedule I of the Class A Utility Annual Report where a utility must enter the project number where it has filed the post-test year report, as applicable. The entry further specifies that "[t]he utility may also file a copy of the post-test year report with this annual report." Similarly, new §24.28(d)(2)(A) only requires the usage of the information provided in the utility's post-test year report, rather than requiring the inclusion of the post-test year report itself. In response to TAWC's comment regarding the compliance docket and the "contemporaneous base rate case," the presiding officer has discretion in opening the compliance docket for the post-test year report. Stated differently, the compliance docket for the post-test year report does not necessarily have to be associated with the

prior base rate proceeding where the utility set its rates using a combined test year or future test year. New §24.28(c) therefore omits the "contemporaneous rate proceeding" language and is revised to state "[t]he information required under this subsection must be filed in the commission-assigned compliance docket opened for that purpose." The commission also makes clarifying changes to new §24.28(c) to indicate that the provision applies to a "utility that selected a combined test year or future test year and whose application was processed to a final decision and approval of a tariff by the commission or its successor in interest"

Proposed §24.28(b)(2) and proposed §24.28(b)(2)(A)-(C) - Post-test year report filing and content requirements

Proposed §24.28(b)(2) requires a utility to file a post-test year report no later than the 30th day after the last day of the last quarter of a combined test year or a future test year. Proposed §24.28(b)(2)(A) requires the utility to file a written statement that describes the utility's actual cost and revenue results experienced in the future test year being reported and provides appropriate data to demonstrate the accuracy of the estimates used for the test year. Proposed §24.28(b)(2)(B) requires the utility to serve a copy of the written statement on the parties of record in the rate proceeding in which the final rate determination using the combined test year or the future test year was entered. Proposed §24.28(b)(2)(C) requires the utility to file proof of notice in the form of an affidavit that states notice was properly delivered in accordance with §24.28(b)(2)(B)

SJWTX recommended proposed §24.28(b)(2) be revised to extend the due date for the post-test year report to be no later than the 90th day after the last day of the last quarter of the combined or future test year.

Commission response

The commission declines to implement the recommended change because it is contrary to statute. Specifically, Texas Water Code §13.185(l) requires the post test year report to be filed "not later than the 30th day after the last day of the last quarter of the test year." Moreover, the proposed revision is unnecessary because Texas Water Code §13.185(m)(3) authorizes a utility that does not have the necessary results or data before the filing date to file the post-test year report "as soon as possible" when such results or data become available.

OPUC generally recommended consolidating definitions for §24.28 into a single subsection in a future rulemaking. OPUC also recommended proposed §24.28(b)(2)(A) be revised to define the terms "actual cost and revenue results" and "appropriate data" for the post-test year report because they are ambiguous. Specifically, OPUC recommended the term "actual cost and revenue results" to refer to "results means cost and revenue figures derived from the utility's general ledger, billing system extracts, and audited or closed financial records for each calendar month of the combined test year or future test year, presented in a format that mirrors the line-item presentation of the utility's rate filing package and identifies any normalization, annualization, or other adjustment applied to the figures. with the dollar amount and direction of each adjustment." Similarly, OPUC recommended "appropriate data" to refer to "data sufficient to enable the commission to determine whether the actual cost and revenue results for the combined test year or future test year align with the estimates used in the rate proceeding that established the rates being reviewed, including: "tie-outs to general-ledger trial balances and billing-system reports for the test year period identification of any project, asset, or expense category that

was forecast to occur during the test year but did not occur or that occurred at a materially different magnitude than forecast and an explanation of any divergence between forecast and actual results that exceeds the materiality thresholds applied in the original rate proceeding under §24.26(c)(3)(F)." OPUC commented that the commission has an opportunity to establish clear standards and expectations for combined test years and future test years that protect ratepayers from potential malfeasance. OPUC explained one of the more straightforward means to do so is by providing clear definitions to terms that may be prone to misinterpretation and costly disputes. OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with OPUC and adds new subsection (b) which defines the terms "actual test year results," "fair return," and "projected test year data." Revised subsection (b) also makes conforming revisions throughout the section to use the new terms where appropriate or necessary. The commission also rennumbers all following subsections. Additionally, commission restructures proposed §24.28(b)(2)(A) for clarity. Specifically, the commission merges proposed §24.28(b)(2)(A)(i) into new §24.28(c)(2)(A) and changes proposed §24.28(b)(2)(A)(ii) to new §24.28(c)(2)(B) and rennumbers all subsequent provisions. New §24.28(c)(2)(A) omits the term "future" to ensure the post-test year reporting obligation applies to a utility that selects either a combined test year or a future test year. Specifically, the provision requires the utility to "file a written statement that describes the utility's actual cost and revenue results experienced in the test year being reported." New §24.28(c)(2)(B) requires the utility to "provide appropriate data to demonstrate the accuracy of the projected test year data against the utility's actual results, including any necessary comparative analyses, testimony, workpapers, or other supporting documentation." The commission declines to define "appropriate data" as the general concept of the term are captured by "actual test year results," "projected test year data," and new §24.28(b)(2)(B). Moreover, the addition of variance columns to the Class A Annual Report form will also ensure a utility that is obligated to file the post-test year report adequately captures any differences between its projections and actual results. The term "actual test year results" is defined as "for a utility that selected a combined test year or future test year in its most recent base rate proceeding, the utility's actual costs and revenues incurred during the test year." The term "fair return" is defined as "the utility's overall rate of return established by the commission in the utility's most recently completed base rate proceeding." The term "projected test year data" is defined as "any combined test year or future test year information used to establish a utility's rates in the utility's most recently completed base rate proceeding." The definition also includes specific information that must be provided at a minimum, which includes capital projects inclusive of CWIP established by the utility to be used and useful through the end of the test year in accordance with §24.41; allocation and rate design information, including billing determinants; rate base information and underlying methodologies used for forecasted amounts such as accumulated deferred income taxes and accumulated depreciation; and expense information such operations and maintenance expense, depreciation, taxes including federal income tax. The commission also revises new §24.28(c)(2)(A)(i) to omit the term "future" to ensure the post-test year reporting obligation applies to a utility that selects either a combined test year or a future test year. Specifically, the provision requires the utility

to file a written statement that "describes the utility's actual cost and revenue results experienced in the test year being reported." The commission also revises new §24.28(c)(2)(A)(ii) to require the utility's written statement to "include appropriate data to demonstrate the accuracy of the projected test year data against the utility's actual results, including any necessary comparative analyses, testimony, workpapers, or other supporting documentation." The commission declines to define "appropriate data" as the general concept of the term is captured by "actual test year results," "projected test year data," and revised §24.28(c)(2)(A)(i) and (ii). Moreover, the addition of variance columns to the Class A Annual Report form will also ensure a utility that is obligated to file the post-test year report adequately captures any differences between its projections and actual results.

OPUC provided alternative definitions for "actual costs and revenue results" and "appropriate data" if the commission elects to revise the Annual Report or other utility forms rather than the rule language. Specifically, OPUC alternatively recommended defining "actual costs and revenue results" as "cost and revenue figures derived from the utility's general ledger, billing system extracts, and audited or closed financial records for the test year period, identifying any normalization or adjustment applied to the figures" and "appropriate data" as "data sufficient to enable the commission to determine whether the actual cost and revenue results align with the estimates used in the rate proceeding that established the rates being reviewed, including tie-outs to source records and explanation of any divergence that exceeds the materiality thresholds applied in the original rate proceeding under §24.26(c)(3)(F)."

Commission response

The commission declines to implement the recommended change because it is moot. The terms "actual test year results," "projected test year data," and revisions to new §24.28(c)(2)(A)(i) and (ii) substantively address OPUC's concern.

CSWR and TAWC recommended that proposed §24.28(b)(2)(B) be revised to indicate that the post-test year report is only required to be provided to the parties of record at the conclusion of the utility's base rate proceeding, rather than be provided to entities that were parties of record at any time during the proceeding. CSWR and TAWC noted that in many instances, intervenors are dismissed for failure to participate or otherwise request to withdraw. Therefore, utilities should only be required to provide the report to entities that are parties at the closure of the base rate case. TAWC commented that interested persons that were not parties by the end of the base rate proceeding could locate a copy of the report on the commission Interchange after it is filed.

Commission response

The commission agrees with CSWR and TAWC and implements the recommended change by revising §24.28(c)(2)(B) to require the utility to serve the post-test year report on persons who were parties at the conclusion of the rate proceeding.

SJWTX recommended that proposed §24.28(b)(2)(C) be deleted because it is unnecessary and varies from standard service procedures. SJWTX explained that if the post-test year report is filed in a compliance docket for a base rate case, then the utility should be authorized to include "include a certificate of service stating that a copy of the report was served on all parties of record in the rate proceeding corresponding to the compliance docket."

Commission response

The commission revises new §24.28(c)(2)(C) to authorize either a certificate of service or a proof of notice affidavit and corrects the cross-reference to subparagraph (B).

Proposed §24.28(b)(3); proposed §24.28(b)(3)(A); and proposed §24.28(b)(3)(B) - Projected test year data; Delayed filing of post-test year report

Proposed §24.28(b)(3) and proposed §24.28(b)(3)(A) require a utility or its successor in interest that does not have the results or data required to file the post-test year report by date under §24.28(b)(1) to file a written notice with the commission that states the date on which the results or data will be available; provides a list of the results or data that are unavailable; and a brief explanation of why the results or data are unavailable. Proposed §24.28(b)(3)(B) requires a late post-test year report to be filed as soon as possible after the results or data are available, but no later than the 60th day after the last day of the last quarter of the combined test year or the future test year.

SJWTX recommended that the 60-day report deadline in §24.26(b)(3)(B) be revised to 120 days. Similarly, TAWC recommended that the 60-day deadline in proposed §24.28(b)(3)(B) be removed or otherwise be made to conform with Texas Water Code §13.185(m), which includes no deadline. SJWTX commented that its proposed changes appropriately balance between regulatory compliance and ensuring sufficient time is afforded to utilities "to prepare the most accurate and complete information possible." SJWTX noted, by way of example, that a future test year for January 1, 2028 to December 31, 2028 would require the post-test year to be filed on or before January 30, 2029, which is an insufficient time period for it to close its books for the prior year. SJWTX noted that the proposed requirement is impracticable for SJWTX to enable its parent company to comply with federal Securities and Exchange Commission requirements, which requires a 10-K filing 60 days from the end of the calendar year. SJWTX further commented that its proposed revisions are reasonable given that the post-test year report is only reviewed in the utility's next comprehensive base rate proceeding as part of the retrospective analysis and is consistent with the timelines in other jurisdictions that authorize a future test year. TAWC noted that Texas Water Code §13.185(m) only requires a utility to notify the commission when its results or data will be available if they are not available to file within the 30-day deadline established by Texas Water Code §13.185(l). TAWC remarked that the statute does not include a good cause exception to vary from this timeline.

Commission response

The commission extends the 60-day filing deadline under new §24.28(c)(3)(B) to 90 days for a late post-test year report. If a utility still does not have the required data by that time, it may request a good cause exception. In response to TAWC's contention regarding variance from the prescribed statutory timeline, Texas Water Code §13.185(m) does not prohibit the commission from imposing a timeline for filing a post-test year report. The commission also corrects the cross reference to paragraph (2) in §24.28(c)(3) and makes minor clarifying revisions to §24.28(c)(3)(A)(iii).

Proposed §24.28(c) and proposed §24.28(c)(1) - Commission review of forecasts or projections; accounting of actual costs and revenues

Proposed §24.28(c) establishes that the commission will review the actual costs and revenues incurred during the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates or, as applicable, the future test year in the manner in accordance with the sub-provisions of the subsection. Proposed §24.28(c)(1) establishes the accounting of actual costs and revenues for the commission's review of a retrospective analysis under proposed §24.28(c)(2).

SJWTX requested clarification as to how proposed §24.28(c)(1) is incorporated into the commission's review of a utility's actual costs and revenues incurred during a future test year. SJWTX commented that if the standards prescribed by proposed §24.28(c)(1) are intended to be applied during the commission's review of a utility's retrospective analysis under proposed §24.28(c)(2), it is ambiguous because such standards are not specifically included in the latter provision.

Commission response

The commission confirms that the standards prescribed by proposed §24.28(c)(1) were intended to be applied in the commission's review of the utility's retrospective analysis under proposed §24.28(c)(2). The commission substantially revises proposed §24.28(c) and transfers specific requirements to new §24.28(d) and (f) and to §24.28(e). New §24.28(d) prescribes the utility's obligations regarding, and content requirements for, the retrospective analysis; revised §24.28(e) addresses the commission's review of the retrospective analysis, and §24.28(f) establishes the form and manner of the refund if one is ordered. The revisions are substantively addressed under the appropriate headings.

Proposed §24.28(c)(1)(A) and proposed §24.28(c)(1)(B) - Inclusion of CWIP and costs attributable to extraordinary circumstances

Proposed §24.28(c)(1)(A) provides that only capital projects that the utility reasonably projects to be used and useful in the combined test year or the future test year, as applicable, may be included in rate base unless otherwise authorized by the commission for inclusion as CWIP under §24.41.

Proposed §24.28(c)(1)(B) establishes that costs attributable to extraordinary circumstances within the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates or the future test year, as applicable, may be included in rate base through an adjustment after a showing of good cause by a utility and an evidentiary finding by the commission. The provision further defines "extraordinary circumstances" as events affecting service to critical customers; natural disasters such as droughts, floods, hurricanes, tornadoes, winter storms; or other system emergencies that result in conditions on the utility's utility system that are likely to result in imminent, significant disruption of service to customers or is imminently likely to endanger life or property.

TAWC recommended the commission delete or otherwise clarify the phrase "may be included in rate base" in proposed §24.28(c)(1)(A) and (B) as it is ambiguous and unnecessary. TAWC explained that rate base will be determined in the base rate case prior to the one where costs and revenues for a combined or future test year will be reviewed, whereas total rate base will be reviewed de novo "even while past returns are analyzed for fairness." TAWC also recommended the term "extraordinary circumstances" be replaced with the term "unplanned circumstances" in proposed §24.28(c)(1)(B) if the

commission intends to allow rate base additions after the test year to ensure the fairness of the utility's return.

Commission response

The comprehensive restructuring of §24.28 addresses TAWC's concern. Specifically, the language "may be included in rate base" in the context of capital projects under proposed §24.28(c)(1)(A) has been omitted. New §24.28(d) references capital projects and CWIP entirely through the new defined term "projected test year data." Specifically, new §24.28(d)(1) establishes the general requirements for a utility's retrospective analysis. New §24.28(d)(1)(A) requires a utility to file a retrospective analysis in its next base rate proceeding and new §24.28(d)(1)(B) requires a utility's actual test year results to be presented in a manner consistent and comparable with its projected test year data. New §24.28(d)(2) prescribes the required contents of a retrospective analysis as established under new §24.28(d)(2)(A)-(D). New §24.28(d)(2)(A) requires a retrospective analysis to include a full accounting of the utility's projected test year data presented in its immediately previous base rate case in comparison to its actual test year results using the information provided in the utility's post-test year report required under §24.28(c). New §24.28(d)(2)(B) requires a retrospective analysis to include information on the utility's actual rate of return earned during the test year that allows the commission to determine whether the utility's actual test year results yielded a fair return on its invested capital used and useful in rendering service to the public. New §24.28(d)(2)(C) requires a retrospective analysis to include to the docket number of the compliance docket in which the utility filed its post-test year report. New §24.28(d)(2)(D) requires a retrospective analysis to include a description and quantification of events that occurred during the test year that impacted the utility's actual test year results, which may include events affecting service to critical customers.

Aqua recommended proposed §24.28(c)(1)(A) be revised to clarify how extraordinary costs or costs related to critical customers would be incorporated into a pending base rate proceeding. Specifically, Aqua recommended the provision be revised to permit a utility to supplement or update its statement of intent for its base rate case within 45 days of the occurrence of the event giving rise to the expense. Aqua further recommended the provision be revised to authorize the creation of a regulatory asset to defer extraordinary or critical customer-related costs for future recovery. Aqua explained that deferred accounting treatment is appropriate for such costs because "in many instances, the full scope and magnitude of costs associated with natural disasters or other extraordinary events cannot reasonably be determined within the limited period between the occurrence of the event and the filing of a recovery request." Additionally, authorizing cost deferral in these instances would empower the utility to prioritize operational activities to restore continuous and adequate service to customers without delaying a pending rate proceeding, particularly if an extraordinary event is of such severity that it warrants a hearing during or after the base rate case.

Commission response

The commission declines to implement the recommended changes because they are unnecessary and out of scope. A utility may seek good cause to amend its base rate case application; specific rule language is not necessary. Concerning Aqua's recommendation regarding the creation of a regulatory asset for extraordinary costs, HB 2712 does not require de-

ferred accounting treatment or the creation of such an asset. Therefore, this recommendation is out of scope.

Proposed §24.28(c)(2) - Retrospective analysis of combined test year or future test year

Proposed §24.28(c)(2) requires a utility to file a retrospective analysis in its next comprehensive base rate proceeding filed with the commission.

Aqua, TAWC, CSWR, and SJWTX recommended that proposed §24.28(c)(2) be revised to adopt a "range of reasonableness to evaluate the return earned by the utility" before a refund is required to be issued to customers. Aqua and TAWC noted that this approach has been successfully used in gas interim rate adjustments under Texas Utility Code §104.301(g), which uses a 75-basis point (i.e., .75%) variance above approved rates as a threshold for presumptive reasonableness. If the threshold is triggered, the utility must file a statement indicating the reasons why the rates are not unreasonable or otherwise in violation of the law. In contrast, a return that falls within the range of reasonableness would not be considered in excess of a fair return and would therefore not require a refund. Aqua commented that while the provision is consistent with the statute, it does not establish clear boundaries for commission review during the retrospective analysis. Aqua explained that given the forward-looking nature of future data, it is unrealistic to expect absolute accuracy in predicting costs and revenues year over year. Aqua noted that such an approach reduces litigation and rate case expenses by not considering normal or immaterial variations in financial performance as indicative of unjust or unreasonable rates. Instead, this approach addresses material differences between forecasted costs and revenues and actual results. TAWC explained that the threshold for whether a refund is required should not be limited only to whether the utility's revenues exceeded the return approved in the previous comprehensive base rate case as is suggested by proposed §24.28(c)(2)(B)(ii) and (v). Instead, there should be a range of reasonableness where a utility's return is not considered excessive given the impracticability associated with providing perfect forecasts of actual results. CSWR recommended that proposed §24.28(c)(2) be removed because it would constitute retroactive ratemaking. CSWR opposed proposed §24.28(c)(2) on the basis that refunds to customers should not be triggered if the utility's revenues exceed the rate of return approved by the commission in its prior rate proceeding. CSWR noted that utilities are incentivized to maximize efficiency to ensure there is a "reasonable opportunity to earn a reasonable return on their capital investment in excess of their approved cost of service." As such, it is impossible to determine whether previously approved rates allow for more than a fair rate of return because a utility's "earned rate of return depends on factors that cannot be determined at the time rates are approved," such as evaluating how cost-effective a utility operated its system or other factors such as customer growth. CSWR further remarked that a utility's earned return is also dependent on its capital budget management and whether the utility was "able to avoid making large capital improvements or repairs." CSWR also noted that the provision does not provide a means to surcharge customers if a utility earns less than what it projects. CSWR maintained that requiring refunds of a previously approved rate of return and cost of service "simply because the Company operated its system more efficiently or experienced higher than expected customer growth would constitute retroactive ratemaking." Alternatively, if a refund mechanism is adopted, CSWR recommended that the calculation of what a return constitutes should be clarified and implement a 1% "range of

reasonableness" threshold to trigger the retrospective analysis or refund obligation. CSWR therefore recommended replacing the term "fair rate of return" with the term "reasonable return" as the latter is commonly used in the commission's rules whereas the former is not. CSWR further commented that the commission should acknowledge that what constitutes a reasonable or fair return is variable as it depends on external factors such as financial markets and interest rates. Accordingly, what is a reasonable rate of return in one test year could be different several years later. CSWR urged that any commission evaluation of a utility over-earning should be based on "current factors affecting a utility's revenue requirement and through retroactive review of the factors used to set current rates." CSWR noted that the proposed rule does not include such a method for determining what is a reasonable or fair return for the period for which a utility's projected costs are subject to a commission retrospective analysis. Therefore, the rule should include a minimum 1% range of reasonableness for what constitutes a fair return before any retrospective analysis or refund is triggered. SJWTX recommended that rate refunds or adjustments resulting from a retrospective analysis under proposed §24.28(c)(2) be limited to circumstances where there is one percent or greater variation between the utilities' commission-approved overall rate of return and the return resulting from actual costs and revenues. SJWTX explained that this change would ensure utilities are properly incentivized to operate efficiently while still protecting customers. SJWTX alternatively recommended that, if the commission has concerns about the rule being overly prescriptive, the provision be revised to state that such a one percent or greater variation would be considered a "rebuttable presumption" that the utility's return is excessive.

Commission response

The commission declines to implement a "range of reasonableness" for triggering the statutory refund because it is contrary to the statute and not in the public interest. Any range of reasonableness proposal risks conflict with the statutory mandate to refund amounts in excess of a fair return. Specifically, Texas Water Code §13.184(d) neither authorizes discretion in the commission's determination as to whether a refund is required nor the method for deriving the refund. The statute provides that "the regulatory authority shall require the utility to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected" (emphasis added) based on a commission determination in the utility's next rate proceeding that "the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public." (emphasis added) As such, the intent of the statute appears to disincentivize utilities that select a combined test year or future test year from over-projecting costs. In response to CSWR's specific comments as to what constitutes a "fair return," new §24.28(b)(2) defines the term as "the utility's overall rate of return established by the commission in the utility's most recent comprehensive base rate proceeding." Therefore, any rate of return exceeding the utility's approved rate of return would trigger the refund and there is no inquiry as to external events that may have affected rates, even if reasonable. To do otherwise would effectively necessitate a comprehensive base rate case on what test year information would have yielded a fair return which could be inefficient and of little benefit depending on the circumstances. The discretionary commission review under new §24.28(e)(1)(B), if undertaken, will account for such mitigating factors (e.g., reasonable alternatives, system

emergencies, etc.). However, commission action in response to that portion of a retrospective analysis is discretionary under new §24.28(e)(3)(B), which states that the commission will "perform any other action necessary to ensure just and reasonable rates at the conclusion of a retrospective analysis or the contemporaneous base rate proceeding, as determined by the presiding officer." (emphasis added) This could entail multi-step rates; adjustments to a utility's calculations or methodologies used for its forecasts, projections or estimates; or other actions the presiding officer deems necessary.

The commission also acknowledges the utilities' contentions regarding the impracticability of perfectly accurate forecasts and the inherent variability as to what constitutes a reasonable return year-over-year, but that is not the inquiry Texas Water Code §13.184(d) requires. It is also not apparent that a range of reasonableness would reduce rate case expenses instead of merely shifting litigation to the issue of whether the range was exceeded, rather than whether the utility's test year information resulted in rates yielding more than a fair return. In response to Aqua and TAWC's comments concerning Texas Utilities Code §104.301(g), that provision is not an appropriate comparison. That statute only requires gas utilities to file a statement with the Railroad Commission indicating the reasons why its rates are not unreasonable or in violation of law if its return on invested capital exceeds 75 basis points; not whether a refund is necessary. Moreover, if the legislature intended an earnings band or range of reasonableness to be added to the refund determination, it would have done so. In response to CSWR's specific contentions regarding retroactive ratemaking, the commission's implementation of the refund adheres closely to the statutory language--hence, the use of "fair return" in lieu of other, more commonly used terminology such as "reasonable return." The commission also disagrees with CSWR that a surcharge should be required if the commission earns less than its approved rate of return. As CSWR indicated, a utility is provided the reasonable opportunity to earn a reasonable return. The utility's commission-approved rate of return is therefore not a guaranteed rate of return and does not necessitate a surcharge if the utility does not receive exactly that amount.

OPUC recommended that a retrospective analysis should be a standalone and expedited proceeding that is limited in scope rather than be incorporated into the utility's next base rate proceeding. OPUC explained that having a standalone proceeding ensures that the retrospective analysis occurs on a defined and expedited schedule immediately after the combined test year or future test year ends, rather than being delayed for potentially years until the utility's next base rate case. Additionally, a standalone proceeding limits the scope of discovery and any potential hearing solely to the question of whether the utility's rates yielded a fair return and potential reconciliation. OPUC noted that this avoids any procedural issues or other complications that could arise if reconciliation is joined with forward-looking rate setting. OPUC further commented that it provides a separate means for the commission to order refunds if appropriate "with a clear evidentiary record specific to the reconciliation question." OPUC maintained that a standalone proceeding for a retrospective analysis would not be a "second rate case" that adds procedural and administrative costs. Instead, it would be a narrowly tailored expedited proceeding that is limited to reconciliation where assumptions from the utility's comprehensive base rate proceeding (i.e., rate design, cost allocations, etc.) are maintained. OPUC also indicated that the proceeding would not be automatic and only be initiated if the post-test year statement

demonstrates that the utility's forecasts are inaccurate. OPUC commented that it is likely that most utilities will continue to use a historic test year, so the number of standalone reconciliation proceedings would be relatively small. OPUC further commented that any procedural costs associated with a standalone retrospective analysis proceeding would be "materially less than the cost of intermingling reconciliation with forward-looking rate setting in the next comprehensive [base rate] case."

Commission response

The commission declines to establish the retrospective analysis as a standalone proceeding because it is unnecessary, has a high likelihood of introducing additional complexity and costs, and would strain commission resources. The primary purpose of the retrospective analysis under the revised framework detailed below is to determine whether the commission will order the utility to issue a refund. Specifically, Texas Water Code §13.184(d) states: "For a utility that uses a future or combined historic and future test year in a rate proceeding, if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public, the regulatory authority shall require the utility to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected." (emphasis added) The refund determination is therefore straightforward under the revised framework of §24.28. Under new §24.28(b)(2), the term "fair return" is defined as "the utility's overall rate of return established by the commission in the utility's most recent comprehensive base rate proceeding." Accordingly, any return that exceeds the utility's rate of return established in the prior rate proceeding where the utility selected a future test year would be subject to refund. For example, if a future test year utility is determined to have made a 10% rate of return but was only authorized to make a 9% rate of return—that utility would be obligated to refund amounts collected that represent the 1% overage. There is no statutory requirement for an individual review of a utility's individual billing determinants, costs, and revenues in a retrospective analysis. However, the revised framework authorizes this more in-depth review if the commission determines it to be necessary. The scope and extent of any additional review will be further informed by discovery and the feedback of intervenors. In response to OPUC's specific claims and contentions, it is not necessarily true that a utility will go years without a retrospective analysis. Commission staff routinely monitor all utility earnings included in their annual reports and can request the commission to order a utility to initiate a base rate case if it determines the utility is over-earning. This applies to both electric utilities and water and sewer utilities. See, e.g., Project 50655, Item #73 (commission order) and Project 54453, Item #265 (commission staff recommendation).

The commission also disagrees that a standalone proceeding would not introduce further complexity and increase administrative costs. It is not clear how a standalone proceeding would reduce costs relative to incorporating it into a base rate proceeding as there is a high probability of extensive discovery on any in-depth review of a utility's actual test year results undertaken in a retrospective analysis. Intensive discovery is more appropriate for a base rate proceeding where all data on the utility's past rates and applied-for rates will be available. Additionally, combining the retrospective analysis into the utility's base rate proceeding promotes administrative efficiency and reduces administrative costs. Specifically, any outcomes of the discretionary

portion of the retrospective analysis could potentially be incorporated into the base rate case, such as revisions to a utility's models or calculations for forecasts, projections, and estimates. Regarding OPUC's contention over a "clear evidentiary record" for a retrospective analysis, it is not apparent what this would entail. Any retrospective analysis would be conducted separately from the rate-setting portion of the base rate proceeding unless the presiding officer determines otherwise. This flexibility is necessary to ensure the commission's obligation to order a refund under Texas Water Code §13.184(d) is met.

The commission also disagrees that a retrospective analysis would "not be automatic." The commission will always have to review a utility's post-test year report to determine if it is over-earning, even if the utility claims it is not. Revised §24.28(e) substantively addresses OPUC's concerns that revised provision establishes that "the commission will review a utility's retrospective analysis described under subsection (d) exclusively in the docket assigned to the utility's base rate case and in the manner described by this subsection." New §24.28(e)(1) prescribes the scope of the commission's review of a utility's retrospective analysis. Specifically, the commission's review is divided between the refund determination required by Texas Water Code §13.184(d) under new §24.28(e)(1)(A) and a more substantive but discretionary determination under §24.28(e)(1)(B). New §24.28(e)(1)(A) establishes that the commission will review the utility's retrospective analysis and actual revenues to determine whether the utility's projected test year data, in comparison to the utility's actual test year results, resulted in rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public. At the same time, §24.28(e)(1)(B) establishes that the commission may review the utility's retrospective analysis and actual revenues to determine whether the utility's projected test year data reasonably aligned with the utility's actual test year results, accounting for all mitigating factors provided by the utility.

OPUC recommended that a utility be required to perform a refund or any other commission-mandated action within a defined number of days after the final order is issued in a base rate proceeding, unless the commission orders a different method.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The presiding officer will specify in the commission order the appropriate timeframe, which may vary depending on factors that are specific to the rate proceeding.

SJWTX recommended that proposed §24.28(c)(2) be revised to exclude extraordinary or critical customer costs under proposed §24.28(c)(1)(B). Specifically, SJWTX recommended proposed §24.28(c)(2) be changed to require that the portion of a utility's rate base, if any, approved under §24.28(c)(1)(B) be excluded from any retrospective analysis used to evaluate a utility's return under §24.28(c)(2)(B). SJWTX commented that if the commission were to make an explicit evidentiary determination that costs attributable to extraordinary circumstances are sufficient to justify deviation from the projections and estimates previously approved by the commission, then such costs should be omitted from the overall analysis of the utility's earnings.

Commission response

The commission disagrees with SJWTX and declines to implement the recommended change because it is unnecessary.

The utility's prior rate base is not subject to revision in the retrospective analysis as that would effectively entail another base rate proceeding. Aside from the primary purpose of the retrospective analysis to determine whether a refund is needed in accordance with Texas Water Code §13.184(d), the commission may review the utility's actual test year results against the utility's projected test year data. The purpose of this discretionary, comparative review is to determine whether the commission should require the utility to adjust its calculations or methodologies used for its forecasts, projections, or estimates and identify whether any rate base items were not used and useful through the end of the test year. In some instances, there may be mitigating circumstances where a utility may have valid justifications for increasing costs and collecting a higher rate of return than was previously authorized or for specific capital projects not becoming used and useful. Specifically, under new §24.28(d)(2)(D), a utility must present all events that occurred during the test year that impacted the utility's actual test year results which may include events affecting service to critical customers, natural disasters, system emergencies, and other unplanned circumstances. Whether a utility is justified in deviating from its projected test year data and approved rate of return is a determination for the commission.

SJWTX commented that proposed §24.28(c)(2) constitutes retroactive ratemaking and discourages efficient utility operations. SJWTX highlighted the inherent impossibility in creating perfect forecasts of costs and revenues due to various factors, such as weather or economic conditions, that could lead to variations between the predicted and actual amounts. SJWTX emphasized that there will accordingly always be a difference between forecasted and actual costs and revenues. SJWTX further noted that Texas Water Code §13.184(d) "was added at the very end of the session via a Senate floor amendment, which limited the opportunity for public comment." SJWTX explained that requiring a utility to issue refunds or adjust rates "if a utility can reduce costs provides little incentive for utilities to explore cost-saving measures." SJWTX also indicated that any cost savings would be incorporated into forecasts or projections used by the utility in its next comprehensive rate proceeding because future test year forecasts should at least be partially based on historical data.

Commission response

As stated previously in response to utility comments regarding retroactive ratemaking, the statutory refund is authorized by Texas Water Code §13.184(d), and the commission's implementation is within the authority granted in that language.

Proposed §24.28(c)(2)(B) - Evaluation of retrospective analysis

Proposed §24.28(c)(2)(B) establishes that the commission will review the utility's retrospective analysis in a comprehensive base rate proceeding to determine whether the utility's forecasted costs and revenues reasonably align with the utility's actual costs and revenues and whether revenues yielded a fair return.

If the commission retains the retrospective analysis as part of the utility's next base rate case, OPUC recommended that §24.28(c)(2)(B) be revised such that the presiding officer would rule on a retrospective analysis before proceeding to the rate-setting phase of the base rate proceeding. OPUC recommended the refund also be accounted for separately in the final order to ensure proper oversight and accountability of the utility

while protecting ratepayers from any over-collections. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines OPUC's recommendation because it may unduly restrict the commission's ability to implement Texas Water Code §13.184(d). Under the revised framework, the presiding officer has discretion as to when the retrospective analysis will occur based on the specific circumstances of the base rate proceeding, the utility's actual test year results, and the applicant utility itself. This allows the commission to appropriately effectuate the refund requirement on a case-by-case basis. Specifically, new §24.28(e)(2)(A) states: "[t]he presiding officer will account for a retrospective analysis in the procedural schedule for a base rate proceeding, including the appropriate scope of discovery." And new §24.28(e)(2)(B) provides that "[t]he presiding officer may open a compliance docket to effectuate a refund under subsection (f) of this section."

Proposed §24.28(c)(2)(B)(ii) and proposed §24.28(c)(2)(B)(ii)(I) and (II) - Commission ordered refund or other action for utility retrospective analysis

Proposed §24.28(c)(2)(B)(ii) authorizes the commission to perform specific actions at the conclusion of its evaluation of a utility's retrospective analysis in a comprehensive base rate proceeding upon an evidentiary finding that the utility's actual costs and revenues exceeded the return approved by the commission in the utility's last comprehensive base rate proceeding. Proposed §24.28(c)(2)(B)(ii)(I) authorizes the commission to order a refund in accordance with §24.28(c)(2)(B)(iv) as necessary to account for any over-collections for any customer class. Proposed §24.28(c)(2)(B)(ii)(II) authorizes the commission to perform any other action deemed necessary to ensure just and reasonable rates at the conclusion of a retrospective analysis.

OPUC recommended that the "may" in proposed §24.28(c)(2)(B)(ii) should be changed to a "must" if the commission retains the retrospective analysis in the utility's next base rate case rather than a standalone proceeding. OPUC explained that this change is necessary to effectuate the refund requirement of Texas Water Code §13.184(d) and therefore protect ratepayers from over-collections. OPUC noted that the requirement for the commission to order a refund if the criteria are met under Texas Water Code §13.184(d) is mandatory, not permissive. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is moot. The substantive revisions to §24.28 specifically address OPUC's concerns. New §24.28(e)(3)(A) states "[u]pon a finding that a utility's actual test year results yielded more than a fair return under subparagraph (1)(A) of this subsection, the commission will order a refund in accordance with subsection (f) of this subsection." New §24.28(e)(3)(B) provides that "[t]he commission will perform any other action necessary to ensure just and reasonable rates at the conclusion of a retrospective analysis or the contemporaneous base rate proceeding, as determined by the presiding officer." The use of "will" in each provision ensures that both actions will be undertaken.

CSWR recommended §24.28(c)(2)(B)(ii)(I) be revised to clarify that refunds are not class-specific, but instead only apply when the company's entire cost of service for all customer classes

exceeds a commission-approved range of reasonable return. CSWR indicated that class-specific refunds would be overly complex and result in a utility being compelled to apply refunds to one class for which it is over-collecting while also potentially under-collecting among other customer classes. CSWR remarked that because it "cannot surcharge class-specific losses under the rule, it should not be required to provide class-specific refunds." CSWR emphasized that the refund obligation should be based on a utility's overall earned rate of return based on its entire cost of service and customer base.

Commission response

The commission disagrees with CSWR and declines to implement the recommended change. Any "money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected" under Texas Water Code § 13.184(d) must be tracked by customer class and rate type, where applicable. This will ensure a refund will be applied in a way that avoids cross-subsidization using the regulatory liability specified under new §24.28(f)(2)(A). In response to CSWR's concern, the commission adds new §24.28(f)(2)(B) which states "[w]ith regard to any allocations or rate design treatment, a refund under this subsection must be applied among customers in a manner reasonably proportional to the magnitude in which the excessive rates were collected relative to rates that would have yielded a fair return."

CSWR recommended the commission clarify the term "over-collections" within the context of proposed §24.28(c)(2)(B)(ii)(II). CSWR noted that refunds of over-collections should "only apply to amounts that exceed the criteria applicable to the earned rate of return and not to over- or under-collection of rates." CSWR explained that an over-collection of cost-of-service could occur when a utility is under-recovering its approved rate of return, such as when a utility experiences high growth contemporaneously with a period of high capital investment or otherwise incurs significant costs that decrease its overall earned return.

Commission response

The extensive rework of §24.28 substantively addresses SJWTX's concern because the "over-collections" language has been omitted. As stated previously, the refund determination is based on "whether the utility's rates yielded more than a fair return on the utility's invested capital used and useful in rendering service to the public" under the revised framework of new §24.28(e)(3)(A). Specifically, the mandatory portion of the commission's refund determination is a simple analysis as to whether the utility's actual test year results exceeded a fair return (i.e., the utility's authorized rate of return). The commission also makes clerical revisions to new §24.28(e)(4) regarding the presiding officer's authorization to require the utility to provide additional information for the retrospective analysis. The actual methodology for the refund is specified under new §24.28(f)(1) and its sub-provisions. New §24.28(f)(1) and new §24.28(f)(1)(A) and (B) collectively state "[i]f the commission determines a refund is required in accordance with subsection (e)(C)(3) of this section, the commission will...determine the rate for the utility that would have yielded a fair return on the utility's invested capital used and useful in rendering service to the public and require a refund to customers, which must include carrying costs; and...require the utility to refund to customers the difference between the revenues collected and the revenues that would have been collected under the rates that would have yielded a fair return plus any carrying costs." The provisions

concerning carrying costs under proposed §24.28(c)(2)(B)(vi) have been moved to new §24.28(f)(3)

Proposed §24.28(c)(2)(B)(iv); proposed §24.28(c)(2)(B)(iv)(I); and proposed §24.28(c)(2)(B)(iv)(II) - Refund determination and obligation

Proposed §24.28(c)(2)(B)(iv) provides the form and manner for a refund ordered by the commission in accordance with §24.28(c)(2)(B) (ii)(I). Proposed §24.28(c)(2)(B)(iv)(I) establishes that the commission will determine the rate for the utility that would have yielded a fair return and require a refund to customers, which must include carrying costs. Proposed §24.28(c)(2)(B)(iv)(I) establishes that the commission will require the utility to refund to customers the difference between the excessive rate and the rate determined by the commission.

TAWC recommended the commission clarify whether the refund mechanism under proposed §24.28(c)(2)(B)(iv) is the regulatory liability mechanism under proposed §24.28(c)(2)(B)(v), and does not require individual refunds to customers. Specifically, TAWC noted that §24.28(c)(2)(B)(iv) refers to a refund to customers while §24.28(c)(2)(B)(v) indicates that any excessive return will be tracked as a regulatory liability in subject to refund in the utility's next comprehensive base rate proceeding. TAWC expressed a preference for the regulatory liability mechanism, which it interpreted as applying a credit to cost of service, as it would effectuate greater cost savings rather than requiring dispensation if individual refunds to each customer. TAWC also recommended proposed §24.28(c)(2)(B)(vi)(II) be revised to correct the typographical error referencing "electric utility." CSWR endorsed the usage of a regulatory liability under §24.28(c)(2)(B)(v) to effectuate any refund ordered as it simplifies the process. Specifically, it enables a utility to apply a credit to the total cost of service, instead of issuing individual refunds to customers, which is a difficult and costly process. CSWR further noted that direct refunds "would not account for customers that join or leave the system between rate proceedings."

Commission response

The commission agrees with TAWC and implements the recommended change in new §24.28(f)(3)(B). In response to CSWR, the usage of a regulatory liability for the refund is appropriate and consistent with standard regulatory accounting. Tracking any balance through the regulatory liability amortizing it back to customers in future rates achieves the intended outcome of the statutory refund. The commission also removes the term "electric utility."

SJWTX recommended that the commission define what constitutes an "excessive" return under proposed §24.28(c)(2)(B)(iv) to minimize disputes and therefore facilitate more expeditious processing of applications.

Commission response

The substantive rework of §24.28 addresses SJWTX's concern. As stated previously, the refund determination is based on "whether the utility's rates yielded more than a fair return on the utility's invested capital used and useful in rendering service to the public" under the revised framework (new §24.28(e)(3)(A)).

Proposed §24.28(c)(2)(B)(v) - Regulatory liability for refund

Proposed §24.28(c)(2)(B)(v) requires that earnings that exceed a utility's fair rate of return must be separately tracked as a regulatory liability that will be subject to refund in the utility's next comprehensive base rate proceeding.

OPUC recommended revising §24.28(c)(2)(B)(v) to account for CWIP if the commission retains the retrospective analysis in the utility's next base rate case rather than a standalone proceeding. Specifically, OPUC recommended the provision be revised to track CWIP-related over-collections for projected CWIP that did not come into service during the combined or future test year that is subject to refund per OPUC's recommended new §24.28(c)(4)(B)(iv). OPUC noted that if this provision were not included, the regulatory liability under proposed §24.28(c)(2)(B)(v) would not include "unused CWIP." OPUC further explained that the revision would provide clarity as to the scope of the refund when forecasted CWIP is not actually placed into service as projected. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement a recommended change because it is contrary to statute. Texas Water Code §13.184(d) does not explicitly require or necessarily entail a refund of each cost component that the utility exceeds. The sole inquiry for the statutory refund is whether the utility's test year information resulted in rates yielding more than a fair return. As stated previously, CWIP is only one component of a utility's costs and does not require separate or specialized treatment as OPUC recommends.

New §24.28(c)(2)(B)(vii)

OPUC recommended adding new §24.28(c)(2)(B)(vii) if the commission retains the retrospective analysis in the utility's next base rate case rather than a standalone proceeding. The new provision would require the utility to bear the burden of proof for showing the reasonableness of its selected test year and all associated test year information used to establish rates. If the utility does not satisfy its burden, then it is presumed by the presiding officer that the rates are unreasonable and will be refunded to customers based on the difference between the excess revenues collected and what would have been a fair return, with carrying costs. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. A utility's burden of proof is established by Texas Water Code §13.184(c) which states "[i]n any proceeding involving any proposed change of rates, the burden of proof shall be on the utility to show that the proposed change, if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable." (emphasis added) Therefore, citing that burden of proof is on the utility is unnecessary because it is implicit in every water and sewer rate proceeding. Moreover, §24.26(c)(3) already requires a utility to "provide evidence in its rate change application that its proposed rates are just and reasonable using its selected test year."

Proposed §24.41 - Cost of Service

Proposed §24.41(b), proposed §24.41(b)(1), §24.41(b)(1)(B), and §24.41(b)(1)(B)(i) - Allowable expenses; components of allowable expenses

Proposed §24.41(b) establishes that only those expenses that are reasonable and necessary to provide service to the ratepayers may be included in allowable expenses. The provision also requires that only the utility's test year expenses will be considered in computing a utility's allowable expenses and requires that any change in rates be based on a test year as defined in

§24.3 and comply with the applicable requirements of §24.26. Proposed §24.41(b)(1) authorizes the inclusion of reasonable and necessary allowable expenses and provides a non-exhaustive list of such expenses. Proposed §24.41(b)(1)(B) authorizes the inclusion of reasonable and necessary depreciation expense provided that such expense is based on original cost and computed on a straight-line basis over the useful life of the asset, as approved by the commission. Proposed §24.41(b)(1)(B)(i) authorizes depreciation expense on all depreciable utility property owned by the utility, including CWIP reasonably projected to be in service during a combined test year or future test year. The provision also authorizes depreciation expense on all developer or governmental entity contributed property.

OPUC recommended that the depreciation extension under proposed §24.41(b)(1)(B)(i) should be revised to prevent double recovery and to ensure customers are refunded for projected CWIP that fails to materialize. Specifically, OPUC recommended that §24.41(b)(1)(B)(i) be revised to condition payment for forecasted CWIP depreciation should be conditioned on its actual in-service status. OPUC further recommended that failure of projected CWIP to be placed into service during the future or combined test year should result in a refund to customers under §24.41(c)(2). OPUC stated that the provision, in conjunction with proposed §24.41(c)(4)(B), requires ratepayers "to fund both the return on and depreciation of a utility's plant that has not yet been placed in service." OPUC noted that if forecasted CWIP fails to meet its in-service date, under the proposed language, any refund to customers is dependent solely on the retrospective analysis under proposed §24.41(c)(2) which could occur significantly later than the date the CWIP was projected to be in service.

Commission response

The commission declines to implement the recommended change for the reasons already stated. CWIP is only one component of a utility's costs, whereas Texas Water Code §13.184(d) bases the refund solely on whether the utility's test year information resulted in rates yielding more than a fair return.

New §24.41(b)(1)(B)(ii) and (iv)

OPUC recommended that new §24.41(c)(4)(B)(ii) and (iv) be added to ensure that (1) major projects under construction have been efficiently and prudently planned and managed; and (2) CWIP included that does not actually come into service by the end of the combined or future test year is tracked and a commensurate refund is issued to ratepayers. OPUC noted that the added provision should include a cross-reference to proposed §24.28(c)(2). OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change for the reasons already stated. CWIP is only one component of a utility's costs, whereas Texas Water Code §13.184(d) bases the refund solely on whether the utility's test year information resulted in rates yielding more than a fair return. Statutory analysis of Texas Water Code §13.185(b) and (k) is provided under the heading for proposed §24.41(c).

Proposed §24.41(c), proposed §24.41(c)(4), §24.41(c)(4)(A); and §24.41(c)(4)(B), and §24.41(b)(1)(B)(i) and (ii) - Return on rate base; Construction work in progress (CWIP)

Proposed §24.41(c) establishes that the return on rate base is the rate of return times rate base.

Proposed §24.41(c)(4) establishes the requirements applicable to CWIP based on a utility's selection of test year. Proposed §24.41(c)(4)(A) establishes the CWIP-related requirements for a historic test year. Specifically, the provision establishes that the inclusion of CWIP in rate base is an exceptional form of relief and that, under ordinary circumstances, rate base consists only of those items that are used and useful in providing service to the public. The provision further authorizes the commission to include CWIP in rate base in exceptional circumstances, to the extent that the utility has proven that the inclusion is necessary to the financial integrity of the utility; and major projects under construction have been efficiently and prudently planned and managed. Proposed §24.41(c)(4)(B) establishes the CWIP-related requirements for a combined test year or a future test year. The provision further establishes that the commission will review CWIP to determine the extent the utility projects some or all of CWIP to be in service through the end of the combined test year or future test year. The provision also specifies that projected CWIP will be in service by the end of the combined test year or the future test year will be included in rate base. Proposed §24.41(c)(4)(B)(i) requires the applicant to prove that CWIP is reasonably projected to be in service through the end of the combined test year or future test year. Proposed §24.41(c)(4)(B)(ii) requires the applicant to demonstrate that inclusion of CWIP is in the ratepayers' best interest and is necessary to the financial integrity of the utility through clear and convincing evidence.

OPUC recommended that the prudence requirement should be reinstated to review of CWIP by applying the "clear and convincing evidence" standard to all sub-elements of §24.41(c)(4)(B).

OPUC noted that existing §24.41 reflects the statutory classification of including CWIP in rate base is an "exceptional form of rate relief" and requires the utility to prove both that inclusion of CWIP is necessary to maintain the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed. However, the proposed rule relaxes those standards and only requires the lesser standard of whether including CWIP would be in ratepayers' best interest. OPUC maintained that historically, the "customer-protective doctrine" in Texas ratemaking requires a utility to demonstrate both that inclusion of CWIP is in the ratepayers' best interest and the projects were prudently managed. OPUC noted that the standards are not interchangeable, explaining that "best interests of ratepayers" is forward-looking and discretionary policy determination, whereas "prudent management" is a backward-looking factual finding focused on utility conduct. OPUC indicated that while CWIP projected to be in service during a future or combined test year is technically forward-looking because the in-service date has not yet occurred, the utility's management of the project is principally backward-looking at the base rate proceeding stage. This is because all of the planning, procurement, contracting, and construction actions are typically complete by the time of the base rate case. As such, the "prudent management" standard applies both to historical decisions and to in-service plants. Therefore, for the projected in-service date and remaining costs, the "prudent management" standard is an inquiry as to "whether the utility's current projections are reasonable based on present facts" which is consistent with how Federal Energy Regulatory Commission (FERC) and other jurisdictions have applied prudence review to CWIP. Stated differently, removing prudence review in lieu of a "ratepayers' best interest" standard would enable a utility to recover costs for projected CWIP even if management decisions were careless or negligent, provided that the overall outcome benefits ratepayers. OPUC stated that such an

outcome is inconsistent with existing ratemaking practice and, if left unchanged, carries significant implications for rate cases in the future at the commission. OPUC provided draft language consistent with its recommendation.

Commission response

The commission disagrees with OPUC with respect to applying the clear and convincing evidence standard to CWIP that the utility reasonably projects to be in service through the end of a combined test year or future test year is contrary to statute. In relevant part, Texas Water Code §13.185(b) states that a utility's rates "shall be based on the original cost of property used by and useful to the utility during the test year in providing service, including if necessary to the financial integrity of the utility, construction work in progress at cost as recorded on the books of the utility." (emphasis added). The provision further states that "[t]he inclusion of construction work in progress is an exceptional form of rate relief to be granted only on the demonstration by the utility by clear and convincing evidence that the inclusion is in the ratepayers' best interest and is necessary to the financial integrity of the utility" (emphasis added). Lastly, Texas Water Code §13.185(b) prohibits CWIP from inclusion "in the rate base for major projects under construction to the extent that those projects have been inefficiently or imprudently planned or managed" (emphasis added). In contrast, Texas Water Code §13.185(k) states "[n]otwithstanding [Texas Water Code §13.185(b)], the regulatory authority shall allow inclusion in the rate base of facilities projected to be in service through the end of the test year" (emphasis added). The determinants for whether Texas Water Code §13.185(b) or (k) apply are (1) the time period of the utility's selected test year relative to the date the utility's base rate proceeding was initiated (i.e., whether the utility's test year occurred before, during, or after the base rate case) and, if the utility's test year occurs in the future, (2) whether the utility projected CWIP to be in service through the end of the test year. For the first determinant, Texas Water Code §13.185(b) will always apply to CWIP in a historic test year because the test year occurred prior to the comprehensive base rate case. Stated differently, CWIP for a utility that selects historic test year is only eligible for the treatment specified under Texas Water Code §13.185(b) which entails a higher level of scrutiny. This is because CWIP was not used and useful in a historic test year and therefore should not be included in rate base unless the clear and convincing standard is met. In contrast, Texas Water Code §13.185(b) can only ever apply to CWIP in a combined test year or future test year, because those test years contain future data (i.e., some or all of the test year occurs in the future as of the date the utility's comprehensive base rate case was filed). Therefore, a utility that selects a combined test year or future test year and projects CWIP to be in service through the end of the test year is not required to meet the higher clear and convincing evidence standard of Texas Water Code §13.185(b). The usage of "notwithstanding" in statute or rule language means "despite" or "in spite of." The commission interprets the phrase "notwithstanding [Texas Water Code §13.185(b)]" as not requiring the usual application of the clear and convincing standard.

Additionally Texas Water Code §13.185(b) could apply to CWIP in a combined test year or future test year if the utility does not project the CWIP to be in service during the test year, but nevertheless requests it to be included in rate base. In this scenario, the same policy rationale for a historic test year would apply because the CWIP is not projected to be "used and useful" during the combined test year or future test year. Accordingly, the

commission revises §24.41(c)(4)(A) to state that "[t]his subparagraph applies to a utility that elects to use a historic test year or to a utility that elects to use a combined test year or future test year for CWIP that the utility projects to not be in service through the end of the test year. The inclusion of CWIP is an exceptional form of relief that must be proven by clear and convincing evidence." The commission also revises §24.41(c)(4)(B) to state "[t]his subparagraph applies to a utility that elects to use a combined test year or a future test year that projects CWIP to be in service through the end of its selected test year." The commission also deletes proposed §24.41(c)(4)(B)(ii), restructures §24.41(c)(4)(B)(i), and adds new §24.41(c)(4)(B)(ii), which respectively provide that "[t]he commission will review CWIP to determine the extent the utility projects some or all of CWIP to be in service through the end of the combined test year or future test year" and "CWIP that the utility projects will be in service by the end of the combined test year or the future test year will be included in rate base. The utility has the burden of proving that CWIP is reasonably projected to be in service (i.e., installed) through the end of the combined test year or future test year." The revised phrase "reasonably projected" appropriately describes the utility's burden of proof for CWIP under Texas Water Code §13.184(c). Commission approval of CWIP that a utility unreasonably projects to be in service through the end of a test year would be contrary to statute and not be in the public interest, even though Texas Water Code §13.185(k) does not use the phrase "reasonably projects." Moreover, the addition of the parenthetical clarifying that "in service" is equivalent to "installed" is consistent with the commission's determination of §24.76.

SJWTX recommended proposed §24.41(c)(4)(B)(i) be deleted because it would "create a higher burden of proof for the inclusion of an asset in rate base as opposed to a higher burden of proof for recovery of CWIP." SJWTX also recommended proposed §24.41(c)(4)(B) be revised to apply the "clear and convincing evidence" standard of review only to CWIP that will not be in service by the end of the test year. SJWTX explained that the existing rule effectuates Texas Water Code §13.185(b), which identifies CWIP as an extraordinary or exceptional form of rate relief. However, SJWTX noted that an asset is no longer included as CWIP once it is placed into service. Accordingly, including an asset or facility the utility projects will be used and useful by the end of the test year does not constitute recovery of CWIP and is therefore not an "extraordinary form of relief" necessitating a heightened burden of proof.

Commission response

The commission declines to implement the recommended change because it is moot. The restructuring of §24.41(c)(4)(A) and (B) substantively addresses SJWTX's concern. The commission agrees with SJWTX that the clear and convincing evidence standard only applies to CWIP that the utility reasonably projects will be in service through the end of the test year.

CSWR, Aqua, and TAWC recommended that the clear and convincing evidence standard should be omitted from proposed §24.41(c)(4)(B)(ii) as it is contrary to statute, undermines utility infrastructure investment incentives, and increases regulatory uncertainty. CSWR noted that the purpose of the proposed rule is "to allow for inclusion of capital projects that are in service by the end of the test year." CSWR indicated that imposing such a burden of proof requirement would only increase ambiguity and therefore create additional disputes and further litigation. Aqua commented that the provision contradicts Texas Water Code §13.185(k) which explicitly states that rate base must include fa-

cilities projected to be in service through the end of the test year. As such, inclusion of CWIP projects to be in service at the end of the future or combined test year is necessary to ensure that "the test year accurately reflects the utility's future investment and cost of service." Aqua noted that proposed §24.41(c)(4)(B)(ii) impermissibly mirrors the heightened requirement for CWIP for historic test year in contradiction of the statute. Aqua noted that excluding CWIP from a future or combined test year for reasons outside of whether the facilities will be in service by the end of the test year would be contrary to the legislative intent of aligning a utility's rates with its actual cost of service and promoting infrastructure investment. Aqua stated that requiring clear and convincing evidence based on an ambiguous "best interest" standard would create additional regulatory uncertainty by permitting eligible investments to be excluded based on a subjective determination. Aqua stated such exclusions would be to the financial detriment of investor-owned utilities that make investment and fiscal decisions based on "the reasonable expectation that prudently incurred plant projected to be in service during the future test year will be reflected in rates." Aqua commented that investments that satisfy the statutory in-service requirement should be the only criteria for inclusion of CWIP. Similarly, TAWC explained that Texas Water Code §13.185(k) does not implicate a higher standard of review for the inclusion of CWIP for a future or combined test year. Therefore, the only basis for review should be whether the utility "reasonably projected [the facilities] to be in service through the end of the combined test year or future test year" without requiring additional proof.

Commission response

The commission agrees with CSWR, Aqua, and TAWC and implements the recommended change for the reasons already stated.

OPUC recommended that proposed §24.41(c)(4)(B)(ii) be revised to apply the clear and convincing evidence standard should when evaluating a utility's projection that CWIP will be in service by the end of the test year. Specifically, OPUC recommended moving the clear and convincing evidence requirement to proposed §24.41(c)(4)(B) so that it applies to both elements of the test for inclusion of CWIP in a utility's rates. OPUC noted that, as proposed, a utility's burden of proof for such a projection is by a preponderance of the evidence only. OPUC further noted that the clear and convincing evidence standard only applies to the policy issue of whether the inclusion of CWIP is in the customer's best interest.

Commission response

The commission declines to implement the recommended change for the reasons already stated. Specifically, the clear and convincing evidence standard of Texas Water Code §13.185(b) only applies to CWIP that the utility reasonably projects will be in service through the end of the test year due to the exception written into Texas Water Code §13.185(k).

New §24.41(c)(4)(C)

OPUC recommended adding new §24.41(c)(4)(C) to account for circumstances in which a utility also has a SIC in effect to prevent double recovery. Specifically, OPUC recommended that the commission require utilities to map projects at the project level by: (1) identifying each project or cost category, (2) indicating the utility's planned method to recover identified project costs and cost categories such as base rates, a SIC, or other tracker; (3) identify each month covered in the forecasted test year pe-

riod and whether any overlapping recovery method exists for the identified projects and cost categories; and (4) include the utility's required offset or exclusion amounts where the overlap occurs to ensure no double recovery occurs from ratepayers. OPUC stated that proposed §24.41 does not address what occurs if a SIC is effective when a utility files a base rate proceeding using a future or combined test year and the new base rates take effect. OPUC noted that the proposed rule creates a risk of double-recovery because a SIC may remain effective through the rate case and continue to recover revenue for the same plant that is not included in the utility's base rates using a combined or future test year. OPUC alternatively recommended that any SIC that a utility has in effect be set to zero on the same date a utility's base rates using a future or combined test year become effective, whether interim or final. OPUC commented that after the effective date of the new rates, a utility would be eligible to apply for a new SIC for any eligible plant added after the effective date of the new rates. OPUC stated this approach would not deprive a utility of cost recovery it is otherwise entitled to. OPUC explained that since a SIC is an additional charge for eligible plant that is not already included in rates, after the comprehensive rate proceeding those costs are now included in base rates, rendering the SIC unnecessary. OPUC noted that its alternative recommendation is consistent with the term "reconcilable cost" in §24.76 which is defined as "the original costs of an eligible plant placed into service after the... end of the test year used in the utility's most recent base-rate proceeding." OPUC further noted that its position is consistent with the prohibition under §24.76(e)(3), which limits a SIC to "the cost recovery of eligible plant that is not already included in the utility's rates and eligible plant that has been placed into service after the later of the ending date of the 2019 reporting period reflected in the utility's annual report filed with the commission as required by [§24.129] or the end of the test year used in the utility's most recent base-rate proceeding." OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement either of OPUC's recommendations because they are unnecessary. As stated previously, §24.76(c)(1)(E) already prohibits overlap between a SIC and combined test year or future test year by limiting a SIC application "to cost recovery of eligible plant placed into service subsequent to the end of the future test year or combined test year." Moreover, specific rule language regarding setting a SIC to zero once a utility's interim or final rates are established is unnecessary because this happens as a matter of course in a comprehensive base rate proceeding. Specific rule language would unnecessarily limit the presiding officer's discretion as to when the SIC should be set to zero.

Proposed §24.41(c)(6), §24.41(c)(6)(A); and §24.41(c)(6)(B) - Future test year and combined test year requirements.

Proposed §24.41(c)(6) establishes the future test year and combined test year requirements for purposes of §24.41.

Proposed §24.41(c)(6)(A) requires a utility that selects a future test year to comply with §24.26, as applicable. Proposed §24.41(c)(6)(B) requires a utility that selects a combined test year to meet the requirements of §24.26 only for the portion of the combined test year that incorporates future data."

The commission deletes proposed §24.41(c)(6) in its entirety because it is unnecessary. Section 24.26 is explicitly applicable to persons "under the original rate jurisdiction of the commis-

sion...seeking to obtain or amend an approved tariff in accordance with [§24.25] and establish rates using a test year" per §24.26(a). Moreover, §24.41(b) explicitly requires compliance with §24.26.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §24.3

The amended rule is adopted under the following provisions of the Texas Water Code: Texas Water Code §13.002(16-a), which defines the term "public utility agency" for use in Chapter 13; §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.1831 which requires a regulatory authority to fix rates for water and sewer services for a Class, A, B, C, or D utility based on a test year that, among other things, includes historic, future, or combined historic and future data; §13.183(a), which requires the regulatory authority to fix a utility's rates for water and sewer services at a level that will permit the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses; §13.184(a), which prohibits the utility commission from prescribing any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public based on test year information; §13.184(d), which requires the regulatory authority to require a utility that uses a future or combined historic and future test year, to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public; §13.185(b), which requires utility rates to be based on the original cost of property used by and useful to the utility during the test year in providing service, including, if necessary to the financial integrity of the utility, CWIP at cost as recorded on the books of the utility; §13.185(d)(1), which requires the regulatory authority to base a utility's expenses on test year information, as determined by commission rules; §13.185(j), which establishes that depreciation expense included in the cost of service includes depreciation on all depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction and requires depreciation on all developer or governmental entity contributed property to be allowed in the cost of service; §13.185(k), which requires the regulatory authority to allow inclusion in the rate base of facilities projected to be in service through the end of the test year; §13.185(l), which requires a utility that selects a fully projected future test year to, not later than the 30th day after the last day of the last quarter of the test year, to file with the regulatory authority a statement that describes the utility's actual results experienced in the test year; and provides appropriate data to demonstrate the accuracy of the estimates used for the test year and serve a copy of such a statement on all parties of record in the rate proceeding in which the final rate determination using the test year was entered; and §13.185(m), which requires a utility that does not have the results or data required

under §13.183(l) to file a notice with the regulatory authority stating the date on which the results or data will be available, serve a copy of that notice on all parties of record in the rate proceeding in which the final rate determination using the test year was entered, and perform the actions described under §13.185(l) as soon as possible after the results or data are available.

Cross Reference to Statute Texas Water Code §§13.002(16-a), 13.041(a) and (b), 13.1831, 13.183(a)(1), 13.184(a) and (d), 13.185(b), (d), (j), (k), (l), and (m).

§24.3. Definitions of Terms.

In this chapter, the following definitions apply unless the context indicates otherwise.

(1) Affected county--A county that:

(A) Has a per-capita income that averaged 25% below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25% above the state average for the most recent three consecutive years for which statistics are available;

(B) Has an international border;

(C) Is located in whole or in part within 100 miles of an international border and contains a majority of the area of a municipality with a population of more than 250,000; or

(D) Has an economically distressed area which has a median household income that is not greater than 75% of the median state household income.

(2) Affected person--Any landowner within an area for which a certificate of public convenience and necessity is filed, any retail public utility affected by any action of the regulatory authority, any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, or any person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition.

(3) Affiliated interest or affiliate--

(A) any person or corporation owning or holding directly or indirectly 5.0% or more of the voting securities of a utility;

(B) any person or corporation in any chain of successive ownership of 5.0% or more of the voting securities of a utility;

(C) any corporation owning or holding 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by a utility;

(D) any corporation owning or holding 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by any person or corporation that owns or controls directly or indirectly 5.0% or more of the voting securities of any utility or by any person or corporation in any chain of successive ownership of 5.0% of those utility securities;

(E) any person who is an officer or director of a utility or of any corporation in any chain of successive ownership of 5.0% or more of voting securities of a public utility;

(F) any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a utility or over which a utility exercises such control or that is under common control with a utility, such control being the possession directly or indirectly of the power to direct or cause the direction of the management and policies

of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means; or

(G) any person or corporation that the commission, after notice and hearing, determines is exercising substantial influence over the policies and actions of the utility in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated within the meaning of this section, even though no one of them alone is so affiliated.

(4) Billing period--The period between meter-reading dates for which a bill is issued or, if usage is not metered, the period between bill issuance dates.

(5) Class A Utility--A public utility that provides retail water or sewer utility service to 10,000 or more taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.

(6) Class B Utility--A public utility that provides retail water or sewer utility service to 2,300 or more taps or active connections but fewer than 10,000 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.

(7) Class C Utility--A public utility that provides retail water or sewer utility service to 500 or more taps or active connections but fewer than 2,300 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.

(8) Class D Utility--A public utility that provides retail water or sewer utility service to fewer than 500 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.

(9) Commission--The Public Utility Commission of Texas.

(10) Combined test year--A test year that includes historical data and future data.

(11) Corporation--Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but does not include municipal corporations unless expressly provided in TWC chapter 13.

(12) Customer--Any entity that purchases services from a retail public utility.

(13) Customer class--A group of customers with similar cost-of-service characteristics that take utility service under a single set of rates.

(14) Customer service line--The pipe connecting the water meter to the customer's point of use or the pipe that conveys sewage from the customer's premises to the service provider's service line.

(15) District--District has the meaning assigned to it by TWC §49.001(a).

(16) Facilities--All the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.

(17) Future test year--A test year that includes only future data and forecasts, estimates, or projections, although such future data, forecasts, estimates, or projections may be derived in part from historical data.

(18) Historic test year--A test year that includes only historical data.

(19) Inactive connection--A water or wastewater connection is considered to be inactive when the ability to provide water or wastewater service is either physically removed or permanently closed.

(20) Incident of tenancy--Water or sewer service provided to tenants of rental property for which no separate or additional service fee is charged other than the rental payment.

(21) Landowner--An owner or owners of a tract of land.

(22) Member--A person who holds a membership in a water supply or sewer service corporation and who is a record owner of a fee simple title to property in an area served by a water supply or sewer service corporation, or a person who is granted a membership and who either currently receives or will be eligible to receive water or sewer utility service from the corporation. In determining member control of a water supply or sewer service corporation, a person is entitled to only one vote regardless of the number of memberships the person owns.

(23) Minimum Monthly Charge--The fixed amount billed to a customer each month even if the customer uses no water or wastewater.

(24) Municipality--Cities organized under the general, home rule, or special laws of this state.

(25) Municipally owned utility--Any retail public utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

(26) Nonfunctioning system or utility--A system that is operating as a retail public utility and:

(A) is required to have a CCN and is operating without a CCN; or

(B) is under supervision in accordance with §24.353 of this title (relating to Supervision of Certain Utilities); or

(C) is under the supervision of a receiver, temporary manager, or has been referred for the appointment of a temporary manager or receiver, in accordance with §24.355 of this title (relating to Operation of Utility that Discontinues Operation or Is Referred for Appointment of a Receiver) and §24.357 of this title (relating to Operation of a Utility by a Temporary Manager).

(27) Person--Natural persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, water supply or sewer service corporations, and corporations.

(28) Point of use--The primary service connection point where water is used or sewage is generated.

(29) Potable water--Water that is suitable for drinking.

(30) Potential connections--Total number of active plus inactive connections.

(31) Premises--A tract of land or real estate including buildings and other appurtenances thereon.

(32) Public utility agency--A public utility agency created under Chapter 572 of the Texas Local Government Code.

(33) Rate--Every compensation, tariff, charge, fare, toll, rental, and classification or any of those items demanded, observed, charged, or collected, whether directly or indirectly, by any retail public utility, for any service, product, or commodity described in TWC §13.002(23), and any rules, regulations, practices, or contracts affecting that compensation, tariff, charge, fare, toll, rental, or classification.

(34) Requested area--The area that a petitioner or applicant seeks to obtain, add to, or remove from a retail public utility's certificated service area.

(35) Retail public utility--Any person, corporation, public utility, water supply or sewer service corporation, municipality, public utility agency, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

(36) Retail water or sewer utility service--Potable water service or sewer service, or both, provided by a retail public utility to the ultimate consumer for compensation.

(37) Service--Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under TWC chapter 13 to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.

(38) Service area--Area to which a retail public utility is obligated to provide retail water or sewer utility service.

(39) Stand-by fee--A charge, other than a tax, imposed on undeveloped property:

(A) with no water or wastewater connections; and

(B) for which water, sanitary sewer, or drainage facilities and services are available; water supply, wastewater treatment plant capacity, or drainage capacity sufficient to serve the property is available; or major water supply lines, wastewater collection lines, or drainage facilities with capacity sufficient to serve the property are available.

(40) Test year--A consecutive 12-month period that begins on the first day of a calendar or fiscal year quarter selected by a Class A, B, C, or D utility to fix rates that includes historic, future, or combined historic and future data. A test year must begin not later than 18 months after the date the utility files a statement of intent to change rates and must end not earlier than 18 months before the date a utility files the statement of intent to change rates. A test year may be a combined test year, a future test year, or a historic test year.

(41) Tract of land--An area of land that has common ownership and is not severed by other land under different ownership, whether owned by government entities or private parties; such other land includes roads and railroads. A tract of land may be acquired through multiple deeds or shown in separate surveys.

(42) Water and sewer utility, utility, or public utility--Any person, corporation, cooperative corporation, affected county, or any combination of those persons or entities, other than a municipal corporation, public utility agency, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other

political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(43) Water supply or sewer service corporation--Any non-profit corporation organized and operating under TWC chapter 67, that provides potable water or sewer service for compensation and that has adopted and is operating in accordance with bylaws or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water or sewer utility service to a person who is not a member, except that the corporation may provide retail water or sewer utility service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold.

(44) Water use restrictions--Restrictions implemented to reduce the amount of water that may be consumed by customers of the utility due to emergency conditions or drought.

(45) Wholesale water or sewer service--Potable water service or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

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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Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7044



SUBCHAPTER B. RATES AND TARIFFS

16 TAC §§24.25 - 24.28, 24.41, 24.43

These new and amended rules are adopted under the following provisions of the Texas Water Code: Texas Water Code §13.002(16-a), which defines the term "public utility agency" for use in Chapter 13; §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.1831 which requires a regulatory authority to fix rates for water and sewer services for a Class, A, B, C, or D utility based on a test year that, among other things, includes historic, future, or combined historic and future data; §13.183(a), which requires the regulatory authority to fix a utility's rates for water and sewer services at a level that will permit the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating ex-

penses; §13.184(a), which prohibits the utility commission from prescribing any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public based on test year information; §13.184(d), which requires the regulatory authority to require a utility that uses a future or combined historic and future test year, to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public; §13.185(b), which requires utility rates to be based on the original cost of property used by and useful to the utility during the test year in providing service, including, if necessary to the financial integrity of the utility, CWIP at cost as recorded on the books of the utility; §13.185(d)(1), which requires the regulatory authority to base a utility's expenses on test year information, as determined by commission rules; §13.185(j), which establishes that depreciation expense included in the cost of service includes depreciation on all depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction and requires depreciation on all developer or governmental entity contributed property to be allowed in the cost of service; §13.185(k), which requires the regulatory authority to allow inclusion in the rate base of facilities projected to be in service through the end of the test year; §13.185(l), which requires a utility that selects a fully projected future test year to, not later than the 30th day after the last day of the last quarter of the test year, to file with the regulatory authority a statement that describes the utility's actual results experienced in the test year; and provides appropriate data to demonstrate the accuracy of the estimates used for the test year and serve a copy of such a statement on all parties of record in the rate proceeding in which the final rate determination using the test year was entered; and §13.185(m), which requires a utility that does not have the results or data required under §13.183(l) to file a notice with the regulatory authority stating the date on which the results or data will be available, serve a copy of that notice on all parties of record in the rate proceeding in which the final rate determination using the test year was entered, and perform the actions described under §13.185(l) as soon as possible after the results or data are available.

Cross Reference to Statute Texas Water Code §§13.002(16-a), 13.041(a) and (b), 13.1831, 13.183(a)(1), 13.184(a) and (d), 13.185(b), (d), (j), (k), (l), and (m).

§24.25. *Form and Filing of Tariffs.*

(a) Approved tariff. A utility may not directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its approved tariff filed with the commission or with the municipality exercising original jurisdiction over the utility, except as follows:

(1) A utility may charge the rates proposed under Texas Water Code (TWC) §§13.187, 13.1871, 13.18715, or 13.1872(c)(2) on or after the proposed effective date, unless the proposed effective date of the proposed rates is suspended or the regulatory authority sets interim rates.

(2) The regulatory assessment fee required in TWC §5.701(n) does not have to be listed on the utility's approved tariff to be charged and collected but must be included in the tariff at the earliest opportunity.

(3) A person who possesses facilities used to provide retail water utility service or a utility that holds a certificate of public convenience and necessity (CCN) to provide retail water service that enters into an agreement in accordance with TWC §13.250(b)(2), may collect charges for sewer services on behalf of another retail public utility on the same bill with its water charges and must at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.

(4) A utility may enter into a contract with a county to collect solid waste disposal fees and include those fees on the same bill with its water or sewer charges and must at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.

(b) Requirements as to size, form, identification, minor changes, and filing of tariffs.

(1) Tariffs filed with applications for CCNs.

(A) When applying to obtain or amend a CCN, or to add a new water or sewer system or subdivision to its certificated service area, each utility must file its proposed tariff with the commission and any regulatory authority with original rate jurisdiction over the utility.

(i) For a utility that is under the original rate jurisdiction of the commission, the tariff must include schedules of all the utility's rates, rules, and regulations pertaining to all its utility services when it applies for a CCN to operate as a utility. The tariff must be on the form prescribed by the commission or another form acceptable to the commission.

(ii) For a utility under the original rate jurisdiction of a municipality, the utility must file with the commission a copy of its tariff as approved by the municipality.

(B) If a person applying for a CCN is not currently a retail public utility and would be under the original rate jurisdiction of the commission if the CCN application were approved, the person must file a proposed tariff with the commission. The person filing the proposed tariff must also:

(i) provide a rate study supporting the proposed rates, which may include the costs of existing invested capital or estimates of future invested capital;

(ii) provide all calculations supporting the proposed rates;

(iii) provide all assumptions for any projections included in the rate study;

(iv) provide an estimated completion date for the construction of the physical plant;

(v) provide an estimate of the date service will begin for all phases of construction; and

(vi) provide notice to the commission once billing for service begins.

(C) A person under the original rate jurisdiction of the commission who is seeking to obtain or amend an approved tariff or has obtained an approved tariff for the first time must comply with the requirements of §24.26 of this title (relating to Test Year).

(D) A water supply or sewer service corporation must file with the commission a complete tariff containing schedules of all its rates, rules, and regulations pertaining to all its utility services when it applies to operate as a retail public utility and to obtain or amend a CCN.

(2) Minor tariff changes. Except for an affected county or a utility under the original rate jurisdiction of a municipality, a utility's approved tariff may not be changed or amended without commission approval. Changes to any fees charged by affiliates, the addition of a new extension policy to a tariff, or modification of an existing extension policy are not minor tariff changes. An affected county may change rates for retail water or sewer service without commission approval, but must file a copy of the revised tariff with the commission within 30 days after the effective date of the rate change.

(A) The commission, or regulatory authority, as appropriate, may approve the following minor changes to utility tariffs:

(i) service rules and policies;

(ii) changes in fees for customer deposits, meter tests, return check charges, and late charges, provided they do not exceed the maximum allowed by commission rules;

(iii) addition of the regulatory assessment fee payable to the Texas Commission on Environmental Quality (TCEQ) as a separate item or to be included in the currently authorized rate;

(iv) addition of a provision allowing a utility to collect retail sewer service charges in accordance with TWC §13.250(b)(2) or §13.147(d);

(v) rate adjustments to implement commission-authorized phased or multistep rates or downward rate adjustments to reconcile rates with actual costs;

(vi) implementation of an energy cost adjustment clause under subsection (n) of this section;

(vii) implementation or modification of a pass-through provision calculation in a tariff, as provided in subparagraphs (B) - (F) of this paragraph, which is necessary for the correct recovery of the actual charges from pass-through entities, including line loss;

(viii) some surcharges as provided in subparagraph (G) of this paragraph; and

(ix) modifications, updates, or corrections that do not affect a rate may be made to the following information contained in the tariff:

(I) the list of the cities, counties, and subdivisions in which service is provided;

(II) the public water system name and corresponding identification number issued by the TCEQ; and

(III) the sewer system names and corresponding discharge permit number issued by the TCEQ.

(B) The commission, or other regulatory authority, as appropriate, may approve a minor tariff change for a utility to establish reduced rates for a minimal level of retail water service to be provided solely to a class of customers 65 years of age or older to ensure that those customers receive that level of retail water service at more affordable rates. The utility may establish a fund to receive donations to cover the cost of providing the reduced rates. A utility may not recover the cost of the reduced rates through charges to other customer classes.

(i) To request approval of a rate as defined in this subparagraph, the utility must file a proposed plan for consideration by the commission. The plan must include:

(I) A proposed plan for collection of donations to establish a fund to recover the costs of providing the reduced rates.

(II) The account or subaccount name and number, as included in the system of accounts described in §24.127(1) of this title (relating to Financial Records and Reports--Uniform System of Accounts), in which the donations will be accounted for, and a clear definition of how the administrative costs of operation of the program will be accounted for and removed from the cost of service for rate making purposes. Any interest earned on donated funds will be considered a donation to the fund.

(III) The proposed effective date of the program and an example of an annual accounting for donations received and a calculation of all lost revenues and the journal entries that transfer the funds from the account described in this subparagraph of this clause to the utility's revenue account. The annual accounting must be available for audit by the commission upon request.

(IV) An example bill with the contribution line item, if receiving contributions from customers.

(ii) For the purpose of clause (i) of this subparagraph, recovery of lost revenues from donations is limited to the lost revenues due to the difference in the utility's tariffed retail water rates and the reduced rates established by this subparagraph.

(iii) The minimal level of retail water service requested by the utility must not exceed 3,000 gallons per month per connection. Additional gallons used must be billed at the utility's tariffed rates.

(iv) For purposes of the provision in this subparagraph, a reduced rate authorized under this section does not:

(I) Make or grant an unreasonable preference or advantage to any corporation or person;
(II Subject a corporation or person to an unreasonable prejudice or disadvantage; or

(III) Constitute an unreasonable difference as to retail water rates between classes of service.

(C) If a utility has provided notice as required in subparagraph (F) of this paragraph, the commission may approve a pass-through provision as a minor tariff change, even if the utility has never had an approved pass-through provision in its tariff. A pass-through provision may not be approved for a charge already included in the utility's cost of service used to calculate the rates approved by the commission in the utility's most recently approved rate change under TWC §§ 13.187, 13.1871, 13.18715, or 13.1872. A pass-through provision may only include passing through of the actual costs charged to the utility. Only the commission staff or the utility may request a hearing on a proposed pass-through provision or a proposed revision or change to a pass-through provision. A pass-through provision may be approved as follows:

(i) A utility that purchases water or sewage treatment and whose rates are under the original jurisdiction of the commission may include a provision in its tariff to pass through to its customers changes in such costs. The provision must specify how it is calculated.

(ii) A utility may pass through a temporary water rate provision implemented in response to mandatory reductions in water use imposed by a court, government agency, or other authority. The provision must specify how the temporary water rate provision is calculated.

(iii) A utility may include the addition of a production fee charged by a groundwater conservation district, including a production fee charged in accordance with a groundwater reduction plan entered in to by a utility in response to a groundwater conservation district production order or rule, as a separate line item in the tariff.

(iv) A utility may pass through the costs of changing its source of water if the source change is required by a governmental entity. The pass-through provision may not be effective prior to the date the conversion begins. The pass-through provision must be calculated using an annual true-up provision.

(v) A utility subject to more than one pass-through cost allowable in this section may request approval of an overall combined pass-through provision that includes all allowed pass-through costs to be recovered in one provision under subparagraph (D) of this paragraph. The twelve calendar months (true-up period) for inclusion in the true-up must remain constant, e.g., January through December.

(vi) A utility that has a combined pass-through provision in its approved tariff may request to amend its tariff to replace the combined pass-through provision with individual pass-through provisions if all revenues and expenses have been properly true'd up in a true-up report and all overcollections have been credited back to the customers. A utility that has replaced its previously approved combined pass-through provision with individual provisions may not request another combined pass-through until three years after the replacement has been approved unless good cause is shown.

(D) A change in the combined pass-through provision may be implemented only once per year. The utility must file a true-up report within one month after the end of the true-up period. The report must reconcile both expenses and revenues related to the combined pass-through charge for the true-up period. If the true-up report reflects an over-collection from customers, the utility must change its combined pass-through rate using the confirmed rate changes to charges being passed through and the over-collection from customers reflected in the true-up report. If the true-up report does not reflect an over-collection from the customers, the implementation of a change to the pass-through rate is optional. The change may be effective in a billing cycle within three months after the end of the true-up period as long as the true-up clearly shows the reconciliation between charges by pass-through entities and collections from the customers, and charges from previous years are reconciled. Only expenses charged by the pass-through provider may be included in the provision. The true-up report must include:

(i) a list of all entities charging fees included in the combined pass-through provision, specifying any new entities added to the combined pass-through provision;

(ii) a summary of each charge passed through in the report year, along with documentation verifying the charge assessed and showing the amount the utility paid;

(iii) a comparison between annual amounts billed by all entities charging fees included in the pass-through provision with amounts billed for the usage by the utility to its customers in the pass-through period;

(iv) all calculations and supporting documentation;

(v) a summary report, by year, for the lesser of all years prior or five years prior to the pass-through period showing the same information as in clause (iii) of this subparagraph with a reconciliation to the utility's booked numbers, if there is a difference in any year; and

(vi) any other documentation or information requested by the commission.

(E) For any pass-through provision granted under this section, all charges approved for recovery of pass-through costs must be stated separately from all charges by the utility to recover the revenue requirement. Except for a combined pass-through provision,

the calculation for a pass-through gallonage rate for a utility with one source of water may be made using the following equation, which is provided as an example: $R = G / (1 - L)$, where R is the utility's new proposed pass-through rate, G equals the new gallonage charge by source supplier or conservation district, and L equals the actual line loss reflected as a percentage expressed in decimal format (for example, 8.5% would be expressed as 0.085). Line loss will be considered on a case-by-case basis.

(F) A utility that requests to revise or implement an approved pass-through provision must take the following actions prior to the beginning of the billing period in which the revision takes effect:

(i) file a written notice with the commission that must include:

- (I) each affected CCN number;
- (II) a list of each affected subdivision public water system (including name and corresponding number issued by the TCEQ), and water quality system (including name and corresponding number issued by the TCEQ), if applicable;
- (III) a copy of the notice to the customers;
- (IV) documentation supporting the stated amounts of any new or modified pass-through costs;
- (V) historical documentation of line loss for one year;
- (VI) all calculations and assumptions for any true-up of pass-through costs;
- (VII) the calculations and assumptions used to determine the new rates; and
- (VIII) a copy of the pages of the utility's tariff that contain the rates that will change if the utility's application is approved; and

(ii) e-mail (if the customer has agreed to receive communications electronically), mail, or hand-deliver notice to the utility's customers. Notice may be in the form of a billing insert and must contain:

- (I) the effective date of the change;
- (II) the present calculation of customer billings;
- (III) the new calculation of customer billings;
- (IV) an explanation of any corrections to the pass-through formula, if applicable;
- (V) the change in charges to the utility for purchased water or sewer treatment or ground water reduction fee or subsidence, if applicable; and
- (VI) the following language: "This tariff change is being implemented in accordance with the minor tariff changes allowed by 16 Texas Administrative Code §24.25. The cost to you as a result of this change will not exceed the costs charged to your utility."

(G) The following provisions apply to surcharges:

- (i) A surcharge is an authorized rate to collect revenues over and above the usual cost of service.
- (ii) If authorized by the commission or the municipality exercising original jurisdiction over the utility, a surcharge to recover the actual increase in costs to the utility may be collected over a specifically authorized time period without being listed on the approved tariff for:

- (I) sampling fees not already recovered by rates;
 - (II) inspection fees not already recovered by rates;
 - (III) production fees or connection fees not already recovered by rates charged by a groundwater conservation district; or
 - (IV) other governmental requirements beyond the control of the utility.
- (iii) A utility must use the revenues collected through a surcharge approved by the commission to cover the costs listed in paragraph (G)(ii) of this subsection or for any purpose noted in the order approving the surcharge. The utility may redirect or use the revenues for other purposes only after first obtaining the approval of the commission.
- (iv) The commission may require a utility to file periodic and/or final accounting information to show the collection and disbursement of funds collected through an approved surcharge.
- (3) Tariff revisions and tariffs filed with rate changes.
- (A) If the commission is the regulatory authority, the utility must file its revisions with the commission. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, then the commission may require that notice be given.
- (B) Each revision must be accompanied by a copy of the original tariff and a red-lined copy of the proposed tariff revisions clearly showing the proposed changes.
- (4) Rate schedule. Each rate schedule must clearly state:
- (A) the name of each public water system and corresponding identification number issued by the TCEQ, or the name of each sewer system and corresponding identification number issued by the TCEQ for each discharge permit, to which the schedule is applicable; and
- (B) the name of each subdivision, city, and county in which the schedule is applicable.
- (5) Tariff pages. Tariff pages must be numbered consecutively. Each page must show section number, page number, name of the utility, and title of the section in a consistent manner.
- (c) Composition of tariffs. A utility's tariff, including those utilities operating within the corporate limits of a municipality, must contain sections setting forth:
- (1) a table of contents;
 - (2) a list of the cities, counties, and subdivisions in which service is provided, along with each public water system name and corresponding identification number issued by the TCEQ and each sewer system name and corresponding discharge permit number(s) issued by the TCEQ to which the tariff applies;
 - (3) each CCN number under which service is provided;
 - (4) the rate schedules;
 - (5) the service rules and regulations, including forms of the service agreements, if any, and customer service inspection forms to be completed as required by the TCEQ;
 - (6) the extension policy;
 - (7) an approved drought contingency plan as required by the TCEQ; and
 - (8) the forms of payment to be accepted for utility services.

(d) Tariff filings in response to commission orders. Tariff filings made in response to an order issued by the commission must include a transmittal letter stating that the tariff attached is in compliance with the order, giving the docket number, date of the order, a list of tariff pages filed, and any other necessary information. Any service rules proposed in addition to those listed on the commission's tariff form or any modifications of a rule in the tariff must be clearly noted. All tariff pages must comply with all other sections in this chapter and must include only changes ordered. The effective date and/or wording of the tariff must comply with the provisions of the order.

(e) Availability of tariffs. Each utility must make available to the public at each of its business offices and designated sales offices within Texas all of its tariffs currently on file with the commission or regulatory authority, and its employees must lend assistance to persons requesting information and afford these persons an opportunity to examine any such tariffs upon request. The utility must also provide copies of any portion of the tariffs at a reasonable cost to a requesting party.

(f) Rejection. Any tariff filed with the commission and found not to be in compliance with this section must be returned to the utility with a brief explanation of the reasons for rejection.

(g) Change by other regulatory authorities. Each utility operating within the corporate limits of a municipality exercising original jurisdiction must file with the commission its current tariff that has been authorized by the municipality. If changes are made to the utility's tariff for one or more service areas under the jurisdiction of the municipality, the utility must file its tariff reflecting the changes along with the ordinance, resolution or order issued by the municipality to authorize the change.

(h) Effective date. The effective date of a tariff change is the date of approval by the regulatory authority, unless otherwise specified by the regulatory authority, in a commission order, or by rule. The effective date of a proposed rate increase under TWC §§13.187, 13.1871, 13.18715, or 13.1872 is the proposed date on the notice to customers and the regulatory authority, unless suspended by the regulatory authority.

(i) Tariffs filed by water supply or sewer service corporations. A water supply or sewer service corporation must file with the commission, for informational purposes only, its tariff showing all rates that are subject to the appellate jurisdiction of the commission and that are in force for any utility service, product, or commodity offered. The tariff must include all rates, rules, and regulations relating to utility service or extension of service, each CCN number under which service is provided, and all affected counties or cities. If changes are made to the water supply or sewer service corporation's tariff, the water supply or sewer service corporation must file the tariff reflecting the changes, along with a cover letter with the effective date of the change. Tariffs filed under this subsection must be filed in conformance with §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission).

(j) Temporary water rate provision for mandatory water use reduction.

(1) A utility's tariff may include a temporary water rate provision that will allow the utility to increase its retail customer rates during periods when a court, government agency, or other authority orders mandatory water use reduction measures that affect the utility customers' use of water service and the utility's water revenues. Implementation of the temporary water rate provision will allow the utility to recover revenues that the utility would otherwise have lost due to mandatory water use reductions. If a utility obtains an alternate water

source to replace the required mandatory reduction during the time the temporary water rate provision is in effect, the temporary water rate provision must be adjusted to prevent over-recovery of revenues from customers. A temporary water rate provision may not be implemented if an alternative water supply is immediately available without additional cost.

(2) The temporary water rate provision must be approved by the regulatory authority having original jurisdiction in a rate proceeding before it may be included in the utility's approved tariff or implemented as provided in this subsection. A proposed change in the temporary water rate provision must be approved in a rate proceeding. A utility that has filed a rate change within the last 12 months may file a request for the limited purpose of obtaining a temporary water rate provision.

(3) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in this paragraph to recover 50% or less of the revenues that would otherwise have been lost due to mandatory water use reductions. The formula for a temporary water rate provision for mandatory water use reduction under this paragraph is $TGC = cgc + [(prr)(cgc)(r)/(1.0-r)]$ where: TGC = Temporary gallonage charge; cgc = current gallonage charge; r = water use reduction expressed as a decimal fraction (the pumping restriction); and prr = percentage of revenues to be recovered expressed as a decimal fraction (i.e., 50% = 0.5).

(A) The utility must file a request for a temporary water rate provision for mandatory water use reduction and provide customer notice as required by the regulatory authority, but is not required to provide complete financial data to support its existing rates. Notice must include a statement of when the temporary water rate provision would be implemented, a list of all customer classes affected, the rates affected, information on how to protest or intervene in the rate change, the address of the regulatory authority, the time frame for protests, and any other information that is required by the regulatory authority. The utility's existing rates are not subject to review in this proceeding and the utility is only required to support the need for the temporary rate. A request for a temporary water rate provision for mandatory water use reduction under this paragraph is not considered a statement of intent to increase rates subject to the 12-month limitation in §24.29 of this title (relating to Time Between Filings).

(B) The utility must establish that the projected revenues that will be generated by the temporary water rate provision are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect.

(4) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in paragraph (3) of this subsection or any other method acceptable to the regulatory authority to recover up to 100% of the revenues that would otherwise have been lost due to mandatory water use reductions.

(A) If the utility requests authorization to recover more than 50% of lost revenues, the utility must submit financial data to support its existing rates as well as the temporary water rate provision for mandatory water use reduction even if no other rates are proposed to be changed. The utility's existing rates are subject to review in addition to the temporary water rate provision for mandatory water use reduction.

(B) The utility must establish that the projected revenues that will be generated by the temporary water rate provision for mandatory water use reduction are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect; that the rate of return granted by the regulatory authority in the utility's last rate case

does not adequately compensate the utility for the foreseeable risk that mandatory water use reductions will be ordered; and that revenues generated by existing rates do not exceed reasonable cost of service.

(5) The utility may place the temporary water rate provision into effect only after:

(A) it has been approved by the regulatory authority and included in the utility's approved tariff in a prior rate proceeding;

(B) there is an action by a court, government agency, or other authority requiring mandatory water use reduction measures that affect the utility's customers' use of utility services; and

(C) issuing notice as required by paragraph (7) of this subsection.

(6) The utility may readjust its temporary water rate provision to respond to modifications or changes to the original required water use reductions by reissuing notice as required by paragraph (7) of this subsection. If the commission is the regulatory authority, only the commission or the utility may request a hearing on the proposed implementation.

(7) A utility implementing a temporary water rate for mandatory water use reduction must take the following actions prior to the beginning of the billing period in which the temporary water rate provision takes effect:

(A) submit a written notice, including a copy of the notice received from the court, government agency, or other authority requiring the reduction in water use, to the regulatory authority; and

(B) e-mail, if the customer has agreed to receive communications electronically, or mail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the implementation and the new rate the customers will pay after the temporary water rate provision is implemented. If the commission is the regulatory authority, the notice must include the following language: "This rate change is being implemented in accordance with the temporary water rate provision approved by the Public Utility Commission of Texas to recognize the loss of revenues due to mandatory water use reduction ordered by (name of entity issuing order). The new rates will be effective on (date) and will remain in effect until the mandatory water use reductions are lifted or expired. The purpose of the rate is to ensure the financial integrity of the utility. The utility will recover through the rate (the percentage authorized by the temporary rate) % of the revenues the utility would otherwise have lost due to mandatory water use reduction by increasing the volume charge from (\$ per 1,000 gallons to \$ per 1,000 gallons)."

(8) A utility must stop charging a temporary water rate provision as soon as is practicable after the order that required mandatory water use reduction is ended, but in no case later than the end of the billing period that was in effect when the order was ended. The utility must notify its customers of the date that the temporary water rate provision ends and that its rates will return to the level authorized before the temporary water rate provision was implemented. The notice provided to customers regarding the end of the temporary water rate provision must be filed with the commission.

(9) If the regulatory authority initiates an inquiry into the appropriateness or the continuation of a temporary water rate provision, it may establish the effective date of its decision on or after the date the inquiry is filed.

(k) Regional rates. The regulatory authority, where practicable, will consolidate the rates by region for applications submitted by a Class A, B, or C utility, or a Class D utility filing under TWC

§13.1872(c)(2), with a consolidated tariff and rate design for more than one system.

(l) Energy cost adjustment clause.

(1) A utility that purchases energy (electricity or natural gas) that is necessary for the provision of retail water or sewer service may request the inclusion of an energy cost adjustment clause in its tariff to allow the utility to adjust its rates to reflect increases and decreases in documented energy costs.

(2) A utility that requests the inclusion of an energy cost adjustment clause in its tariff must file a request with the commission. The utility must also give notice of the proposed energy cost adjustment clause by mail, either separately or accompanying customer billings, by e-mail, or by hand delivery to all affected utility customers at least 60 days prior to the proposed effective date. Proof of notice in the form of an affidavit stating that proper notice was delivered to affected customers and stating the date of such delivery must be filed with the commission by the utility as part of the request. Notice must be provided on a form prescribed by the commission and must contain the following information:

(A) the utility name and address, a description of how the increase or decrease in energy costs will be calculated, the effective date of the proposed change, and the classes of utility customers affected. The effective date of the proposed energy cost adjustment clause must be the first day of a billing period, which should correspond to the day of the month when meters are typically read, and the clause may not apply to service received before the effective date of the clause;

(B) information on how to submit comments regarding the energy cost adjustment clause, the address of the commission, and the time frame for comments; and

(C) any other information that is required by the commission.

(3) The commission's review of the utility's request is not subject to a contested case hearing. However, the commission will hold a public meeting if requested by a member of the legislature who represents an area served by the utility or if the commission determines that there is substantial public interest in the matter.

(4) Once an energy cost adjustment clause has been approved, documented changes in energy costs must be passed through to the utility's customers within a reasonable time. The pass-through, whether an increase or decrease, must be implemented on at least an annual basis, unless the commission determines otherwise. Before making a change to the energy cost adjustment clause, notice must be provided as required by paragraph (5) of this subsection. Copies of notices to customers must be filed with the commission.

(5) Before a utility implements a change in its energy cost adjustment clause as required by paragraph (4) of this subsection, the utility must take the following actions prior to the beginning of the billing period in which the implementation takes effect:

(A) submit written notice to the commission, which must include a copy of the notice sent to the customers, proof that the documented energy costs have changed by the stated amount; and

(B) e-mail, if the customer has agreed to receive communications electronically, mail, either separately or accompanying customer billings, or hand deliver notice to the utility's affected customers. Notice must contain the effective date of change and the increase or decrease in charges to the utility for documented energy costs. The notice must include the following language: "This tariff change is being implemented in accordance with the utility's approved energy

cost adjustment clause to recognize (increases) (decreases) in the documented energy costs. The cost of these charges to customers will not exceed the (increase) (decrease) in documented energy costs."

(6) The commission may suspend the adoption or implementation of an energy cost adjustment clause if the utility has failed to properly file the request or has failed to comply with the notice requirements or proof of notice requirements. If the utility cannot clearly demonstrate how the clause is calculated, the increase or decrease in documented energy costs or how the increase or decrease in documented energy costs will affect rates, the commission may suspend the adoption or implementation of the clause until the utility provides additional documentation requested by the commission. If the commission suspends the adoption or implementation of the clause, the adoption or implementation will be effective on the date specified by the commission.

(7) Energy cost adjustment clauses may not apply to contracts or transactions between affiliated interests.

(8) A proceeding under this subsection is not a rate case under TWC §§13.187, 13.1871, 13.18715, or 13.1872.

§24.26. Test Year.

(a) **Applicability.** This section applies to a person under the original rate jurisdiction of the commission who is seeking to obtain or amend an approved tariff in accordance with §24.25 of this title (relating to Form and Filing of Tariffs) and establish rates using a test year.

(b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) **Base period**--the most recent consecutive 36 month period beginning on the first day of a calendar- or fiscal-year quarter for which operating data for a retail public utility is available. A base period must include historical data. The commission may, for good cause shown, authorize a shorter base period for a utility that has operated for less than 36 months.

(2) **Future data**--data relied upon by the utility to determine its forecasted, projected, or estimated costs, usage, revenues, adjustments, and other information of the utility that corresponds with the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates, or the future test year, as applicable.

(3) **Historical data**--data relied upon by the utility to support its actually incurred costs, usage, revenues, adjustments, and other information of the utility. Historical data may include, as one component, the utility's annual reports filed in accordance with §24.129 of this title (relating to Water and Sewer Utility Annual Reports).

(c) **General requirements for tariffs.**

(1) **Requirements applicable to new utilities.** This paragraph applies only to a utility that has obtained an approved tariff for the first time and, unless otherwise required by the commission, is not applicable to an existing utility that has obtained an approved tariff for an acquired water or sewer system.

(A) Within 30 months from the date service begins, a utility must file a rate change application to revise its rates to be based on a test year. A Class D utility must file a rate change application under TWC §13.1872(c)(2) to satisfy the requirements of this paragraph.

(B) For a rate change application that utilizes a historic test year, any dollar amount collected under the rates that were initially approved by the commission that exceeds the revenue requirement established by the commission during the rate change proceeding must,

for ratemaking purposes, be reflected as customer contributed capital going forward as an offset to rate base.

(2) **Utility designation of test year.**

(A) A utility must present a test year that complies with the definition under §24.3 of this title (relating to Definitions).

(B) If the test year selected by the utility is a combined test year or a future test year, the test year must include future data and the rate change application must identify a base period.

(C) A utility is limited to using one test year in a base rate proceeding.

(3) **Application requirements.** A utility must provide evidence in its rate change application that its proposed rates are just and reasonable using its selected test year, including information in support of its selected test year used to establish rates. Such information must include:

(A) known and measurable changes which must be demonstrated using the applicant's test year information, audited financial accounts, billing system extracts, or other records such as the utility's annual report under §24.129 of this title;

(B) supporting documentation, testimony, or other relevant information that supports the utility's selected test year and requested amounts;

(C) if the utility selects a combined test year or a future test year, any documentation testimony, or other information supporting the following.

(i) For a utility seeking an increase in its revenue requirement that is attributable to inflation, any forecasts, estimates, or projections based on inflation must be separately categorized by, and proportional to an inflation index published by the United States Department of Labor, Bureau of Labor Statistics (e.g., the Gross Domestic Product Price Index (GDPPi) or the Consumer Price Index (CPI)). Information accounting for inflation must be included for any portion of a test year with future data.

(ii) documentation and explanation supporting the reasonableness of any forecasts, projections or estimates sufficient to substantiate the methodology or calculations associated with each forecast, projection, or estimate (e.g., expected changes in cost and billing determinants, forecasted revenue adjustments,) for any portion of a test year with future data.

(D) a workpaper index or ledger for the information provided in accordance with subparagraphs (A) - (C) of this paragraph, as applicable, with cross-references identifying information category by page number; and

(E) an attestation by an executive officer or owner of the utility that all information provided under subparagraphs (A) - (D) of this paragraph is true, accurate, and complete.

(d) **Base rate change application requirements.** A base rate change application must comply with this subsection as well as the form and content requirements included in the commission-prescribed forms and instructions applicable to the utility's class.

(1) **Application content based on test year.** In addition to the requirements of §24.25 and §24.27, a base rate change application must comply with the applicable requirements prescribed under this paragraph based on the utility's selected test year.

(A) **Historic test year content requirements.** If the applicant selects a historic test year, the application must include information on, and comparisons of, revenues and costs between:

(i) the historic test year; and

(ii) the time periods specified by the commission-prescribed forms and instructions applicable to the utility's class.

(B) Combined test year or future test year content requirements. If the applicant selects a combined test year or a future test year, the application must include information on, and comparisons of, revenues and costs between:

(i) the base period;

(ii) the time periods specified by the commission-prescribed forms and instructions applicable to the utility's class; and

(iii) as applicable, the combined test year or the future test year, inclusive of any forecasts, projections, or estimates.

(2) Application content requirements. A base rate change application must, at a minimum:

(A) as applicable for each schedule or workpaper, be itemized by each individual rate or fee, usage, calendar month, type of expense, applicable utility account, and by each customer class;

(B) include the utility's actual costs and revenues, including any adjustments for known and measurable changes, annualizations, or normalizations but excluding inflation;

(C) include any relevant data, attachments, or supplementary materials filed in their native format and, if applicable, with formulas intact; and

(D) be word-searchable.

(e) Review of combined test year or future test year. A combined test year or a future test year will be reviewed by the commission in accordance with §24.28 of this title (relating to Review of Test Year).

§24.27. *Notice of Intent and Application to Change Rates.*

(a) Purpose. This section describes the requirements for the contents of an application to change rates and the requirements for the provision of notice of an application to change rates filed by a Class A, B, or C utility, or a Class D utility filing under Texas Water Code (TWC) §13.1872(c)(2).

(b) Contents of the application. An application to change rates is initiated by the filing of the applicable rate filing package, a statement of intent to change rates, and the proposed form and method of notice to customers and other affected entities under subsection (c) of this section.

(1) The application must:

(A) include the commission's rate filing package form;

and

(B) include all required schedules;

(C) be based on a test year;

(D) indicate whether the test year is a historic, future, or combined test year; and

(E) include the applicable information required under §24.26 of this title (relating to Test Year).

(2) For an application filed by a Class A utility, the rate filing package, including each schedule, must be supported by pre-filed direct testimony. The pre-filed direct testimony must be filed at the same time as the application to change rates.

(3) For an application filed by a Class B utility, Class C utility, or Class D utility filing under TWC §13.1872(c)(2), the applicable rate filing package, including each schedule, must be supported

by affidavit. The affidavit must be filed at the same time as the application to change rates. The utility may file pre-filed direct testimony at the same time as the application to change rates. If the application is set for a hearing, the presiding officer may require the filing of pre-filed direct testimony at a later date.

(4) Proof of notice. Proof of notice in the form of an affidavit stating that proper notice was mailed, e-mailed, or delivered to customers and affected municipalities and stating the dates of such delivery must be filed with the commission by the applicant utility as part of the rate change application.

(c) Notice requirements specific to applications filed by a Class A Utility under TWC §13.187.

(1) Notice of the application. In order to change rates under TWC §13.187, a utility must comply with the following requirements at least 35 days before the effective date of the proposed change.

(A) The utility must file a statement of intent (notice) with the commission and provide a copy of the notice to all customers of the utility affected by the proposed rate change, to the appropriate offices of each municipality affected by the proposed rate change, and to the Office of Public Utility Counsel.

(B) Notice must be provided using the commission-approved form and must include a description of the process by which a ratepayer may intervene in the proceeding.

(C) This notice must state the docket number assigned to the rate application. Prior to the provision of notice, the utility must file a request for the assignment of a docket number for the rate application.

(D) Notices to affected ratepayers may be mailed separately, e-mailed (if the customer has agreed to receive communications electronically), or may accompany customer billings.

(E) Notice is considered to be completed upon mailing, e-mailing (if the customer has agreed to receive communications electronically), or hand delivery.

(2) Notice of the hearing. After the rate application is set for a hearing, the commission will give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county. The commission may require the utility to complete this notice requirement. The commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county.

(d) Notice requirements specific to applications filed by Class B, C, and D utilities.

(1) Notice of the application. In order to change rates, a Class B or C utility, or a Class D utility filing under TWC §13.1872(c)(2), must comply with the following requirements at least 35 days before the effective date of the proposed change.

(A) The utility must file a notice with the commission and provide a copy of the notice to all customers of the utility affected by the proposed rate change, to the appropriate offices of each municipality affected by the proposed rate change, and to the Office of Public Utility Counsel.

(B) Notice must be provided using the commission-approved form and must include a description of the process by which a ratepayer may file a protest under TWC §13.1871(i).

(C) The notice must state the docket number assigned to the rate application. Prior to providing notice, a Class B or C utility, or a Class D utility filing under TWC §13.1872(c)(2), must file a request for the assignment of a docket number for the rate application.

(D) Notices to affected ratepayers may be mailed separately, e-mailed (if the customer has agreed to receive communications electronically), or may accompany customer billings.

(E) Notice is considered to be completed upon mailing, e-mailing (if the customer has agreed to receive communications electronically), or hand delivery.

(2) Notice of the hearing. After the rate application is set for a hearing, the following notice requirements apply.

(A) The commission will give reasonable notice of the prehearing conference, including notice to the governing body of each affected municipality and county. The commission may require the utility to provide this notice. The commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice for the prehearing conference, including notice to the governing body of each affected municipality and county.

(B) A Class B utility must mail notice of the prehearing conference to each affected ratepayer at least 20 days before the prehearing conference.

(C) A Class C utility, or a Class D utility filing under TWC §13.1872(c)(2), must mail, e-mail, or hand deliver notice of the prehearing conference to each affected ratepayer at least 20 days before the prehearing conference.

(D) A notice provided under subparagraph (B) or (C) of this paragraph must include a description of the process by which a ratepayer may intervene in the proceeding.

(e) Line extension and construction policies. A request to approve or amend a utility's line extension and construction policy must be filed in a rate change application under TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2). The application must include the proposed tariff and other information requested by the commission. The request may be made with a request to change one or more of the utility's other rates.

(f) Capital improvements surcharge. In a rate proceeding under TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2), the commission may approve a surcharge to collect funds for capital improvements necessary to provide facilities capable of providing continuous and adequate utility service, and for the preparation of design and planning documents.

(g) Debt repayments surcharge. In a rate proceeding under TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2), the commission may approve a surcharge to collect funds for debt repayments and associated costs, including funds necessary to establish contingency funds and reserve funds. Surcharge funds may be collected to meet all the requirements of the Texas Water Development Board regarding financial assistance from the Safe Drinking Water Revolving Fund.

§24.28. Review of Test Year.

(a) Applicability This section applies to a utility that elects to use a combined test year or a future test year under §24.26 of this title (relating to Test Year) and whose application was processed to a final decision and approval of a tariff by the commission.

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

(1) Actual test year results- for a utility that selected a combined test year or future test year in its most recent base rate proceeding, the utility's actual costs and revenues incurred during the test year.

(2) Fair return- the utility's overall rate of return established by the commission in the utility's most recently completed base rate proceeding.

(3) Projected test year data- any combined test year or future test year information used to establish a utility's rates in the utility's most recently completed base rate proceeding. At a minimum, such data must include:

(A) capital projects, including construction work in progress (CWIP) established by the utility to be used and useful through the end of the test year in accordance with §24.41 of this title (relating to Cost of Service);

(B) allocation and rate design information, including billing determinants;

(C) rate base information and underlying methodologies used for forecasted amounts (e.g., accumulated deferred income taxes and accumulated depreciation); and

(D) expense information (e.g., operations and maintenance expense, depreciation, and taxes including federal income tax).

(c) Post-test year report. A utility that selected a combined test year or future test year and whose application was processed to a final decision and approval of a tariff by the commission or its successor in interest must comply with this subsection, as applicable. The information required under this subsection must be filed in the commission-assigned compliance docket opened for that purpose.

(1) The written statement required under subparagraph (2)(A) of this subsection must be included as an attachment to or incorporated by reference into the utility's next annual report required by §24.129 of this title; and

(2) No later than the 30th day after the last day of the last quarter of the combined test year or the future test year the utility must:

(A) file a written statement that:

(i) describes the utility's actual cost and revenue results experienced in the test year being reported; and

(ii) includes appropriate data to demonstrate the accuracy of the projected test year data against the utility's actual results, including any necessary comparative analyses, testimony, workpapers, or other supporting documentation;

(B) serve a copy of the written statement described under subparagraph (A) of this paragraph on the persons that were parties of record at the conclusion of the rate proceeding in which the final rate determination using the combined test year or the future test year was entered; and

(C) either file proof of notice in the form of an affidavit or include a certificate of service that states notice was properly served on all parties of record in the rate proceeding corresponding to the compliance docket in accordance with subparagraph (B) of this subparagraph.

(3) A utility or its successor in interest that does not have the actual test year results required to perform the actions listed under paragraph (2) of this subsection by the specified date must:

(A) file a written notice with the commission that:

(i) states the date on which the results or data will be available;

(ii) provides a list of the results or data that are unavailable; and

(iii) includes a brief explanation of why the results or data are unavailable;

(B) perform the actions specified by paragraph (1) of this subsection as soon as possible after the results or data are available, but no later than the 90th day after the last day of the last quarter of the combined test year or the future test year.

(d) Retrospective analysis of combined test year or future test year.

(1) General requirements for utility retrospective analysis.

(A) A utility must file a retrospective analysis in its next base rate proceeding.

(B) A utility's actual test year results must be presented in a manner consistent and comparable with its projected test year data.

(2) Contents of retrospective analysis. A retrospective analysis must include:

(A) a full accounting of the utility's projected test year data presented in its immediately previous base rate case compared to its actual test year results using the information provided in the utility's post-test year report required under subsection (c) of this section;

(B) information regarding the utility's actual rate of return earned during the test year that enables the commission to determine whether the utility's actual test year results yielded a fair return on its invested capital used and useful in rendering service to the public;

(C) the docket number of the compliance docket in which the utility filed its post-test year report; and

(D) a description and quantification of events that occurred during the test year that impacted the utility's actual test year results which may include:

(i) events affecting service to critical customers;

(ii) natural disasters or other system emergencies that result in conditions on the utility's system that were likely to result in imminent, significant disruption of service to customers or were likely to endanger life or property;

(iii) unplanned circumstances that affected or were likely to affect continuous and adequate service or otherwise resulted in deviation from its projected test year data; and

(iv) other circumstances resulting in a deviation from its projected test year data.

(e) Commission review of forecasts or projections. The commission will review a utility's retrospective analysis described under subsection (d) exclusively in the docket assigned to the utility's base rate case and in the manner described by this subsection.

(1) Scope of review.

(A) The commission will review the utility's retrospective analysis and actual revenues to determine whether:

(i) the utility's projected test year data, in comparison to the utility's actual test year results, resulted in rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public; and

(ii) the approximate magnitude of any excess revenues collected.

(B) The commission may review the utility's retrospective analysis and actual revenues to:

(i) determine whether the utility's projected test year data reasonably aligned with the utility's actual test year results, accounting for all mitigating factors described under subsection (d)(2)(D) of this section that are provided by the utility; or

(ii) identify any rate base items that were not used and useful in providing service to customers through the end of the test year, including any attendant impacts on expenses or rates.

(2) Procedural schedule.

(A) The presiding officer will account for a retrospective analysis in the procedural schedule for a base rate proceeding, including the appropriate scope of discovery.

(B) The presiding officer may open a compliance docket to effectuate a refund under subsection (f) of this section.

(3) Commission action.

(A) Upon a finding that a utility's actual test year results yielded more than a fair return under subparagraph (1)(A) of this subsection, the commission will order a refund in accordance with subsection (f) of this subsection.

(B) The commission will perform any other action necessary to ensure just and reasonable rates at the conclusion of a retrospective analysis or the contemporaneous base rate proceeding, as determined by the presiding officer.

(4) Additional information. The presiding officer may require the utility to provide additional documentation necessary to evaluate the retrospective analysis under this subparagraph, including additional data, studies, or other information.

(f) Refund.

(1) If the commission determines a refund is required in accordance with subsection (e)(3)(A) of this section, the commission will:

(A) determine the rate for the utility that would have yielded a fair return on the utility's invested capital used and useful in rendering service to the public and require a refund to customers, which must include carrying costs; and

(B) require the utility to refund to customers the difference between the revenues collected and the revenues that would have been collected under the rates that would have yielded a fair return plus any carrying costs.

(2) The commission will determine the form and manner of a refund in accordance with this paragraph.

(A) Earnings that exceed a utility's fair return must be separately tracked as a regulatory liability.

(B) With regard to any allocations or rate design treatment, a refund under this subsection must be applied among customers in a manner reasonably proportional to the magnitude in which the excessive rates were collected relative to rates that would have yielded a fair return.

(3) Carrying costs for a refund will be determined in accordance with this clause:

(A) For the time period beginning with the date on which over-recovery is determined to have begun to the effective date of the new base rates, carrying costs must be calculated using the same

rate of return that was applied to the investments in the utility's base rate proceeding that resulted in the over-recovery.

(B) For the time period beginning with the effective date of the new base rates, carrying costs must be calculated using the utility's rate of return authorized in the base rate proceeding.

§24.41. Cost of Service.

(a) Components of cost of service. Rates are based upon a utility's cost of rendering service. The two components of cost of service are allowable expenses and return on rate base.

(b) Allowable expenses. Only those expenses that are reasonable and necessary to provide service to the ratepayers may be included in allowable expenses. In computing a utility's allowable expenses, only the utility's test year expenses will be considered. A change in rates must be based on a test year as defined in §24.3 of this title (relating to Definitions of Terms) and, as applicable, comply with the requirements of §24.26 (relating to Test Year). Payments to affiliated interests for costs of service, or any property, right, or thing, or for interest expense are not allowed as an expense for cost of service except as provided in Texas Water Code (TWC) §13.185(e).

(1) Components of allowable expenses. Allowable expenses, to the extent they are reasonable and necessary, may include, but are not limited to, the following general categories:

(A) Operations and maintenance expense incurred in furnishing normal utility service and in maintaining utility plant used by and useful to the utility in providing such service.

(B) Depreciation expense based on original cost and computed on a straight-line basis over the useful life of the asset as approved by the commission.

(i) Depreciation expense is allowed on all depreciable utility property owned by the utility, including CWIP reasonably projected to be in service during a combined test year or future test year, and depreciable utility plant, property and equipment retired by the utility, subject to the requirements of subparagraph (c)(2)(C) of this section. Depreciation expense is not allowed for property provided under explicit customer agreements or funded by customer contributions in aid of construction. Depreciation expense is allowed for all developer or governmental entity contributed property. A utility must calculate depreciation on a straight-line basis over the expected or remaining life of the asset, but is not required to use the remaining life method if salvage value is zero. A utility that does not use group depreciation and proposes to change the useful life of an asset with an accumulated depreciation balance must not change the accumulated depreciation balance and must adjust depreciation expense going forward based on the changed useful life.

(ii) The depreciation accrual for all assets must account for expected net salvage value in the calculation of the depreciation rate and actual net salvage value related to retired plant. The utility must submit sufficient evidence with the application establishing that the estimated salvage value, including removal costs, is reasonable. For a utility that uses group accounting, salvage value will be applied to the asset group in depreciation studies. For a utility that uses itemized accounting, salvage value will be applied to specific assets

(C) Assessments and taxes other than income taxes.

(D) Federal income taxes on a normalized basis. Federal income taxes must be computed according to the provisions of TWC §13.185(f), if applicable.

(E) Funds expended in support of membership in professional or trade associations, provided such associations contribute toward the professionalism of their membership.

(F) Advertising, contributions and donations. The actual test year expenditures for advertising, contributions, and donations may be allowed as a cost of service provided that the total sum of all such items allowed in the cost of service must not exceed three-tenths of 1.0% (0.3%) of the gross receipts of the utility for services rendered to the public. The following expenses are the only expenses that may be included in the calculation of the three-tenths of 1.0% (0.3%) maximum:

(i) funds expended advertising methods of conserving water;

(ii) funds expended advertising methods by which the consumer can achieve a savings in total utility bills; and

(iii) funds expended advertising water quality protection.

(G) Credit card and electronic payment processing fees. Expenditures or fees charged by banks or companies for accepting and processing credit card, debit card or other forms of electronic payment from customers for water and sewer utility service may be allowed as a cost of service.

(c) Return on rate base. The return on rate base is the rate of return times rate base.

(1) Rate of return. The commission will allow each utility a reasonable opportunity to earn a reasonable rate of return, which is expressed as a percentage of invested capital, and will fix the rate of return in accordance with the following principles.

(A) The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

(B) The commission will consider the utility's cost of capital, which is the composite of the cost of the various classes of capital used by the utility.

(i) Debt capital. The cost of debt capital is the actual cost of debt, plus adjustments for premiums, discounts, and refunding and issuance costs.

(ii) Equity capital. For companies with ownership expressed in terms of shares of stock, equity capital commonly consists of the following classes of stock.

(I) Common stock capital. The cost of common stock capital must be based upon a fair return on its value.

(II) Preferred stock capital. The cost of preferred stock capital is its annual dividend requirement, if any, plus an adjustment for premiums, discounts, and cost of issuance.

(C) The commission will consider the efforts and achievements of the utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management, along with other relevant conditions and practices.

(D) The commission may consider inflation, deflation, the growth rate of the service area, and the need for the utility to attract new capital.

(2) Rate base. The rate of return is applied to the rate base. Assets retired before June 19, 2009, must be removed from rate base before the rate of return is applied to the rate base. Components to be included in determining the rate base are as follows:

(A) If a utility or its facilities were valued using the process for establishing fair market value in Texas Water Code (TWC) §13.305, the dollar value of the "ratemaking rate base," as defined in TWC §13.305(a)(2) and §24.238(b)(4) of this title, relating to Fair Market Valuation, less accumulated depreciation.

(B) Original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility during the test year in providing service.

(C) Original cost, less net salvage and accumulated depreciation at the date of retirement, of depreciable utility plant, property and equipment retired by the utility.

(i) For original cost under this subparagraph or subparagraph (B) of this paragraph, the commission may adjust rate base and the rate of return on equity associated with the cost of plant and equipment that has been estimated by trending studies or other methods not based on or verified by historical records.

(ii) Original cost in this subparagraph or subparagraph (B) of this paragraph is the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it was dedicated to public use, whether by the utility that is the current owner or by a predecessor. Assets may be booked in itemized or group accounting, but all accounting for assets and their retirements must be supported by an approved accounting system.

(iii) On all assets retired from service, the original cost of an asset must be the book cost less net salvage value. If a utility calculates annual depreciation expense for an asset with allowance for salvage value, then it must account for the actual salvage amounts when the asset is actually retired. The utility must include the actual salvage calculation in its net plant calculation in the first full rate change application, excluding alternative rate method applications as described in §24.75 of this title, relating to Alternative Rate Methods, it files after the date on which the asset was removed from service, even if it was not retired during the test year. Recovery of investment on assets retired from service before the estimated useful life or remaining life of the asset must be combined with over-accrual of depreciation expense for those assets retired after the estimated useful life or remaining life and the net amount must be amortized over a reasonable period of time taking into account prudent regulatory principles.

(iv) Accelerated depreciation is not allowed.

(v) For a utility that uses group accounting, all mortality characteristics, both life and net salvage, must be supported by an engineering or economic based depreciation study for which the test year for the depreciation is no more than five years old in comparison to the rate case test year. The engineering or economic based depreciation study must include:

- (I) investment by homogenous category;
- (II) expected level of gross salvage by category;
- (III) expected cost of removal by category;
- (IV) the accumulated provision for depreciation as appropriately reflected on the company's books by category;
- (V) the average service life by category;
- (VI) the remaining life by category;
- (VII) the Iowa Dispersion Pattern by category;

and

(VIII) a detailed narrative identifying the specific factors, data, criteria and assumptions that were employed to arrive at the specific mortality proposal for each homogenous group of property.

(vi) Reserve for depreciation under this subparagraph or subparagraph (B) of this paragraph is the accumulation of recognized allocations of original cost, representing recovery of initial investment, over the estimated useful life or remaining life of the asset. Depreciation must be computed on a straight-line basis over the expected useful life or remaining life of the item or facility regardless of whether the salvage value is zero or not zero.

(I) If individual accounting is used, the following requirements apply to retirements:

(-a-) Accumulated depreciation must be calculated based on book cost less net salvage value of the asset.

(-b-) The utility must provide evidence establishing the original cost of the asset, the cost of removal, salvage value, any other amounts recovered; the useful life of the asset, or remaining life as may be appropriate; the date the asset was taken out of service; and the accumulated depreciation up to the date it was taken out of service.

(-c-) The utility must show that it used due diligence in recovering maximum salvage value of a retired asset.

(-d-) The utility must continue booking depreciation expense until the asset is actually retired, and the reserve for depreciation must include any additional depreciation expense accrued past the estimated useful or remaining life of the asset.

(-e-) The retirement of a plant asset from service is accounted for by crediting the book cost to the utility plant account in which it is included. Accumulated depreciation must also be debited with the original cost and the cost of removal and credited with the salvage value and any other amounts recovered.

(-f-) Retired assets must be specifically identified.

(-g-) The requirements relating to the accounting for the reasonableness of retirement decisions for individual assets and the net salvage value calculations for individual assets apply only to a utility using itemized accounting.

(II) For a utility that uses group accounting, the depreciation study must provide the information in subclause (I) except that retirements may be accounted for by category. Retired assets must be reported for the asset group in depreciation studies.

(III) TWC §13.185(e) applies to utility business transactions with affiliated interests involved in the retirement, removal, or recovery of assets.

(IV) For assets retired after June 19, 2009, the retired assets must be included in the utility's first application for a rate change after the date the asset was retired and must be specifically identified if the utility uses itemized accounting.

(vii) the original cost of plant, property, and equipment acquired from an affiliated interest may not be included in invested capital except as provided in TWC §13.185(e);

(viii) utility property funded by written customer agreements or customer contributions in aid of construction such as surcharges must not be included in original cost or invested capital.

(D) Working capital allowance to be composed of, but not limited to the following:

(i) reasonable inventories of materials and supplies held specifically for purposes of permitting efficient operation of the utility in providing normal utility service.

(ii) reasonable prepayments for operating expenses. Prepayments to affiliated interests are subject to the standards set forth in TWC §13.185(e); and

(iii) a reasonable allowance for cash working capital. The following will apply in determining the amount to be included in invested capital for cash working capital:

(I) Cash working capital for utilities must not exceed one-eighth of total annual operations and maintenance expense, excluding amounts charged to operations and maintenance expense for materials, supplies, fuel, and prepayments.

(II) For Class C and Class D utilities, one-eighth of operations and maintenance expense excluding amounts charged to operations and maintenance expense for materials, supplies, expenses recovered through a pass-through provision or through charges other than base rate and gallonage charges, and prepayments will be considered a reasonable allowance for cash working capital.

(III) For Class B utilities, one-twelfth of operations and maintenance expense excluding amounts charged to operations and maintenance expense for materials, supplies, expenses recovered through a pass-through provision or charges other than base rate and gallonage charges, and prepayments will be considered a reasonable allowance for cash working capital.

(IV) For Class A utilities, a reasonable allowance for cash working capital, including a request of zero, will be determined by the use of a lead-lag study. A lead-lag study will be performed in accordance with the following criteria:

(-a-) The lead-lag study will use the cash method. All non-cash items, including but not limited to depreciation, amortization, deferred taxes, prepaid items, and return, including interest on long-term debt and dividends on preferred stock, will not be considered.

(-b-) Any reasonable sampling method that is shown to be unbiased may be used in performing the lead-lag study.

(-c-) The check clear date, or the invoice due date, whichever is later, will be used in calculating the lead-lag days used in the study. In those cases where multiple due dates and payment terms are offered by vendors, the invoice due date is the date corresponding to the terms accepted by the utility.

(-d-) All funds received by the utility except electronic transfers will be considered available for use no later than the business day following the receipt of the funds in any repository of the utility, e.g., lockbox, post office box, branch office. All funds received by electronic transfer will be considered available the day of receipt.

(-e-) The balance of cash and working funds included in the working cash allowance calculation will consist of the average daily bank balance of all non-interest bearing demand deposits and working cash funds.

(-f-) The lead on federal income tax expense must be calculated by measurement of the interval between the midpoint of the annual service period and the actual payment date of the utility.

(-g-) If the cash working capital calculation results in a negative amount, the negative amount must be included in rate base.

(V) If cash working capital is required to be determined by the use of a lead-lag study under subclause (IV) of this clause and either the utility does not file a lead-lag study or the utility's lead-lag study is determined to be unreliable, in the absence of persuasive evidence that suggests a different amount of cash working capital, zero will be presumed to be the reasonable level of cash working capital.

(VI) A lead lag study completed within five years of the application for a rate or tariff change is adequate for determining

cash working capital unless sufficient persuasive evidence suggests that the study is no longer valid.

(VII) Operations and maintenance expense does not include depreciation, other taxes, or federal income taxes, for purposes of subclauses (I), (II), (III) and (V) of this clause.

(3) Deduction of certain items from rate base. In the consideration of applications filed under TWC §13.187 or §13.1871, the commission will deduct certain items from rate base, including but not limited to the following:

(A) accumulated reserve for deferred federal income taxes;

(B) unamortized investment tax credit to the extent allowed by the Internal Revenue Code;

(C) contingency and property insurance reserves;

(D) contributions in aid of construction; and

(E) other sources of cost-free capital, as determined by the commission.

(4) Construction work in progress (CWIP).

(A) This subparagraph applies to a utility that elects to use a historic test year or to a utility that elects to use a combined test year or future test year for CWIP that the utility projects to not be in service through the end of the test year. The inclusion of CWIP is an exceptional form of relief that must be proven by clear and convincing evidence. Under ordinary circumstances, the rate base consists only of those items that are used and useful in providing service to the public. Under exceptional circumstances, the commission may include CWIP in rate base to the extent that the utility has proven that:

(i) the inclusion is necessary to the financial integrity of the utility; and

(ii) major projects under construction have been efficiently and prudently planned and managed.

(B) This subparagraph applies to a utility that elects to use a combined test year or a future test year that projects CWIP to be in service through the end of its selected test year.

(i) The commission will review CWIP to determine the extent the utility projects some or all of CWIP to be in service through the end of the combined test year or future test year.

(ii) CWIP that the utility projects will be in service by the end of the combined test year or the future test year will be included in rate base. The utility has the burden of proving that CWIP is reasonably projected to be in service (i.e., installed) through the end of the combined test year or future test year;

(5) Requirements for post-test year adjustments.

(A) A post-test year adjustment to test year data for known and measurable rate base additions may be considered only if:

(i) the addition represents a plant which would appropriately be recorded for investor-owned utilities in National Association of Regulatory Utility Commissioners (NARUC) account 101 or 102;

(ii) the addition comprises at least 10% of the utility's requested rate base, exclusive of post-test year adjustments and CWIP;

(iii) the addition is in service before the rate year begins;

(iv) the attendant impacts on all aspects of a utility's operations, including but not limited to, revenue, expenses and invested capital, can with reasonable certainty be identified, quantified and matched. Attendant impacts are those that reasonably result as a consequence of the post-test year adjustment being proposed; and

(v) the test year is a historic test year.

(B) Each post-test year plant adjustment described by subparagraph (A) of this paragraph will be included in rate base at the reasonable test year-end CWIP balance, if the addition is constructed by the utility, or the reasonable price, if the addition represents a purchase, subject to original cost requirements, as specified in TWC §13.185.

(C) Post-test year adjustments to historical test year data for known and measurable rate base decreases will be allowed only if:

(i) the decrease represents:

(I) plant which was appropriately recorded in NARUC account 101 or 102;

(II) plant held for future use;

(III) CWIP, not including mirror CWIP; or

(IV) an attendant impact of another post-test year adjustment.

(ii) the decrease represents a plant that has been removed from service, sold, or removed from the utility's books prior to the rate year; and

(iii) the attendant impacts on all aspects of a utility's operations, including but not limited to, revenue, expenses and invested capital, can with reasonable certainty be identified, quantified and matched. Attendant impacts are those that reasonably result as a consequence of the post-test year adjustment being proposed.

(d) Recovery of positive acquisition adjustments.

(1) When a utility acquires plant, property, or equipment for which commission approval is required under §24.239 of this title, relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease or Rental, a positive acquisition adjustment will be allowed to the extent that the acquiring utility proves that:

(A) the property is used and useful in providing retail water or sewer service at the time of the acquisition or as a result of the acquisition;

(B) reasonable, prudent, and timely investments will be made, if required, to bring the system into compliance with all applicable rules and regulations;

(C) as a result of the transaction:

(i) the customers of the system being acquired will receive higher quality or more reliable retail water or sewer service or that the acquisition was necessary so that customers of the acquiring utility's other systems could receive higher quality or more reliable retail water or sewer service;

(ii) regionalization of retail public utilities, meaning a pooling of financial, managerial, or technical resources that achieve economies of scale or efficiencies of service, was achieved; or

(iii) the acquiring utility will become financially stable and technically sound as a result of the acquisition, or the system being acquired that is not financially stable and technically sound will become a part of a financially stable and technically sound utility;

(D) any and all transactions between the buyer and the seller entered into as a part or condition of the acquisition are fully disclosed to the commission and were conducted at arm's length;

(E) the actual purchase price is reasonable in consideration of the condition of the plant, property, and equipment being acquired; the impact on customer rates if the acquisition adjustment is granted; the benefits to the customers; and the amount of contributions in aid of construction in the system being acquired; and

(F) the rates charged by the acquiring utility to its pre-acquisition customers will not increase unreasonably because of the acquisition.

(2) The owner of the acquired retail public utility and the final acquiring utility must not be affiliated. In a multi-stage transaction in which a purchase of voting stock or acquisition of controlling interest transaction under §24.243 of this title, relating to Purchase of Voting Stock or Acquisition of Controlling Interest in a Utility, is followed by a transfer of assets in what is essentially a single sales transaction, a positive acquisition adjustment is allowed only where the multi-stage transaction was fully disclosed to the commission in the application for approval of the initial stock or change of controlling interest transaction.

(3) The amount of the acquisition adjustment approved by the regulatory authority must be amortized using a straight-line method over a period equal to the weighted average remaining useful life of the acquired plant, property, and equipment, at an interest rate equal to the rate of return determined under subsection (c) of this section. The acquisition adjustment may be treated as a surcharge and may be recovered using non-system-wide rates.

(4) The authorization for and the amount of an acquisition adjustment will be determined only as a part of a rate change application.

(5) The acquisition adjustment will be included in rates only as a part of a rate change application.

(e) Negative acquisition adjustment. When a utility acquires plant, property, or equipment under §24.239 of this title, relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease or Rental, and the original cost of the acquired property less depreciation exceeds the actual purchase price, the utility must record the negative acquisition adjustment separately from the original cost of the acquired property. For purposes of ratemaking, the following will apply:

(1) If a utility acquires plant, property, or equipment from a nonfunctioning retail public utility through a sale, transfer, or merger, receivership, or the utility is acting as a temporary manager, a negative acquisition adjustment must be recorded and amortized on the utility's books with no effect on the utility's rates.

(2) If a utility acquires plant, property, or equipment from a retail public utility through a sale, transfer, or merger and paragraph (1) of this subsection does not apply, the commission may recognize the negative acquisition adjustment in the ratemaking proceeding, by ordering the amortization of the negative acquisition adjustment through a bill credit for a defined period of time or by other means determined appropriate by the commission. Except for good cause found by the commission, the negative acquisition adjustment will not be used to reduce the balance of invested capital.

(3) Notwithstanding paragraph (2) of this subsection, the acquiring utility may show cause as to why the commission should not account for the negative acquisition adjustment in the ratemaking proceeding.

(f) Subsections (d) and (e) of this section do not apply to plant, property, or equipment acquired through a transaction based on the fair market valuation process set forth in §24.238 of this title, relating to Fair Market Valuation.

(g) Intangible assets will not be allowed in rate base unless the requirements in paragraphs (1), (2) and (3) of this subsection are met. If the requirements in paragraphs (1) and (2) of this subsection are met, but the requirement in paragraph (3) of this subsection is not met, the amount will be amortized over a reasonable period and the amortization will be allowed in the cost of service as a non-recurring expense. Unamortized amounts will not be included in rate base. The requirements are as follows:

(1) The amount requested has been verified by documentation as to amount and exact nature;

(2) Testimony establishes the reasonableness and necessity and benefit of the expense to the customers; and

(3) Testimony establishes how the amount is properly considered an actual asset purchased or installed, or a source of supply, such as water rights.

§24.43. Rate Design.

(a) General. In fixing the rates of a utility, the commission shall fix its overall revenues at a level which will permit such utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses (unless an alternative rate method is used as set forth in §24.75 of this title (relating to Alternative Rate Methods), and preserve the financial integrity of the utility.

(b) Conservation.

(1) In order to encourage the prudent use of water or promote conservation, water and sewer utilities shall not apply rate structures which offer discounts or encourage increased usage within any customer class.

(2) After receiving final authorization from the regulatory authority through a rate change proceeding, a utility may implement a water conservation surcharge using an inclining block rate or other conservation rate structure. A utility may not implement such a rate structure to avoid providing facilities necessary to meet the TCEQ's minimum standards for public drinking water systems. A water conservation rate structure may generate revenues over and above the utility's usual cost of service:

(A) to reduce water usage or promote conservation either on a continuing basis or in specified restricted use periods identified in the utility's approved drought contingency plan required by 30 TAC §288.20 (TCEQ rules relating to Drought Contingency Plans for Municipal Uses by Public Water Suppliers) included in its tariff in order to:

(i) comply with mandatory reductions directed by a wholesale supplier or underground water district; or

(ii) conserve water supplies, maintain acceptable pressure or storage, or other reasons identified in its approved drought contingency plan;

(B) to generate additional revenues necessary to provide facilities for maintaining or increasing water supply, treatment, production, or distribution capacity.

(3) All additional revenues over and above the utility's usual cost of service collected under paragraph (2) of this subsection:

(A) must be accounted for separately and reported to the commission, as requested; and

(B) are considered customer contributed capital unless otherwise specified in a commission order.

(c) Volume charges. Charges for additional usage above the base rate shall be based on metered usage over and above any volume included in the base rate rounded up or down as appropriate to the nearest 1,000 gallons or 100 cubic feet, or the fractional portion of the usage.

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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Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7044



CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER C. INFRASTRUCTURE AND RELIABILITY

16 TAC §25.63

The Public Utility Commission of Texas (commission) adopts new 16 Texas Administrative Code (TAC) §25.63, relating to Distribution Pole Management and Inspection Plans, with changes to the proposed text as published in the March 27, 2026, issue of the *Texas Register* (51 TexReg 1940). New §25.63 implements Public Utility Regulatory Act (PURA) §38.103, as enacted by House Bill (HB) 144 during the Texas 89th Regular Legislative Session. New §25.63 requires each electric utility, municipally owned utility, and electric cooperative that owns or operates structures operating at distribution-level voltage to file with the commission a plan for the management and inspection of those structures. Additionally, new §25.63 requires those entities to file an annual compliance update pertaining to plan implementation. This section is adopted under Project Number 59431. This rule will be republished.

The commission received written comments on the proposed section from Texas Public Power Association (TPPA), Texas Electric Cooperatives, Inc. (TEC), Lower Colorado River Authority Transmission Services Corporation (LCRA TSC), Oncor Electric Delivery Company, LLC. (Oncor), CenterPoint Energy Houston Electric, LLC. (CenterPoint), Texas-New Mexico Power Company (TNMP), American Electric Power Texas Inc. and Southwestern Electric Power Company (collectively, AEP Companies), Southwestern Public Service Company (SPS), and Entergy Texas, Inc. (ETI).

General Comments

References to "distribution asset"

TPPA recommended that the commission replace all references in proposed §25.63 to "distribution asset" with "distribution pole."

Commission Response

The commission declines to replace the references in proposed §25.63 to "distribution asset" with "distribution pole" as recommended by TPPA and instead replaces the references with "structures operating at distribution-level voltage" for consistency with the terminology proposed by the commission under §25.61 in Project Number 59432.

Duplicative reporting requirements

TEC noted that PURA §38.103(c) "allows the commission to accept substantially similar information in lieu of a separate report" and recommended that the commission "consider combining the compliance requirements of Project 59431 and Project 59432" to eliminate duplicative reporting requirements.

TNMP commented that the May 1, 2027, annual compliance update deadline in proposed §25.63 overlaps with existing annual infrastructure-related filing and reporting deadlines and recommended that the commission "align or consolidate these reporting obligations to promote efficiency and reduce unnecessary administrative burden without sacrificing the purpose of the proposal."

Commission Response

The commission declines to combine the reporting requirements of this project with the requirements under Project Number 59432 or other existing reporting requirements as recommended by TEC and TNMP. However, to assist entities in complying with §25.63, the commission adopts §25.63(f) to provide that "An entity may fulfill the requirements of {adopted §25.63(d) or (e)(2)} by submitting any information required under other law that is substantially similar to the information required by {adopted §25.63(d) or (e)(2)}. An entity utilizing {adopted §25.63(f)} must clearly identify in its filing the requirement that the submitted information is intended to fulfill and include a description of why the submitted information is substantially similar to that requirement."

Proposed §25.63(a)

Proposed §25.63(a) establishes the applicability of the section to each electric utility, municipally owned utility, and electric co-operative that owns or operates a distribution asset in this state.

TPPA and LCRA TSC recommended that the commission modify proposed §25.63(a) to mirror the applicability language in PURA §38.103 by retaining the phrase "distributes electric energy to the public." TPPA additionally recommended that the commission modify proposed §25.63(a) by deleting the phrase "or operates" and replacing the term "distribution asset" with "distribution pole."

Commission Response

The commission agrees with TPPA and LCRA TSC and modifies proposed §25.63(a) to reflect the applicability language in PURA §38.103(a) by replacing the phrase "owns or operates a distribution asset" with the phrase "distributes electric energy to the public in this state." However, the commission declines to replace the references in proposed §25.63 to "distribution asset" with "distribution pole" as recommended by TPPA. Instead, the commission replaces the references with "structures operating at distribution-level voltage" for consistency with the terminology

proposed by the commission under §25.61 in Project Number 59432.

Proposed §25.63(c)(1)(A)

Proposed §25.63(c)(1)(A) requires an entity to file an initial distribution pole management and inspection plan by January 1, 2027.

TNMP commented that the January 1, 2027, filing timeline under proposed §25.63(c)(1)(A) does not provide electric utilities with sufficient time to develop a plan that complies with this rule, the forthcoming transmission and distribution pole structural integrity standards under PURA §38.006, and other ongoing infrastructure-related rulemakings. Accordingly, TNMP recommended that the commission modify proposed §25.63(c)(1)(A) to provide "a later date that better reflects a plan development timeline."

Commission Response

The commission declines to modify the initial plan filing timeline under proposed §25.63(c)(1)(A) as recommended by TNMP because House Bill 144, §3, requires an entity to file a plan with the commission by January 1, 2027. However, to lessen the administrative obligation for entities, the commission aligns the subsequent plan filing timelines under adopted §25.63(c)(2) with the May 1 filing timeline for annual compliance updates under adopted §25.63(e).

Proposed §25.63(c)(1)(A) and (B)

Proposed §25.63(c)(1)(A) requires an entity to file an initial distribution pole management and inspection plan by January 1, 2027. Proposed §25.63(c)(1)(B) requires an entity to file subsequent distribution pole management and inspection plans by January 1 of years thereafter.

TPPA requested clarification on why proposed §25.63(c)(1)(A) and (B) would establish a January-based filing timeline when PURA §§38.006 and 38.103 both establish May-based filing timelines. TPPA recommended that the commission instead align proposed §25.63(c)(1)(A) and (B) with the May filing requirements found in statute "to avoid confusion and for administrative efficiency."

Commission Response

To more clearly delineate the initial and subsequent plan filing requirements, the commission redesignated the initial plan filing requirements under proposed §25.63(c)(1)(A) and (c)(1)(B)(i) as adopted §25.63(c)(1) and the subsequent plan filing requirements under proposed §25.63(c)(1)(B)(ii) as adopted §25.63(c)(2).

As related to the initial plan filing requirements under adopted §25.63(c)(1), the commission declines to align the January 1 timelines with the May 1 timelines established by PURA §§38.006 and 38.103 as recommended by TPPA. House Bill 144, §3, requires an entity to file a plan with the commission by January 1, 2027. Therefore, a January 1 timeline for initial plan filing is appropriate.

However, to streamline the administrative obligations associated with subsequent plan filings, the commission modifies the subsequent plan filing timelines under adopted §25.63(c)(2) to align with the May 1 annual compliance update filing timeline under adopted §25.63(e).

Proposed §25.63(c)(1)(B)(i)

Proposed §25.63(c)(1)(B)(i) requires an entity to file by January 1, 2028, either an affidavit that the entity's initial plan complies with the transmission and distribution pole structural integrity standards adopted by the commission under PURA §38.006 or a revised plan that complies with those standards.

TPPA expressed multiple concerns with the proposed requirements under §25.63(c)(1)(B)(i). First, TPPA asserted that "a MOU should not be asked to attest to compliance with standards adopted by the Commission {under PURA §38.006}, because the relevant standards are, for the MOU's purposes, those adopted by the MOU's governing body." Second, TPPA asserted that "this proposed language exceeds the scope of the rulemaking, as it includes a requirement for an attestation relating to transmission pole standards in a rule regarding distribution poles, as well as a requirement not noticed as part of the prefatory 'Statutory Authority' language in the {proposal for publication}." Accordingly, TPPA recommended that the commission modify the proposed requirements under proposed §25.63(c)(1)(B)(i) by removing the phrase "transmission and" and adding the phrase "or governing body of the electric cooperative or MOU" from both proposed §25.63(c)(1)(B)(i)(I) and (II). TPPA provided redlines consistent with its recommendations.

Commission Response

The commission disagrees with TPPA that the standards adopted by the commission are not pertinent to MOUs, because PURA §38.006(d) specifies that "The governing body of a municipally owned utility or an electric cooperative shall adopt for the utility or cooperative, as applicable, the standards adopted by the commission {emphasis added} under {PURA §38.006(b)}." However, to address TPPA's concerns, and the potential concerns of individuals required to comply with the affidavit requirement, the commission modifies all references to "standards adopted by the commission under PURA §38.006" to remove the phrase "by the commission." This more general reference ensures that this rule appropriately captures the standards adopted by the commission and those same standards as adopted by the applicable governing bodies.

The commission agrees with TPPA that the reference to transmission poles in proposed §25.63(c)(1)(B)(i)(I) and (II) is confusing in context to the distribution-specific rule and replaces the references to "the transmission and distribution pole structural integrity standards adopted by the commission under PURA §38.006" in proposed §25.63 with "the standards adopted under PURA §38.006."

AEP Companies commented that the affidavit requirement under proposed §25.63(c)(1)(B)(i) "appears to be unnecessary as compliance {with the standards adopted by the commission under PURA §38.006} could be demonstrated in the initial plan filing due by January 1, 2027." Accordingly, AEP Companies recommended that the commission modify proposed §25.63(c)(1)(B)(i) to instead require entities to submit the affidavit with their initial plan.

Commission Response

The commission declines to modify proposed §25.63(c)(1)(B)(i) to require entities to submit with their initial plan an affidavit of compliance with the standards adopted under PURA §38.006 as recommended by AEP Companies. While some entities may be able to demonstrate compliance with the standards in their initial plan as indicated by AEP Companies, the commission expects that other entities will struggle to incorporate the standards into their plans by the January 1, 2027, filing deadline.

Therefore, to alleviate compliance challenges, the commission adopts §25.63(c)(1)(A) and (B) to allow entities a one-year period to bring their initial plans into compliance with the standards adopted under PURA §38.006. If, as AEP suggests will often be the case, an entity's initial plan is in compliance with the applicable standards, it should not pose a material burden to delay filing the affidavit for one year.

Proposed §25.63(c)(1)(B)(ii)

Proposed §25.63(c)(1)(B)(ii) establishes plan filing requirements for after January 1, 2028. Specifically, proposed §25.63(c)(1)(B)(ii) requires an entity to file a revised plan by January 1 of every eighth year, starting in 2032 for electric utilities, 2034 for municipally owned utilities, and 2036 for electric cooperatives.

TPPA asserted that the requirement under proposed §25.63(c)(1)(B)(ii) for entities to file revised plans is inconsistent with the requirements of PURA §38.103 and recommended that the commission instead only require entities to submit annual updates on plan compliance, rather than additionally requiring periodic revisions to the plans themselves.

Commission Response

The commission declines to modify proposed §25.63(c)(1)(B)(ii) to remove the requirement for entities to file periodic updates to their plans and retain only an annual compliance update requirement as recommended by TPPA. While the annual compliance updates under adopted §25.63(e) will provide helpful insight into entities' year-over-year progress towards implementing their plans, the value of the information contained in those updates is directly tied to the currency of the plan itself. PURA §38.103(e) requires the commission to determine each entity's compliance with their plan objectives by reviewing each plan and annual compliance update. To ensure that the commission's determination is based on up-to-date information, it is necessary for entities to periodically update their plans.

AEP Companies expressed various concerns over the proposed plan update cycle in proposed §25.63(c)(1)(B)(ii). AEP Companies recommended that the commission modify proposed §25.63(c)(1)(B)(ii) to only require entities to file an updated plan if there are material changes to the entity's on-file plan. Alternatively, AEP Companies recommended that the commission modify proposed §25.63(c)(1)(B)(ii) to be "limited to a confirmation in the May 1 update filings, similar to {§25.53, relating to Electric Service Emergency Operations Plans}, under which utilities file annual updates and provide an attestation when no material changes have occurred."

Commission Response

The commission declines to modify proposed §25.63(c)(1)(B)(ii) to only require updates to an entity's on-file plan in response to a material change as recommended by AEP Companies. However, the commission agrees with AEP Companies that only changes to certain components of an on-file plan should trigger a required plan update. Specifically, if an entity makes changes to the scope and objectives of its plan or its methods for monitoring compliance with the plan, it must file an updated plan because accuracy of these plan components is essential for the commission's evaluation of the plan. For more operational components of the plan, such as the entity's processes for training personnel or responding to complaints, or the roles and responsibilities of the individuals responsible for carrying out the plan, an updated plan is only required for material

changes. However, an updated plan is not required for changes in cost estimates or timeline projections, because these details frequently change and such a requirement would be a de facto annual filing requirement.

Accordingly, in addition to the periodic plan update cycle established under adopted §25.63(c)(2)(A), adopted §25.63(c)(2)(B) requires entities to file a plan if, in the prior calendar year, the entity made any changes to the information under adopted §24.63(d)(2) or (3) or any material changes to the information under adopted §25.63(d)(4) through (6).

Proposed §25.63(c)(2)

Proposed §25.63(c)(2) establishes requirements for the information that an entity's plan must contain as related to the management and inspection of distribution poles.

CenterPoint requested clarification regarding whether the phrase 'distribution pole inspections,' as used under proposed §25.63(c)(2), is intended to include associated equipment such as transformers and crossarms. Additionally, CenterPoint recommended that the commission modify proposed §25.63(c)(2) to clarify that "the rule applies to distribution poles, consistent with PURA §38.103" and to either exclude associated equipment from the scope of required inspections and reporting or clarify that inspections of associated equipment are condition-based assessments and not subject to engineering compliance standards.

Commission Response

To maintain consistency between adopted §25.63 and the standards to be adopted by the commission under PURA §38.006 in Project Number 59432, the commission declines to specify in adopted §25.63 whether the distribution pole inspections referenced in proposed §25.63(c)(2) are intended to include equipment that is associated with distribution poles as recommended by CenterPoint. Further, the commission declines to specify in adopted §25.63(c)(2) that "the rule applies to distribution poles, consistent with PURA §38.103," or to discuss inspection specifications for equipment associated with distribution poles as recommended by CenterPoint. The commission instead specifies in adopted §25.63(b) that "An entity that owns or operates a structure to which the standards adopted under Public Utility Regulatory Act (PURA) §38.006 apply must file with the commission a plan for the management and inspection of structures operating at distribution-level voltage." Additionally, for consistency with the terminology proposed by the commission under Project Number 59432, the commission replaces the references in proposed §25.63 to "distribution pole" with "structures operating at distribution-level voltage."

Proposed §25.63(c)(2)(A)

Proposed §25.63(c)(2)(A) requires an entity's plan to contain a statement of the plan's scope and objectives for ensuring public safety through the effective management, inspection, maintenance, and repair of distribution poles.

TNMP recommended that the commission replace the phrase "or ensuring public safety," as used in proposed §25.63(c)(2)(A), with phrasing like "consistent with good utility practices" because the proposed language is "overly broad and potentially misleading as it suggests a guarantee of public safety akin to an insurance or indemnification obligation."

Commission Response

The commission declines to replace the phrase "or ensuring public safety" in proposed §25.63(c)(2)(A) with another phrase as recommended by TNMP because the proposed language mirrors that of PURA §38.103(b)(1).

Proposed §25.63(c)(2)(B)

Proposed §25.63(c)(2)(B) requires an entity's plan to contain a description of the roles and responsibilities of individuals responsible for overseeing and executing the plan.

SPS recommended that the commission modify proposed §25.63(c)(2)(B) to require entities to include in their plans "general job descriptions and business unit details, rather than individual contact information." SPS reasoned that, in addition to accounting for employee turnover and confidentiality concerns, a requirement for role-based descriptions "ensures continuity and accountability across plan cycles while avoiding unnecessary updates driven solely by routine personnel changes." SPS provided redlines consistent with its recommendation.

Commission Response

The commission agrees with SPS that routine personnel changes alone should not drive an entity's plan revision. However, the commission declines to replace the reference to "individuals" in proposed §25.63(c)(2)(B) with "each position or business unit" as recommended by SPS because the proposed language reflects that of PURA §38.103(b)(2). Instead, the commission specifies in adopted §25.63(d)(4) that entities must submit "A list of the roles and responsibilities of individuals responsible for overseeing and executing the plan, excluding personally identifiable information."

Proposed §25.63(c)(2)(C)

Proposed §25.63(c)(2)(C) requires an entity's plan to contain a description of the entity's processes for training and certifying personnel, including third-party vendors, who inspect distribution poles.

TPPA and CenterPoint requested clarification regarding the requirement for entities to describe their processes for training and certifying personnel, including third-party vendors, under proposed §25.63(c)(2)(C). CenterPoint recommended that the commission modify proposed §25.63(c)(2)(C) to clarify that "Utilities are not required to independently certify or audit contractor training programs" and "Compliance with this provision may be demonstrated through quality control and performance-based oversight of inspection results, rather than certification of personnel." CenterPoint reasoned that its recommendations would align the proposed rule with CenterPoint's current training and certification practices.

SPS noted that it relies on third-party vendors for "certain inspection and remediation work but does not directly certify individual vendor personnel." Accordingly, SPS requested that "Commission Staff confirm that an entity's 'processes for training and certifying personnel' should focus on training and qualification processes the entity directly controls for its own employees." Additionally, SPS noted that it does not retain third-party vendors' training and certification records and requested clarification that "the Commission does not require internal documents from third-party vendors, which may contain proprietary or sensitive information."

ETI recommended that the commission clarify that "certifying personnel does not require a utility to develop or administer a formal educational or assessment procedure resulting in a certi-

fication, or to require that its personnel (including third-party vendors) do obtain such a certification."

TNMP expressed its strong objection to the requirement in proposed §25.63(c)(2)(C). Namely, TNMP asserted that "Utilities do not train or certify third-party vendors to perform their contracted for operations. Instead, utilities retain vendors that represent and attest they are qualified to perform the services for which they are hired. While utilities may provide materials describing utility-specific requirements, system characteristics, or safety expectations, they cannot, and should not, be deemed responsible for training and/or certifying vendors for their professional contracted for duties." TNMP recommended that the commission modify proposed §25.63(c)(2)(C) by clarifying that "utilities are not mandated to train and certify third party vendors" and limiting the requirement to "(1) the criteria used to select qualified vendors; (2) the expectation that vendors meet applicable industry, safety, and professional standards; and (3) the utility's coordination with vendors to ensure consistent evaluation measures when applying inspection methodologies to the utility's system."

Commission Response

The commission recognizes commenters' concern that an entity may not directly train or certify a third-party vendor that is hired to conduct inspections of structures operating at distribution-level voltage. Accordingly, the commission specifies in adopted §25.63(d)(5) that an entity's plan must contain "A description of the entity's processes for training and certifying personnel, or for verifying the training and certification of third-party vendors {emphasis added}, who inspect structures operating at distribution-level voltage."

Proposed §25.63(c)(2)(D)

Proposed §25.63(c)(2)(D) requires an entity's plan to contain an estimated timeline for completing inspections and remedial action required for any distribution pole identified as unreliable, unsafe, or needing repair that is consistent with the transmission and distribution pole structural integrity standards adopted by the commission under PURA §38.006.

Oncor expressed concern that the phrase "identified as unreliable, unsafe, or needing repair," as used in proposed §25.63(c)(2)(D), could cause confusion if "not ultimately used and/or defined in the Commission rule that will be adopted for pole structural integrity standards." Oncor recommended that the commission modify the proposed language to instead require entities' plans to include "an estimated timeline for completing any inspections and corrective actions that may be required for any distribution pole under the pole structural integrity standards rule adopted by the Commission under PURA § 38.006." Oncor provided redlines consistent with its recommendation.

TNMP noted that utilities' estimated timelines for completing inspections and remedial actions are "inherently dependent on the final form and effective dates of other Commission rulemakings addressing transmission and distribution pole structural integrity standards." Accordingly, TNMP recommended that the commission "recognize this crossover and consider related rulemaking in any final outcomes from this proceeding."

Commission Response

The commission agrees with Oncor and TNMP and specifies in adopted §25.63(d)(7) that an entity's plan must contain "An estimated timeline for completing any inspections and corrective

actions required by the standards adopted under PURA §38.006 for structures operating at distribution-level voltage."

Proposed §25.63(c)(2)(E)

Proposed §25.63(c)(2)(E) requires an entity's plan to contain a description of the entity's processes for documenting and responding to a report or complaint made by a landowner regarding the condition or repair of a distribution pole.

CenterPoint recommended that the commission modify proposed §25.63(c)(2)(E) to clarify that "'As-you-go' inspections are excluded from the scope of required plans and reporting" and "At a minimum, entities are not required to separately track or report such activities for compliance purposes."

Commission Response

The commission declines to modify proposed §25.63(c)(2)(E) to clarify that 'as-you-go' inspections should be excluded from the scope of entities' plans or annual compliance updates as recommended by CenterPoint. Adopted §25.63(d)(7) specifies that an entity's plan must contain "An estimated timeline for completing any inspections and corrective actions required by the standards adopted under PURA §38.006 for structures operating at distribution-level voltage." Further, adopted §25.63(e)(2)(E) requires an entity's annual compliance update to include "One or more tables detailing, for the prior calendar year, the results of the entity's inspections of structures operating at distribution-level voltage under the standards adopted under PURA §38.006, including the number of structures inspected and any corrective actions taken."

TNMP commented that, because "Utilities routinely receive landowner reports or complaints that, upon investigation, reveal no unsafe or noncompliant condition requiring remediation," "Requiring reporting in all instances of landowner notification would impose unnecessary administrative burden without additional safety benefit." Accordingly, TNMP recommended that the commission modify proposed §25.63(c)(2)(E) to only require description of an entity's process for documenting and responding to those landowner reports or complaints on a distribution pole's condition that result in a work order or corrective action.

Commission Response

The commission declines to modify proposed §25.63(c)(2)(E) to only require description of an entity's process for documenting and responding to landowner reports or complaints on a distribution pole's condition that result in a work order or corrective action as recommended by TNMP because such a limitation to scope is not contemplated by PURA §38.103(b)(5).

Proposed §25.63(c)(2)(F) and (d)(2)(B)

Proposed §25.63(c)(2)(F) requires an electric utility's plan to contain the estimated cost of implementing the plan. Proposed §25.63(d)(2)(B) requires an entity's annual compliance update to include the actual costs of implementing the plan to date, presented as a total and by compliance year.

Oncor expressed concern that, if retained in the adopted rule, the requirement under proposed §25.63(c)(2)(F) would lead to inaccurate estimates of plan implementation costs because "The further out into the future that implementation costs must be projected, the less accurate those cost projections are likely to be when compared against costs that are ultimately incurred." Accordingly, Oncor recommended that the commission modify proposed §25.63(c)(2)(F) to specify that electric utilities are only required to include in their plans a one-year--or, at

most, a three-year--estimation of plan implementation costs. Oncor additionally recommended that, to balance a shorter cost estimate period in the plans, the commission modify proposed §25.63(d)(2)(B) to require entities to include in each annual compliance update an estimation of plan implementation costs for the upcoming year. Oncor reasoned that this additional reporting requirement is comparable to cost reporting requirements that electric utilities are subject to under other commission rules, including §§25.62, relating to Transmission and Distribution System Resiliency Plans, and 25.96, relating to Vegetation Management. Oncor provided redlines consistent with its recommendations.

Commission Response

The commission declines to modify proposed §25.63(c)(2)(F) or (d)(2)(B) to decouple the reporting requirements on plan implementation cost estimates and actuals from the 8-year plan update cycle as recommended by Oncor. To maintain one-to-one consistency between the information contained in an electric utility's plan and annual compliance update, adopted §25.63(d)(8) specifies that an electric utility's plan must contain "the estimated cost of implementing the plan, presented as capital expenditures, operations and maintenance (O&M) costs, and total costs for each calendar year," and adopted §25.63(e)(2)(D) specifies that entities' annual compliance updates must include "One or more tables detailing the actual costs of implementing the plan to-date, presented as capital expenditures, O&M costs, and total costs for each calendar year."

TNMP expressed concern that, in providing cost estimates under proposed §25.63(c)(2)(F) and reporting on actual costs under proposed §25.63(d)(2)(B), "Different entities may include different cost components, leading to confusion, lack of comparability, and potentially misleading outcomes." Accordingly, TNMP recommended that the commission provide "clear guidance" on standardized cost components under proposed §25.63(c)(2)(F) and (d)(2)(B).

Commission Response

The commission agrees with TNMP that the specification of standardized cost components is necessary and specifies in adopted §25.63(d)(7) and (e)(2)(D) that entities must present both plan implementation cost estimates and actuals "as capital expenditures, operations and maintenance (O&M) costs, and total costs for each calendar year."

Proposed §25.63(c)(3)

Proposed §25.63(c)(3) provides that a municipally owned utility or electric cooperative may fulfill the plan content requirements under proposed §25.63(c)(2) by submitting any information required under other law that is substantially similar to the information required by proposed §25.63(c)(2).

TEC asserted that the substantially similar language under proposed §25.63(c)(3) is "too narrow of an interpretation of PURA §38.103(c)." TEC expressed particular concern that the proposed language "limit[s] the application to only electric cooperatives and {municipally owned utilities} and limit[s] the allowable substitutions to only the information contained within a specific subsection." TEC recommended that the commission modify the proposed rule to "better reflect the statutory language" by relocating the language in proposed §25.63(c)(3) to a new §25.63(d), redesignating proposed §25.63(d) and (e) as adopted §25.63(e) and (f), and expanding the scope of the provision to all entities subject to the rule's requirements and

all information required to be submitted under the rule. TEC provided redlines consistent with its recommendations.

ETI recommended that the commission modify proposed §25.63(c)(3) to "extend the applicability of this subsection to electric utilities." ETI reasoned that this modification would "align the scope of the subsection with that of PURA §38.103(e) and would maximize the efficiencies enabled by the provision for all qualifying filings."

Commission Response

The commission agrees with TEC and ETI and expands the scope of proposed §25.63(c)(3) to provide in adopted §25.63(f) that "An entity may fulfill the requirements of {adopted §25.63(d) or (e)(2)} by submitting any information required under other law that is substantially similar to the information required by {adopted §25.63(d) or (e)(2)}." An entity utilizing this subsection must clearly identify in its filing the requirement that the submitted information is intended to fulfill and include a description of why the submitted information is substantially similar to that requirement."

Proposed §25.63(d)

Proposed §25.63(d)(1)(B) requires an entity with a plan on file with the commission under proposed §25.63(c) to file an annual compliance update not later than May 1 of each year.

TPPA commented that "it is unclear whether an entity, having submitted a full plan on January 1, would need to submit a compliance update for that plan just four months later" and reiterated its recommendation that all filings under §25.63 be made by May 1.

Commission Response

The commission agrees with TPPA that a May 1 filing timeline for both plans and annual compliance updates would streamline the administrative obligation for entities. Accordingly, the commission aligns the filing requirements for subsequent plans under adopted §25.63(c)(2) with the May 1 filing timeline for annual compliance updates under adopted §25.63(e). Entities should note that initial plans under adopted §25.63(c)(1) are still subject to a January 1 filing timeline for consistency with the requirement under HB 144, §3.

Proposed §25.63(d)(1)(B)

Proposed §25.63(d)(1)(B) requires an electric utility's annual compliance update to include both the information required under proposed §25.63(d) and the information required under §25.94, relating to Report on Infrastructure Improvement and Maintenance.

Oncor recommended that the commission clarify the overlap in reporting expectations between §§25.63 and 25.94 by repealing §25.94, relating to Infrastructure Improvement and Maintenance Report, and replacing the reference to §25.94 in proposed §25.63(d)(1)(B) with a reference to PURA §38.101. Oncor provided redlines consistent with its recommendation. Oncor alternatively recommended that the commission revise §25.94 to "clarify that all information required thereunder should be reported in the May 1st report required under new §25.63," or that commission staff issue a memo "expressly setting forth this expectation for consolidated reporting."

Commission Response

The commission declines to repeal or revise §25.94, relating to Infrastructure Improvement and Maintenance, in this rulemaking

project as recommended by Oncor because §25.94 is not a noticed rule section in the proposal for publication approved in this rulemaking project.

SPS noted that "cost reporting under § 25.63(d)(2)(B) that includes work executed through other programs which also have associated reporting may result in duplicative reporting of these costs" and recommended that the commission modify proposed §25.63(d)(1)(B) to "expressly permit incorporation by reference any required contents that are already reported under another substantive Commission rule." SPS provided redlines consistent with its recommendation.

Commission Response

The commission agrees with SPS that an entity with substantially similar information on file with the commission should be able to utilize that information to meet the requirements under §25.63. However, the commission declines to modify proposed §25.63(d)(1)(B) to "expressly permit incorporation by reference any required contents that are already reported under another substantive Commission rule." Instead, the commission adopts §25.63(f) to provide that "An entity may fulfill the requirements of {adopted §25.63(d) or (e)(2)} by submitting any information required under other law that is substantially similar to the information required by {adopted §25.63(d) or (e)(2)}." An entity utilizing this subsection must clearly identify in its filing the requirement that the submitted information is intended to fulfill and include a description of why the submitted information is substantially similar to that requirement."

Proposed §25.63(d)(2)(B)

Proposed §25.63(d)(2)(B) requires an entity's annual compliance update to include the actual costs of implementing the plan to date, presented as a total and by compliance year.

SPS requested that the commission clarify the scope of the phrase "actual costs of implementing the plan to date," as used in proposed §25.63(d)(2)(B), including whether the commission intends for entities to report on direct plan implementation costs--such as inspection labor, contractor inspection costs, program management, data collection/recordkeeping, and related overhead--or costs for pole remediation, reinforcement, and replacement that may be tracked under separate work orders.

SPS additionally recommended that the commission modify proposed §25.63(d)(2)(B) to provide entities with "flexibility to report costs at a practicable level of aggregation (e.g., total and by compliance year) using reasonable utility accounting and work-order practices, rather than requiring pole-by-pole cost assignment where work is bundled across multiple assets or programs." SPS reasoned that "Such flexibility would promote transparent reporting while maintaining consistency with auditable utility accounting and project-tracking practices."

Commission Response

The commission agrees with SPS and clarifies the intended granularity of plan implementation cost reporting by specifying in adopted §25.63(e)(2)(D) that entities must present cost actuals as "capital expenditures, operations and maintenance (O&M) costs, and total costs for each calendar year."

The commission declines to modify proposed §25.63(d)(2)(B) to specify that entities must report actual costs "using reasonable utility accounting and work-order practices, rather than requiring pole-by-pole cost assignment," as recommended by SPS because it is unnecessary. Under adopted 25.63(e)(2), an entity

is not required to provide information on a pole-by-pole basis, either as related to cost assignment or reporting on inspection activities.

Proposed §25.63(d)(2)(C)

Proposed §25.63(d)(2)(C) requires an entity's annual compliance update to include the results of the entity's distribution pole inspections, including the total number of poles inspected; the number of poles inspected and identified as needing remediation, accompanied by an indication of the necessary remedial action and the entity's progress towards completing the action for each pole; the number of poles inspected and identified as needing replacement, accompanied by an indication of the entity's progress towards replacing each pole; and the number of poles inspected and identified as a danger pole, accompanied by an indication of the entity's progress towards making safe and replacing each pole.

Oncor expressed concern that the granularity of reporting detail required under proposed §25.63(d)(2)(C) would result in "an extremely time consuming, unduly burdensome, and voluminous reporting effort" for entities. Oncor additionally expressed concern that "there could be confusion if the terms in {proposed} §25.63(d)(2)(C)(ii)-(iv) differ from the terms used for required corrective actions under the pole structural integrity standards rule to be adopted by the Commission {under PURA §38.006}." Accordingly, Oncor recommended that the commission delete the requirements under proposed §25.63(d)(2)(C)(ii) through (iv) and instead require, as adopted §25.63(c)(2)(D)(ii), entities to include in their annual compliance updates "a table summarizing the number of poles inspected and identified as falling within each category of corrective action specified in the pole structural integrity standards adopted by the commission under PURA §38.006, accompanied by a statement for each category of corrective action summarizing the entity's overall progress towards completing the corrective action for the poles within that category." Oncor provided redlines consistent with its recommendations.

Commission Response

The commission agrees with Oncor and adopts §25.63(e)(2)(E) to require an entity's annual compliance update to include "One or more tables detailing, for the prior calendar year, the results of the entity's inspections of structures operating at distribution-level voltage under the standards adopted under PURA §38.006, including the number of structures inspected and any corrective actions taken."

Proposed §25.63(d)(2)(C)(iv)

Proposed §25.63(d)(2)(C)(iv) requires an entity's annual compliance update to include the number of poles inspected and identified as a danger pole, accompanied by an indication of the entity's progress towards making safe and replacing each pole.

AEP Companies noted that the term 'danger pole,' as used in proposed §25.63(d)(2)(C)(iv), is not included in PURA §38.103, defined in the proposed rule, or consistently used by entities to describe pole condition and replacement prioritization. Accordingly, AEP Companies recommended that the commission "clearly define" the term 'danger pole' to "ensure consistent interpretation and reporting across utilities."

SPS recommended that the commission modify proposed §25.63(d)(2)(C)(iv) to "expressly allow utilities to report utility poles constituting 'danger poles' using their currently established internal classifications and operational workflows." SPS

reasoned that "Clarifying that a danger pole may be reported using a utility's equivalent emergency designation would promote consistent and accurate reporting while preserving risk-based remediation practices."

Commission Response

The commission agrees with AEP Companies and SPS that the term 'danger pole,' as used in proposed §25.63(d)(2)(C)(iv), is unclear. However, rather than defining the term or specifying that an entity should utilize in their annual compliance update a "comparable classification" as recommended by commenters, the commission removes all references to the term from adopted §25.63. Instead, under adopted §25.63(e)(2)(E), an entity's annual compliance update must include "One or more tables detailing, for the prior calendar year, the results of the entity's inspections of structures operating at distribution-level voltage under the standards adopted under PURA §38.006, including the number of structures inspected and any corrective actions taken."

Proposed §25.63(e)

Proposed §25.63(e) provides that commission staff will review each entity's plan and annual compliance update to determine compliance with the plan objectives under proposed §25.63(c)(2)(A) and issue notice of its determination to the submitting entity and to the commission.

TPPA asserted that the commission staff-led compliance review process under proposed §25.63(e) "does not satisfy the legislative directive" of PURA §38.103 and recommended that the commission modify the proposed language to provide that, while commission staff will offer a proposed determination on an entity's compliance, the commission will issue the final determination. TPPA provided redlines consistent with its recommendation. TPPA additionally recommended that the commission adopt procedural rules for how the commission will make a compliance determination, including whether existing contested case procedures will apply.

Oncor asserted that the compliance review process under proposed §25.63(e) is inconsistent with PURA §38.103(d) because the proposed language "places the obligation to conduct [the review of plans and annual compliance updates] and...notify the submitting entity on {Commission} Staff, rather than the Commission." Oncor recommended that the commission modify proposed §25.63(e) to provide that notice of a determination on an entity's compliance with its plan objectives will be based on a recommendation made by commission staff but be ultimately issued by the commission, or, if the commission delegates authority, by the executive director or a designee of the executive director. Oncor provided redlines consistent with its recommendation.

Commission Response

To further clarify the division of responsibilities between commission staff and the commission in the compliance review process as recommended by TPPA and Oncor, the commission specifies in adopted §25.63(g) that "Commission staff will annually review each entity's plan and annual compliance update to determine whether the entity is in compliance with the plan's objectives under {adopted §25.63(d)(2)} and file for consideration by the commission a report containing a recommended finding on each entity's compliance. Commission staff will notify each entity of the commission's determination on the entity's compliance."

The commission declines to adopt procedural rules for how the commission will make a compliance determination as recommended by TPPA and clarifies that the annual compliance re-

view process under adopted §25.63(g) does not constitute a contested case. Under Section 2001.003 of the Texas Government Code, relating to Definitions, a contested case is "a proceeding, including a ratemaking or licensing proceeding, under which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing." Because the annual compliance review process under adopted §25.63(g) does not encompass an opportunity for adjudicative hearing, nor will it result in the commission making a determination on the legal rights, duties, or privileges of an entity, it does not constitute a contested case.

SPS requested clarification from the commission on how an entity should demonstrate compliance with their plan's scope and objectives under proposed §25.63(c)(2)(A). Specifically, SPS requested clarification on: 1) whether an entity should demonstrate compliance by using "quantitative performance measures and...qualitative program controls" in the annual compliance update under proposed §25.63(d); and 2) whether an entity should "expressly reference--and incorporate by reference--{in its plan and annual compliance update} existing...inspection and pole integrity programs that already govern inspection frequency, defect identification, and corrective action."

Commission Response

Under adopted §25.63(e)(2)(C), an entity is required to include in its annual compliance update "A detailed description of the entity's compliance with the plan objectives under subsection (d)(2) of this section in the prior calendar year." Under adopted §25.63(d)(3), an entity is required to include in its plan "A description of the entity's methods for monitoring compliance with the plan." Regarding the first point of clarification requested by SPS, the commission anticipates that an entity will include, in both its plan and annual compliance update, appropriate methods and metrics for measuring its compliance with the plan's stated objectives.

Regarding the second point of clarification requested by SPS, the commission clarifies that an entity may decide how best to demonstrate that its plan complies with adopted §25.63(d)(7), which requires an entity to include "An estimated timeline for completing any inspections and corrective actions required by the standards adopted under PURA §38.006 for structures operating at distribution-level voltage." However, an entity may note the permission under adopted §25.63(f) for the entity to "fulfill the requirements of {adopted §25.63(d) or (e)(2)} by submitting any information required under other law that is substantially similar to the information required by {adopted §25.63(d) or (e)(2)}."

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the following provisions of Public Utility Regulatory Act (PURA): §§14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; 14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; and 38.103, which requires each electric utility, municipally owned utility, and electric cooperative that distributes electric energy to the public to submit to the commission a plan for the management and inspection of distribution poles the cooperative or utility owns in the cooperative's or utility's distribution system.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; and 38.103.

§25.63. Distribution Pole Management and Inspection Plans.

(a) Applicability. This section applies to each electric utility, municipally owned utility, and electric cooperative that distributes electric energy to the public in this state. The term "entity" as used in this section means an electric utility, a municipally owned utility, or an electric cooperative operating in this state.

(b) Distribution pole management and inspection plan. An entity that owns or operates a structure to which the standards adopted under Public Utility Regulatory Act (PURA) §38.006 apply must file with the commission a plan for the management and inspection of structures operating at distribution-level voltage.

(c) Plan filing. A plan must be filed in the control number designated for this purpose by commission staff, as a searchable pdf document, and in Microsoft Excel format for all included tables, with formulas intact.

(1) Initial plans.

(A) Not later than January 1, 2027, an entity must file an initial plan; and

(B) Not later than January 1, 2028, an entity must file:

(i) An affidavit that the initial plan under subparagraph (A) of this paragraph complies with the standards adopted under PURA §38.006 for structures operating at distribution-level voltage; or

(ii) A revised plan that complies with the standards adopted under PURA §38.006 for structures operating at distribution-level voltage.

(2) Subsequent plans.

(A) An entity must file a plan not later than May 1 of every eighth year, beginning in 2032 for electric utilities, 2034 for municipally owned utilities, and 2036 for electric cooperatives.

(B) An entity must file a plan not later than May 1 of any given year if, in the prior calendar year, the entity made:

(i) Any changes to the information under subsection (d)(2) or (3) of this section; or

(ii) Any material changes to the information under subsection (d)(4) through (6) of this section.

(d) Plan contents. An entity's plan must contain:

(1) Contact information for the entity, including:

(A) The entity's legal name;

(B) The entity's form of organization; and

(C) The entity's certificate of convenience and necessity (CCN) number.

(2) A statement of the plan's scope and objectives for ensuring public safety through the effective management, inspection, maintenance, and repair of structures operating at distribution-level voltage;

(3) A description of the entity's methods for monitoring compliance with the plan;

(4) A list of the roles and responsibilities of individuals responsible for overseeing and executing the plan, excluding personally identifiable information;

(5) A description of the entity's processes for training and certifying personnel, or for verifying the training and certification of

third-party vendors, who inspect structures operating at distribution-level voltage;

(6) A description of the entity's processes for documenting and responding to a report or complaint made by a landowner regarding the condition or repair of a structure operating at distribution-level voltage;

(7) An estimated timeline for completing any inspections and corrective actions required by the standards adopted under PURA §38.006 for structures operating at distribution-level voltage; and

(8) For a plan submitted by an electric utility, the estimated cost of implementing the plan, presented as capital expenditures, operations and maintenance (O&M) costs, and total costs for each calendar year.

(e) Annual compliance update. An entity with a plan on file with the commission under this section must file an annual compliance update not later than May 1 of each year.

(1) Filing. An annual compliance update must be filed in the control number or other filing method designated for this purpose by commission staff, as a searchable pdf document, and in Microsoft Excel format for all included tables, with formulas intact.

(2) Contents. An entity's annual compliance update must include:

(A) Contact information for the entity, including:

(i) The information required under subsection (d)(1) of this section; and

(ii) The entity's primary contact name and title, mailing address, business telephone number, business e-mail address, and web address.

(B) The control number and item number associated with the entity's most-recently filed plan;

(C) A detailed description of the entity's compliance with the plan objectives under subsection (d)(2) of this section in the prior calendar year;

(D) One or more tables detailing the actual costs of implementing the plan to-date, presented as capital expenditures, O&M costs, and total costs for each calendar year; and

(E) One or more tables detailing, for the prior calendar year, the results of the entity's inspections of structures operating at distribution-level voltage under the standards adopted under PURA §38.006, including the number of structures inspected and any corrective actions taken.

(f) Substantially similar information. An entity may fulfill the requirements of subsections (d) or (e)(2) of this section by submitting any information required under other law that is substantially similar to the information required by subsections (d) or (e)(2) of this section. An entity utilizing this subsection must clearly identify in its filing the requirement that the submitted information is intended to fulfill and include a description of why the submitted information is substantially similar to that requirement.

(g) Annual compliance review. Commission staff will annually review each entity's plan and annual compliance update to determine whether the entity is in compliance with the plan's objectives under subsection (d)(2) of this section and file for consideration by the commission a report containing a recommended finding on each entity's compliance. Commission staff will notify each entity of the commission's determination on the entity's compliance.

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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Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7044



SUBCHAPTER E. CERTIFICATION, LICENSING AND REGISTRATION

16 TAC §25.101

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §25.101 relating to Certification Criteria with changes to the proposed text as published in the April 17, 2026 issue of the *Texas Register* (51 TexReg 2648). This amendment will implement Public Utility Regulatory Act (PURA) §37.052(c) as revised by House Bill (HB) 3092 during the Texas 89th Regular Legislative Session. The amended rule will increase the minimum transmission line length, from three miles to five miles, that may be constructed without requiring an electric utility to amend its certificate of convenience and necessity when the line connects an existing transmission facility to a load-serving substation or metering point. Additionally, non-substantive clarifying and consistency edits were made to the rule language. This amendment is adopted under Project No. 59528. This rule will be republished.

The commission received comments on the proposed amendment from the AEP Companies, American Energy Works, CenterPoint Energy (CNP), LCRA Transmission Services Corporation (LCRA TSC), ONCOR Electric Delivery Company (Oncor), Texas New Mexico Power Company (TNMP), Texas Industrial Energy Consumers (TIEC), and Texas Public Power Association (TPPA).

General Comments

The AEP Companies (AEP Texas, Southwestern Electric Power Company, and Electric Transmission Texas) supported the amendment as proposed. The AEP Companies agreed that the amendment is administratively efficient and will streamline the transmission line construction process for certain transmission projects, including those that support load growth and economic development. The AEP Companies acknowledged the expanded mileage exemption operates within the Commission's existing regulatory framework and does not eliminate or supersede applicable CCN requirements related to exemptions, including those related to the acquisition of all rights-of-way and written consent of all affected landowners.

CNP supported the amendment as proposed. CNP acknowledged the proposed rule appropriately applied the increase to line miles connecting an existing transmission facility to a load-serving substation or metering point, while retaining the existing two-mile limit for connections to generation facilities. CNP described that the amendment does not expand or narrow the scope of CCN exemptions.

Oncor supported the amendment as proposed and presented that it directly follows statutory language and does not make changes to the conditions necessary for qualifying under the CCN exemption or alternative exemptions. Oncor stated the amendment does not expand eminent domain authority for electric utilities or limit landowners to intervene before the Commission if a landowner chooses not to consent to the project. Oncor also suggested the proposed amendment will streamline the construction of transmission infrastructure, where the transmission line has been consented to by affected parties.

TIEC supported the amendment as proposed and stated the amendment accurately implements statute. TIEC recognized that individuals may have well-founded concerns regarding the siting of new transmission infrastructure and associated costs. However, TIEC presented those concerns are not applicable to the category of projects addressed by this proposed amendment. TIEC discussed that the exemption only applies to interconnections that have the unanimous consent of affected landowners, and the amendment is narrowly tailored to apply to the interconnection facilities under five miles long to help streamline short, low-cost transmission projects, that support load growth and economic development to the extent that they are acceptable to landowners whose property is directly affected. TIEC argued that projects which qualify under the amendment differ from those where a utility must propose multiple contested routes, and such contested routing cases involve evidentiary hearings, routing studies, and potential eminent domain proceedings that are not impacted by this amendment.

LCRA TSC, TNMP, and TPPA supported the amendment as proposed and described the amendment as correctly following HB 3092 (89th R.S.).

By contrast, American Energy Works recommended the commission decline to adopt the proposed amendment and gathered 1,228 signatures to support its recommendation. American Energy Works suggested the amendment would allow utilities to construct up to five miles of new transmission lines with reduced regulatory scrutiny, truncated public review, and strengthen utilities' eminent domain leverage over private landowners.

American Energy Works suggested a landowner has one opportunity to be heard, challenge transmission line routes, present alternatives, and protect their property. American Energy Works presented that reducing the time and scope of public comment to accelerate utility timelines is not progress, but a diminishment of rights. American Energy Works acknowledged that infrastructure development has a role in a healthy grid. However, it expressed grid challenges cannot be to run roughshod over landowners. American Energy Works suggested the commission balance the interests of utilities against the interests of the public.

Commission Response

The commission declines to reject the proposed amendment as recommended by American Energy Works. House Bill 3092 from the Texas Legislature 89th Regular Session (HB 3092) amended PURA §37.052(c)(1)(A) to increase the length of a transmission line, from three miles to five miles, connecting existing transmission facilities to a load-serving substation or metering point that may qualify for an exemption to the requirement to obtain a CCN amendment. The proposed amendment will align the commission's rules with this statutory requirement. The commission also notes that because this is a statutory exemption, it is already in

effect. The commission cannot, by rule, overturn this statutory exemption.

With regards to the other concerns expressed by American Energy Works, the commission notes that the proposed amendment does not modify the conditions that must be met for the statutory exemption to apply and does not alter other criteria that may qualify a project for an exemption under applicable law. The proposed amendment also does not expand eminent domain authority for electric utilities and does not limit the ability of affected landowners to participate in applicable processes. The amendment still requires all landowners whose property is directly affected by the transmission line, as defined in §22.52(a)(3), to give written consent for the modification, construction, or extension to occur. If the transmission line modification, construction, or extension does not exceed one mile to provide service to a substation or metering point, written consent is only required by landowners whose property is crossed by the transmission line. If landowners do not provide written consent under the conditions stated above, the utility cannot rely upon the exemption.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

The amendment is adopted under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; and §37.052, which governs exceptions to certificate requirements for service extension.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; and 37.052.

§25.101. Certification Criteria.

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

(1) Construction or extension--Does not include the purchase or condemnation of real property for use as facility sites or right-of-way. Acquisition of right-of-way must not be deemed to entitle an electric utility to the grant of a certificate of convenience and necessity without showing that the construction or extension is necessary for the service, accommodation, convenience, or safety of the public.

(2) Generating unit--Any electric generating facility. This section does not apply to any generating unit that is ten megawatts or less and is built for experimental purposes only.

(3) Habitable structures--Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.

(4) Municipal Power Agency (MPA)--Agency or group created under Texas Utilities Code, Chapter 163 - Joint Powers Agencies.

(5) Municipal Public Entity (MPE)--A municipally owned utility (MOU) or a municipal power agency.

(6) Prudent avoidance--The limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

(7) Tie line--A facility to be interconnected to the Electric Reliability Council of Texas (ERCOT) transmission grid by a person, including an electric utility or MPE, that would enable additional power to be imported into or exported out of the ERCOT power grid.

(b) Certificates of convenience and necessity for new service areas and facilities. Except for certificates granted under subsection (e) of this section, the commission will grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission will render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:

(1) Change in service area. Any certificate granted under this section must not be construed to vest exclusive service or property rights in and to the area certificated.

(A) Uncontested applications: An application for a certificate under this paragraph must be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested;

(ii) all owners of land that is affected by the change in service area and all customers in the service area being changed have been given direct mail notice of the application; and

(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(B) Minor boundary changes or service area exceptions: Applications for minor boundary changes or service area exceptions must be approved administratively within 45 days of the filing of the application provided that:

(i) every utility whose certificated service area is affected agrees to the change;

(ii) all customers within the affected area have given prior consent; and

(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(2) Generation facility.

(A) In a proceeding involving the purchase of an existing electric generating facility by an electric utility that operates solely outside of ERCOT, the commission will issue a final order on a certificate for the facility not later than the 181st day after the date a request for the certificate is filed with the commission under PURA §37.058(b).

(B) In a proceeding involving a newly constructed generating facility by an electric utility that operates solely outside of ERCOT, the commission will issue a final order on a certificate for the

facility not later than the 366th day after the date a request for the certificate is filed with the commission under PURA §37.058(b).

(C) An electric utility operating solely outside of the ERCOT region may, but is not required to, obtain a certificate to install, own, or operate a generation facility with a capacity of 10 megawatts or less.

(3) Electric transmission line. All new electric transmission lines must be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports). This reporting requirement is also applicable to new electric transmission lines to be constructed by an MPE seeking to directly or indirectly construct, install, or extend a transmission facility outside of its applicable boundaries. For an MOU, the applicable boundaries are the municipal boundaries of the municipality that owns the MOU. For an MPA, the applicable boundaries are the municipal boundaries of the public entities participating in the MPA.

(A) Determination of need:

(i) Economic projects. Except as otherwise stated in this subparagraph, the following must be met for a transmission line in the ERCOT region. The applicant must present an economic cost-benefit study that analyzes the transmission project under a congestion cost savings test and a production cost savings test. The commission will give great weight to such a study if it is conducted by the ERCOT independent system operator. Adequately quantifiable and ongoing direct and indirect costs and benefits to the transmission system attributable to the project may be included in the cost-benefit study.

(I) Congestion cost savings test. ERCOT, in consultation with commission staff, must develop a congestion cost savings test.

(-a-) The congestion cost savings test must include an analysis of whether the levelized ERCOT-wide annual congestion cost savings attributable to the proposed project are equal to or greater than the average of the first three years annual revenue requirement of the proposed project of which the transmission line is a part.

(-b-) Prior to the effective date of the test developed by ERCOT under this subclause ERCOT may immediately, without updating its current protocols, utilize the generator revenue reduction test, effective Dec. 1, 2011 under ERCOT Nodal Protocols §3.11.2(6), as the congestion cost benefit test required under this clause. ERCOT may continue to rely upon completed calculations using the generator revenue reduction test to evaluate ongoing applications after the effective date of the test developed under this subclause.

(II) Production cost savings test. The production cost savings test must include an analysis of whether the levelized ERCOT-wide annual production cost savings attributable to the proposed project are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part.

(III) Economic cost-benefit analysis must be studied for the projected in-service date of the project using the study case identified in the ERCOT planning guide.

(IV) ERCOT may recommend, and the commission may approve, a transmission line in the ERCOT region that demonstrates a savings under either a congestion cost savings test or a production cost savings test.

(ii) Reliability projects.

(I) The requirements of clause (i) of this subparagraph do not apply to an application for a transmission line that is nec-

essary to meet state or federal reliability standards, including: a transmission line needed to interconnect a transmission service customer or end-use customer; or needed due to the requirements of any federal, state, county, or municipal government body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air or water quality.

(II) For a transmission line not addressed by clause (i) of this subparagraph, the commission will consider, among other factors, the needs of the interconnected transmission systems to support a reliable and adequate network and to facilitate robust wholesale competition. When evaluating reliability for a proposed project in the ERCOT region, the commission will consider and any review conducted by ERCOT must incorporate the historical load, forecasted load growth, and additional load currently seeking interconnection. The forecasted load growth and additional load currently seeking interconnection must be substantiated by quantifiable evidence of projected load growth. The commission will give great weight to:

(-a-) the recommendation of an organization that meets the requirement of PURA §39.151; and/or

(-b-) written documentation provided by a transmission service provider to ERCOT that the transmission line is needed to interconnect transmission service or retail customers.

(iii) Resiliency. ERCOT may recommend, and the commission may approve, a transmission project that is submitted as an economic or reliability project and does not demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds if ERCOT determines the line would address a resiliency issue identified in the grid reliability and resiliency assessment required by subparagraph (E) of this paragraph. In determining whether to approve such a project the commission will consider:

(I) the margin by which the transmission project was unable to demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds;

(II) whether the resiliency benefits the transmission project would provide by reducing the impacts to customers of potential outages caused by regional extreme weather scenarios are sufficient to compensate for the project's inability to demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds.

(III) the cost effectiveness of the transmission project's ability to address the resiliency issue identified by ERCOT compared to other possible solutions,

(IV) other factors listed in PURA §37.056(c), as appropriate.

(B) Routing: An application for a new transmission line must address the criteria in PURA §37.056(c) and considering those criteria, engineering constraints, and costs, the line must be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors must be considered in the selection of the utility's alternative routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

(i) whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;

(ii) whether the routes parallel or utilize other existing compatible rights-of-way, including roads, highways, railroads, or telephone utility rights-of-way;

(iii) whether the routes parallel property lines or other natural or cultural features; and

(iv) whether the routes conform with the policy of prudent avoidance.

(C) Uncontested transmission lines: An application for a certificate for a transmission line will be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested; and

(ii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(D) Projects deemed critical to reliability. Applications for transmission lines which have been formally designated by a PURA §39.151 organization as critical to the reliability of the system will be considered by the commission on an expedited basis. The commission will render a decision approving or denying an application for a certificate under this subparagraph within 180 days of the date of filing a complete application for such a certificate unless good cause is shown for extending that period.

(E) Grid reliability and resiliency assessment. ERCOT must conduct a biennial assessment of the ERCOT power grid's reliability and resiliency in extreme weather scenarios. Each assessment must:

(i) consider the impact of different levels of thermal and renewable generation availability;

(ii) identify areas of the state that face significant grid reliability and resiliency issues, taking into account the impact of potential outages caused by regional extreme weather scenarios on customers, including multiple element outage analysis when appropriate, and

(iii) recommend transmission projects that may increase the grid's reliability or resiliency in extreme weather scenarios.

(4) Tie line. An application for a tie line must include a study of the tie line by ERCOT. The study must include, at a minimum, an ERCOT-approved reliability assessment of the proposed tie line. If an independent system operator intends to conduct a study to evaluate a proposed tie line or intends to provide confidential information to another entity to permit the study of a proposed tie line, the independent system operator must file notice with the commission at least 45 days prior to the commencement of such a study or the provision of such information.

(c) Projects or activities not requiring a certificate. A certificate, or certificate amendment, is not required for the following:

(1) An extension of facilities as described in PURA §37.052(a) and (b);

(2) A new electric high voltage switching station, or substation;

(3) The repair or reconstruction of a transmission facility due to emergencies. The repair or reconstruction of a transmission facility due to emergencies should proceed without delay or prior approval of the commission and must be reported to the commission in

accordance with §25.83 of this title (relating to Transmission Construction Reports);

(4) The construction or upgrading of distribution facilities within the electric utility's service area;

(5) Routine activities associated with transmission facilities that are conducted by transmission service providers. Nothing contained in the following subparagraphs should be construed as a limitation of the commission's authority as set forth in PURA. Any activity described in the following subparagraphs must be reported to the commission in accordance with §25.83 of this title. The commission may require additional facts or call a public hearing thereon to determine whether a certificate of convenience and necessity is required. Routine activities are defined as follows:

(A) The modification, construction, or extension of a transmission line that connects existing transmission facilities to a substation or metering point provided that:

(i) the transmission line modification, construction, or extension does not exceed:

(I) five miles if the line connects to a load-serving substation or metering point; or

(II) two miles if the line connects to a generation substation or metering point; and

(ii) all rights-of-way necessary for the modification, construction, or extension have been acquired, and

(iii) all landowners whose property is directly affected by the transmission line, as defined in §22.52(a)(3) of this title (relating to Notice in Licensing Proceedings), have given written consent for the modification, construction, or extension. If the transmission line modification, construction, or extension does not exceed one mile to provide service to a substation or metering point, written consent is only required by landowners whose property is crossed by the transmission line.

(B) The rebuilding, replacement, or respacing of structures along an existing route of the transmission line; upgrading to a higher voltage not greater than 230 kV; bundling of conductors or re-conductoring of an existing transmission facility, provided that:

(i) no additional right-of-way is required; or

(ii) if additional right-of-way is required, all landowners of property crossed by the electric facilities have given prior written consent.

(C) The installation, on an existing transmission line, of an additional circuit not previously certificated, provided that:

(i) the additional circuit is not greater than 230 kV; and

(ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.

(D) The relocation of all or part of an existing transmission facility due to a request for relocation, provided that:

(i) the relocation is to be done at the expense of the requesting party; and

(ii) the relocation is solely on a right-of-way provided by the requesting party.

(E) The relocation or alteration of all or part of an existing transmission facility to avoid or eliminate existing or impending

encroachments, provided that all landowners of property crossed by the electric facilities have given prior written consent.

(F) The relocation, alteration, or reconstruction of a transmission facility due to the requirements of any federal, state, county, or municipal governmental body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air and water quality, provided that:

(i) all landowners of property crossed by the electric facilities have given prior written consent; and

(ii) the relocation, alteration, or reconstruction is responsive to the governmental request.

(6) Upgrades to an existing transmission line by an MPE that do not require any additional land, right-of-way, easement, or other property not owned by the MOU;

(7) The construction, installation, or extension of a transmission facility by an MPE that is entirely located not more than 10 miles outside of an MOU's certificated service area that occurs before September 1, 2021; or

(8) A transmission facility by an MOU placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation facility to the ERCOT transmission grid and for which, on or before January 1, 2015, an MOU was contractually obligated to purchase at least 190 megawatts of capacity.

(d) Standards of construction and operation. In determining standard practice, the commission will be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and such other codes and standards that are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. Each electric utility must construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.

(1) The standards of construction apply to, but are not limited to, the construction of any new electric transmission facilities, rebuilding, upgrading, or relocation of existing electric transmission facilities.

(2) For electric transmission line construction requiring the acquisition of new rights-of-way, an electric utility must include in the easement agreement, at a minimum, a provision prohibiting the new construction of any above-ground structures within the right-of-way. For this purpose, new construction of above-ground structures does not include necessary repairs to existing structures, farm or livestock facilities, storage barns, hunting structures, small personal storage sheds, or similar structures. A utility may negotiate appropriate exceptions in instances where the electric utility is subject to a restrictive agreement being granted by a governmental agency or within the constraints of an industrial site. Any exception to this paragraph must meet all applicable requirements of the National Electrical Safety Code.

(3) Measures must be applied when appropriate to mitigate the adverse impacts of the construction of any new electric transmission facilities, and the rebuilding, upgrading, or relocation of existing electric transmission facilities. Mitigation measures must be adapted to the specifics of each project and may include such requirements as:

(A) selective clearing of the right-of-way to minimize the amount of flora and fauna disturbed;

(B) implementation of erosion control measures;

(C) reclamation of construction sites with native species of grasses, forbs, and shrubs; and

(D) returning site to its original contours and grades.

(e) Certificates of convenience and necessity for existing service areas and facilities. For purposes of granting these certificates for those facilities and areas in which an electric utility was providing service on September 1, 1975, or was actively engaged in the construction, installation, extension, improvement of, or addition to any facility actually used or to be used in providing electric utility service on September 1, 1975, unless found by the commission to be otherwise, the following provisions prevail for certification purposes:

(1) The electrical generation facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be limited, unless otherwise provided, to the facilities and real property on which the facilities were actually located, used, or dedicated as of September 1, 1975.

(2) The transmission facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be, unless otherwise provided, the facilities and a corridor extending 100 feet on either side of said transmission facilities in place, used or dedicated as of September 1, 1975.

(3) The facilities and service area boundary for the following types of electric utilities providing distribution or collection service to any area, or actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be limited, unless otherwise found by the commission, to the facilities and the area which lie within 200 feet of any point along a distribution line, which is specifically deemed to include service drop lines, for electrical utilities.

(f) Transferability of certificates. Any certificate granted under this section is not transferable without approval of the commission and remains in force until further order of the commission.

(g) Certification forms. All applications for certificates of convenience and necessity must be filed on commission-prescribed forms so that the granting of certificates, both contested and uncontested, may be expedited. Forms may be obtained from Central Records.

(h) Commission authority. Nothing in this section is intended to limit the commission's authority to recommend or direct the construction of transmission under PURA §§35.005, 36.008, or 39.203(e).

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 July 30, 2026.

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Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7044

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SCHOOL FACILITIES

19 TAC §61.1031

The Texas Education Agency (TEA) adopts the repeal of §61.1031, concerning school safety requirements. The repeal is adopted without changes to the proposed text as published in the March 27, 2026 issue of the *Texas Register* (51 TexReg 1949) and will not be republished. The repeal relocates the requirements to new 19 TAC §103.1215. The new rule includes updates to implement House Bill (HB) 3 and Senate Bill (SB) 838, 88th Texas Legislature, Regular Session, 2023, and HB 33 and HB 121, 89th Texas Legislature, Regular Session, 2025, and clarifies requirements for school safety.

REASONED JUSTIFICATION: Section 61.1031 prescribes minimum school safety standards to address the safety of students and staff in Texas public schools. The adopted repeal of §61.1031 moves the requirements to new §103.1215. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

Adopted new §103.1215 was updated to modify the definition for "exterior secured area"; clarify the applicability of the safety standards; address security reviews required under TEC, §37.1087; update alert requirements; and require door numbering site plans to be provided to emergency service districts.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 27, 2026, and ended April 27, 2026. Following is a summary of the public comment received and the agency response.

Comment: A Texas administrator commented that, while the proposal is framed as a relocation of existing requirements with updates tied to recent legislation, it represents yet another shift in rule structure that adds complexity for school systems without clear benefit, further stating that this type of administrative restructuring contributes to compliance burden rather than enhancing safety practices.

Response: The agency disagrees that the repeal and relocation create unnecessary confusion or lack substantive value. The purpose of the restructuring is to consolidate school safety requirements to improve accessibility, consistency, and long-term clarity across the administrative code. Relocating provisions does not alter substantive obligations but instead reduces fragmentation.

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §7.061, which requires the commissioner of education to adopt and amend rules to ensure a safe and secure environment for public schools, which includes best practices for design and construction of new facilities and improving, renovating, and retrofitting existing facilities. The section requires the commissioner to review all rules by September 1 of each even-numbered year and take action as necessary to ensure school facilities for school districts and open-enrollment charter schools continue to provide a safe and secure environment; TEC, §37.1083, which establishes the Office of School Safety and Security within the Texas Education Agency (TEA) and charges TEA with monitoring the implementation and operation requirements of school district safety and

security. Monitoring efforts must include technical assistance related to multihazard emergency operations plans and safety and security audits. Further, the statute establishes that any document or information collected, identified, developed, or produced related to the monitoring of district safety and security is confidential under Texas Government Code, §418.177 and §418.181, making them not subject to disclosure under Texas Government Code, Chapter 552. Subsection (k) allows the commissioner to adopt rules as necessary to implement the section; TEC, §37.115(b), which allows TEA, in coordination with the Texas School Safety Center, to adopt rules to establish a safe and supportive school program, including providing for physical and psychological safety; TEC, §37.117, which requires that each school district or open-enrollment charter school have silent alert panic technology allowing for immediate contact with district or school emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments. The statute also requires that each school district and open-enrollment charter school provide the Department of Public Safety, local law enforcement, and emergency first responders an accurate map of each district campus and school campus, in accordance with standards outlined in TEC, §37.351. Additionally, school systems must provide these emergency services personnel an opportunity to conduct a walk-through of each campus and school building using the map provided; TEC, §37.351, which requires school districts to comply with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under TEC, §7.061, or provided by other law or TEA rule. Additionally, school districts must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility; and TEC, §37.355, which outlines that any document or information collected, identified, developed, or produced relating to a safety or security requirement under TEC, Chapter 37, Subchapter J, is confidential under Texas Government Code, §418.177 and §418.181, and not subject to disclosure under Texas Government Code, Chapter 552.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §§7.061, 37.1083, 37.115(b), 37.117, 37.351, and 37.355.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



CHAPTER 103. HEALTH AND SAFETY

SUBCHAPTER CC. COMMISSIONERS RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1215

The Texas Education Agency (TEA) adopts new §103.1215, concerning school safety requirements. The new section is adopted without changes to the proposed text as published in the March 27, 2026 issue of the *Texas Register* (51 TexReg 1950) and will not be republished. The new section includes updates to implement House Bill (HB) 3 and Senate Bill (SB) 838, 88th Texas Legislature, Regular Session, 2023, and HB 33 and HB 121, 89th Texas Legislature, Regular Session, 2025, and clarify requirements for school safety to ensure a safe and secure environment in Texas public schools.

REASONED JUSTIFICATION: Adopted new §103.1215 moves existing language from 19 TAC §61.1031, which prescribes minimum school safety standards to address the safety of students and staff in Texas public schools. The new rule includes changes to existing §61.1031.

Legislation from the 88th Texas Legislature, Regular Session, 2023, added and amended school safety requirements in Texas Education Code (TEC), §§7.061, 37.1083, 37.117, 37.351, and 37.355. Legislation from the 89th Texas Legislature, Regular Session, 2025, added TEC, §37.1087, to existing school safety requirements. Adopted new §103.1215 implements legislation and clarifies school safety requirements, as follows.

Adopted new subsection (a) establishes definitions for the rule. The definition for "exterior secured area" includes new language specifying that a perimeter fence does not constitute an exterior secured area.

Adopted new subsection (b) makes the rule applicable to all school instructional facilities owned, operated, or leased by a school system, regardless of the date of construction or date of lease. No changes to the existing requirements were made.

Adopted new subsection (c) requires school systems to implement safety and security standards compliance requirements in all instructional facilities owned, operated, or leased by the school system. New language was added to specify that the standards apply to facilities that are newly constructed, acquired, or substantially renovated. Language was also added to state that security reviews required under TEC, §37.1087, should be conducted as soon as practicable after a facility is constructed, acquired, or renovated and must occur before students occupy the building. In addition, alert requirements were modified in subsection (c)(10)(B)(iv). Finally, a new requirement was added that beginning August 1, 2026, school systems must certify in Sentinel that security reviews have been conducted.

Adopted new subsection (d) outlines operating requirements for school systems and includes new language requiring electronic copies of exterior and interior door numbering site plans to be provided to emergency service districts.

Adopted new subsection (e) outlines that, to the extent this section conflicts with rules adopted in 19 TAC Chapter 61, School Districts, Subchapter CC, Commissioner's Rules Concerning School Facilities, including terms defined by this section or standards established by this section, the provisions of this section prevail. No changes to the existing requirements were made.

Adopted new subsection (f) requires school systems to comply with the standards adopted under Texas Government Code, §469.052. No changes to the existing requirements were made.

Adopted new subsection (g) requires school systems to adopt a 3-year records control schedule that complies with the minimum requirements established by the Texas State Library and

Archives Commission schedule, record series item number 5.4.017. No changes to the existing requirements were made.

Adopted new subsection (h) outlines that any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements is confidential under Texas Government Code, §418.177 and §418.181, and is not subject to disclosure under Texas Government Code, Chapter 552. No changes to the existing requirements were made.

Adopted new subsection (i) requires school systems to annually certify compliance with subsections (c) and (d) of this section as part of ongoing security audits under TEC, §37.108(b), to maintain the certification locally, and to provide documentation upon request by TEA. No changes to the existing requirements were made.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 27, 2026, and ended April 27, 2026. Following is a summary of public comments received and agency responses.

Comment: The Texas Association of Architects (TxA) expressed concern regarding the lack of reference to a "good cause exception" in the rule, as outlined in TEC, §37.353. TxA indicated that, as currently drafted, the rule does not include any language or mechanism to effectuate the provisions of law contained in TEC, §37.353, that permit a school district or charter school to claim and document a good cause exception to become compliant with specified school facilities standards for safety and security. TxA requested the rule have additional language envisioning and providing for the use of a "good cause exception" for a school district or charter school to become compliant.

Response: The agency disagrees. Good cause exceptions related to facility safety are not equivalent to compliance with school safety requirements. A good cause exception is based on the limited circumstances outlined in TEC, §37.353, approved on a case-by-case basis, and they require school systems to develop alternative standards for safety with which they can comply.

Comment: TxA commented the rule should be clarified to ensure school districts and charter schools are clearly directed to include floor plans in their emergency response maps and during their campus walk-throughs.

Response: The agency disagrees and considers current provisions sufficient as written.

Comment: A Texas administrator commented that local school systems are best positioned to assess their facilities, communities, and student needs in order to develop and maintain effective safety plans. The commenter stated that additional state-level restructuring and clarification does little to improve outcomes and instead diverts attention from the work that matters most. Further, the administrator noted that the inclusion of expanded language and clarification of requirements risks further embedding a compliance-driven approach to school safety.

Response: The agency disagrees. TEC, §7.061, requires that, not later than September 1 of each even-numbered year, the commissioner review all rules adopted under that section and amend the rules as necessary to ensure that facilities standards for school district and open-enrollment charter school facilities continue to provide a secure and safe environment.

Comment: A Texas administrator urged the agency to reconsider this proposal and focus on providing meaningful support to schools rather than expanding regulatory requirements.

Response: The agency disagrees. TEC, §7.061, requires that, not later than September 1 of each even-numbered year, the commissioner review all rules adopted under that section and amend the rules as necessary to ensure that facilities standards for school district and open-enrollment charter school facilities continue to provide a secure and safe environment. This rule-making replaces §61.1031 in accordance with this requirement.

Comment: A Texas administrator expressed concern related to the availability of additional funding to support enhanced safety measures and requested clarification on the assertion that for the first five years the proposal is in effect, there are no additional costs to state or local government, including school districts.

Response: The agency provides the following clarification. The changes are necessary to implement requirements enacted by the 89th Texas Legislature and align agency rules with changes made in statute. The purpose of the rule is to clarify and operationalize legislative requirements rather than establish additional requirements beyond those prescribed by law.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §7.061, as amended by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to adopt and amend rules to ensure a safe and secure environment for public schools, which includes best practices for design and construction of new facilities and improving, renovating, and retrofitting existing facilities. The section requires the commissioner to review all rules by September 1 of each even-numbered year and take action as necessary to ensure school facilities for school districts and open-enrollment charter schools continue to provide a safe and secure environment; TEC, §37.1083, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 121, 89th Texas Legislature, Regular Session, 2025, which establishes the Office of School Safety and Security within the Texas Education Agency (TEA) and charges TEA with monitoring the implementation and operation requirements of school district safety and security. Monitoring efforts must include technical assistance related to multihazard emergency operations plans, safety and security audits, and security reviews. Further, the statute establishes that any document or information collected, identified, developed, or produced related to the monitoring of district safety and security is confidential under Texas Government Code, §418.177 and §418.181, making them not subject to disclosure under Texas Government Code, Chapter 552. Subsection (k) allows the commissioner to adopt rules as necessary to implement the section; TEC, §37.1087, as added by HB 33, 89th Texas Legislature, Regular Session, 2025, which requires a school district that constructs, acquires, renovates, or improves a district facility to conduct a security review to determine whether the facility meets school safety and security requirements; TEC, §37.115(b), which allows TEA, in coordination with the Texas School Safety Center, to adopt rules to establish a safe and supportive school program, including providing for physical and psychological safety; TEC, §37.117, as added by Senate Bill (SB) 838 and HB 3, 88th Texas Legislature, Regular Session, 2023, which requires that each school district and open-enrollment charter school provide the Department of Public Safety, local law enforcement, emergency service districts, and emergency first responders an accurate map of each district campus and school campus, in accordance with standards

outlined in TEC, §37.351. Additionally, school systems must provide these emergency services personnel an opportunity to conduct a walk-through of each campus and school building using the map provided; TEC, §37.118, as added by SB 838 and HB 3, 88th Texas Legislature, Regular Session, 2023, which requires that each school district or open-enrollment charter school have silent alert panic technology allowing for immediate contact with district or school emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments; TEC, §37.351, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which requires school districts to comply with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under TEC, §7.061, or provided by other law or TEA rule. Additionally, school districts must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility; and TEC, §37.355, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which outlines that any document or information collected, identified, developed, or produced relating to a safety or security requirement under TEC, Chapter 37, Subchapter J, is confidential under Texas Government Code, §418.177 and §418.181, and not subject to disclosure under Texas Government Code, Chapter 552.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §7.061, as amended by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023; §37.1083, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, and amended by HB 121, 89th Texas Legislature, Regular Session, 2025; §37.1087, as added by HB 33, 89th Texas Legislature, Regular Session, 2025; §37.115(b); §37.117, as added by Senate Bill (SB) 838 and HB 3, 88th Texas Legislature, Regular Session, 2023; §37.118, as added by SB 838 and HB 3, 88th Texas Legislature, Regular Session, 2023; and §37.351 and §37.355, as added by HB 3, 88th Texas Legislature, Regular Session, 2023.

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 August 3, 2026.

TRD-202603271

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: September 1, 2026

Proposal publication date: March 27, 2026

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



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 910. STATE FACILITY BUSINESS OPERATIONS

SUBCHAPTER G. STATE HOSPITAL MANAGEMENT

26 TAC §§910.301, 910.303, 910.305, 910.307

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts new §910.301, concerning Purpose; §910.303, concerning Application; §910.305, concerning Definitions; and §910.307, concerning State Hospital Superintendent.

Sections 910.301, 910.303, 910.305, and 910.307 are adopted without changes to the proposed text as published in the May 15, 2026, issue of the *Texas Register* (51 TexReg 3304). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new sections are necessary to comply with Texas Health and Safety Code (HSC) §552.154 added by House Bill (HB) 913, 89th Legislature, Regular Session, 2025. Section 552.154 provides that the HHSC executive commissioner shall, by rule, require state hospitals to employ a superintendent at a Texas state hospital. A Texas state hospital also includes a facility that HHSC operates as a state hospital.

HB 913 amended HSC §532.001(b) and §552.002(a)(2) to separate the North Texas State Hospital into two state hospitals, Vernon and Wichita Falls. HSC §532.001(b) and §552.002(a)(2) were amended to also add the new Panhandle State Hospital and the Lubbock Psychiatric Center to the list of state hospitals.

The adopted rules also outline the duties a superintendent must perform in a Texas state hospital, as required by HSC §551.022.

COMMENTS

The 31-day comment period ended June 15, 2026.

HHSC received comments from one commenter. A summary of comments relating to the rules and HHSC's responses follows.

Comment: The commenter suggested adding a superintendent's duty to ensure clinicians deliver appropriate, evidence-based care and treatment to §910.307.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Each superintendent oversees and manages the operation of a Texas state hospital in accordance with HSC §551.022. In accordance with 22 TAC §160.2, the Texas Medical Board establishes standards for the practice of medicine and regulates the practice of medicine through the licensure and discipline of physicians.

Comment: The commenter suggested requiring in §910.307, if the superintendent is not a psychiatrist, clinical care shall be under the direction of a qualified psychiatrist.

Response: HHSC disagrees and declines to revise the rule in response to this comment. Each superintendent oversees and manages the operation of a Texas state hospital in accordance with HSC §551.022. Each Texas state hospital employs or contracts with at least one licensed psychiatrist to conduct an individual's psychiatric evaluation and to oversee clinical care.

STATUTORY AUTHORITY

The new sections are adopted under 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; HSC §552.001, which provides HHSC with authority to operate state hospitals; and HSC §552.154, which requires the executive commissioner of HHSC by rule to require state hospitals to employ a superintendent. HSC §532.001(b) and §552.002(a)(2) separate the

North Texas State Hospital into two state hospitals, Vernon and Wichita Falls; and HSC §532.001(b) and §552.002(a)(2) add the new Panhandle State Hospital and the Lubbock Psychiatric Center to the list of state hospitals.

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 July 29, 2026.

TRD-202603218

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 18, 2026

Proposal publication date: May 15, 2026

For further information, please call: (512) 438-3049



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 293. WATER DISTRICTS

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91

The amendments to §§293.11, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91 are being adopted *without* changes to the proposed text as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 978), and therefore, will not be republished. The amendments to §293.12 are being adopted *with* changes to the proposed text as published in the February 27, 2026, issue of the *Texas Register* (51 TexReg 978), and therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

During the 87th Texas Legislature (2021), House Bill (HB) 1410 was passed and requires amendments to 30 Texas Administrative Code (TAC) Chapter 293 to implement the enacted legislation.

During the 88th Texas Legislature (2023), HB 2815, HB 3437, HB 3507, Senate Bill (SB) 1397, and SB 938 were passed and require amendments 30 TAC Chapter 293 to implement the enacted legislation.

This rulemaking reflects changes to Local Government Code (LGC), §375.022 enacted in HB 2815, which allows a Municipal Management District (MMD) to request that a succeeding board of directors be elected under LGC, §375.0645 instead of being appointed under LGC, §375.064.

This rulemaking reflects changes to LGC, §375.025(c), enacted in HB 2815, which require MMDs to complete the Creation Notice Actions and Requirements described by and pursuant to Texas Water Code (TWC), §49.011.

This rulemaking reflects changes to TWC, §49.011(a), enacted in HB 2815, that adds LGC, §375, to the list of TWC Chapters (36, 50, 51, 54, 55, 58, 65, and 66) which define the required

documentation for an application for creation of a district to be submitted to the commission.

This rulemaking reflects changes to TWC, §54.030(b), enacted in HB 2815, that repealed amendments to TWC, §54.030(b) in HB 2914, 86th Legislature, Regular Session, 2019. Rule amendments remove outdated references to HB 2914 from 30 TAC §293.15(a)(1) and delete 30 TAC §293.15(c) and its subsections. Bill revisions affect application requirements for the conversion of a district in 30 TAC Chapter 293 enacted in HB 2815.

This rulemaking reflects changes to TWC, §49.316, enacted in HB 2815, that requires a district that's being divided to submit the final order to the commission and file the order with the real property records of the county.

This rulemaking reflects changes to TWC, §57.059, enacted in HB 2815, that stipulates that a director of a Levee Improvement district must: "(1) be at least 18 years old; (2) own land subject to taxation in the district or be a qualified voter in the district; (3) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058, from which the director is elected."

This rulemaking reflects changes to TWC, §49.4645(a), enacted in SB 938, which adds El Paso County to the list of counties in which water districts can issue bonds to be supported by ad valorem taxes for recreational facilities.

This rulemaking reflects changes to TWC, §49.4645(a-1), enacted in HB 1410 (87th Legislative Session) that allows a district to have a debt to valuation ratio for recreational facilities of up to 3% (up from 1%) provided the district meets certain criteria.

This rulemaking reflects changes to TWC, §49.181, enacted in HB 2815, which adds Austin, Brazos, Liberty, Grimes, Wharton and Walker Counties to the list of counties with a maximum projected tax rate limit of \$1.50. It also adds Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum projected tax rate limit of \$1.20.

This rulemaking reflects changes to TWC, §49.273(d) and (e), enacted in HB 3507, which requires a district to advertise for projects with a value greater than \$150,000. Additionally, HB 3507 requires a district to solicit written competitive bids from at least three bidders for contracts over \$25,000 but not more than \$150,000. The district is not required to advertise for bids for contracts over \$25,000 but no more than \$150,000.

This rulemaking reflects changes to TWC, §49.011(b), enacted in SB 1397, that requires the commission to provide notice to each state representative and state senator who represents the area inside the proposed district.

This rulemaking reflects changes to TWC, §49.273(i), enacted in HB 3437, which allows a district to approve change orders that involve an increase or decrease of \$150,000 or less.

Section by Section Discussion

§293.11, Information Required to Accompany Applications for Creation of Districts

The commission amends §293.11(j)(1) by adding (G) allowing the succeeding board of directors of a MMD to be elected, rather than appointed, to implement changes made to LGC §375.022 and §375.0645 made by HB 2815.

§293.12, Creation Notice Actions and Requirements

The commission amends §293.12(a) to require the commission to notify the chief clerk that a creation application for a MMD is administratively complete. The commission deletes §293.12(g) relating to hearing requirements for Municipal Management Districts to implement changes to LGC, Chapter 375, Municipal Management Districts made by HB 2815 and to reorder the subsequent subsections. The commission adds new subsection (h) which requires the executive director to provide the notice of creation application to each state representative and state senator who represents an area inside the proposed district's boundaries that the petition has been filed to implement the statutory changes made by SB 1397.

293.15, Addition of Wastewater and/or Drainage Powers and Conversion of Districts into Municipal Utility Districts

The commission amends §293.15(b)(1) by removing outdated references to TWC, §54.030(b). Amendments made by HB 2914 of the 86th legislative session to TWC, §54.030(b) were repealed by HB 2815. The commission deletes existing language in §293.15(c) and §293.15(d) to remove outdated references to TWC, §54.030(b) which were repealed by HB 2815. Subsequent subsections were renumbered. The commission adds §293.15(b)(5) which requires evidence that the resolution on conversion was mailed to the Texas State Senator(s) and State Representative(s) who represent the area in which the district is located be included with application material.

§293.32, Qualifications of Directors

The commission adds new §293.32(a)(2) which requires the director of a levee improvement district created under TWC, Chapter 57: (A) to be at least 18 years old; own land subject to taxation in the district or be a qualified voter in the district; and if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058 from which the director is elected. This addition is to implement the changes made to TWC, §57.059 by HB 2815. Subsequent paragraphs are renumbered.

§293.41, Approval of Projects and Issuance of Bonds

The commission amends §293.41(e) to add El Paso County to the list of counties in which water districts can authorize recreational debt supported by ad valorem taxes to implement changes made to TWC, §49.4645 made by SB 938. The commission also amends §293.41(e)(4) to remove language struck in TWC, §49.4645 made by HB 1410. The commission also amends §293.41(e)(5) to increase allowable recreational debt to valuation ratio from 1% to up to 3% if the district has a ratio of debt to certified assessed valuation of 10% or less, obtains an acceptable credit rating as defined in §293.47(b)(4) on its proposed bond issue, obtains a credit enhanced rating as defined in §293.57(b)(5) on its proposed bond issue, or has a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility to implement changes made to TWC, §49.4645 made by HB 1410, 87th Legislature.

§293.59, Economic Feasibility of Project

The commission amends §293.59(k)(3)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the list of counties with a maximum tax rate limit of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission amends §293.59(k)(3)(B) by adding Bastrop, Bell,

Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum tax rate limit of \$1.20 to implement changes made to TWC, §49.181 by HB 2815. The commission amends §293.59(k)(4)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the list of counties with combined no-growth maximum tax rate limit of \$2.50 to implement changes made to TWC, §49.181 by HB 2815. The commission amends §293.59(k)(4)(B) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with combined no-growth maximum tax rate limit of \$2.20 to implement changes made to TWC, §49.181 by HB 2815. The commission amends §293.59(k)(11)(C)(i) by adding Austin, Brazos, Grimes, Liberty, Walker, and Wharton Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission amends §293.59(k)(11)(C)(ii) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.20 to implement changes made to TWC, §49.181 by HB 2815.

§293.63, Contract Documents for Water District Projects

The commission amends §293.63(8) to raise the contract value that triggers the requirement to advertise projects from over \$75,000 to over \$150,000, as well as raise the contract value that triggers the requirement to solicit written competitive bids from over \$25,000 but not more than \$75,000 to over \$25,000 but not more than \$150,000 to implement changes made to TWC, §49.273 by HB 3507.

§293.81, Change Order

The commission amends §293.81(2) - (3) to revise the limit for change orders with no commission approval from \$50,000 to \$150,000 to conform with changes to TWC, §49.273 enacted in HB 3437.

§293.91, Reporting by Districts

The commission adds new §293.91(a)(7) to require submittal of an order dividing a district within 30 days after the date of adoption of the order dividing a district. This addition implements changes to TWC, §49.316, enacted in HB 2815.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225 and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in the Texas Administrative Procedure Act. A "Major environmental rule" is a rule that is specifically intended 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 rulemaking does not meet the statutory definition of a "Major environmental rule" because it is not the specific intent of the rule to protect the environment or reduce risks to human health from environmental exposure. The primary purpose of the rulemaking adoption is to implement legislative changes enacted by: HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows water districts to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into, dividing, and consolidating Municipal Utility Districts (MUDs); and changes the eligibility requirements to be a district director.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties in which water districts may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The adopted rules will substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

In addition, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the adopted rules will not 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. The cost of complying with the adopted rules is not expected to be significant with respect to the economy.

Furthermore, the rulemaking adoption is not subject to TGC, §2001.0225 because it does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). There are no federal standards governing the areas of construction finances, director qualifications, recreational facility bonds, and notice to state legislators, with respect to water districts. Second, the rulemaking adoption does not exceed an express requirement of state law. Third, the rulemaking adoption does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program. Finally, the rulemaking adoption will be adopted pursuant to the commission's specific authority in TWC, §12.081, which allows the commission to issue rules necessary to supervise districts and authorities. Therefore, the rules are not adopted solely under the commission's general powers.

Takings Impact Assessment

The commission evaluated the adopted rules and performed an analysis of whether the adopted rules constitute a taking under TGC, Chapter 2007. The primary purpose of the rulemaking adoption is to implement legislative changes enacted by HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows water districts to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into and dividing Municipal Utility Districts (MUDs); and changes the eligibility

requirements to be a district director for Levee Improvement Districts.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties in which water districts may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The adopted rules will substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

Promulgation and enforcement of these adopted rules will be neither a statutory nor a constitutional taking of private real property. The adopted rules do not affect a landowner's rights in private real property because this rulemaking does not relate to or have any impact on an owner's rights to property. This rulemaking adoption will primarily affect districts, especially in the areas of creations/conversions, projects, and authority; this will not be an effect on private real property. Therefore, the adopted rulemaking will not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the rulemaking adoption and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the rulemaking adoption is not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the Coastal Management Program.

Public Comment

The commission held a public hearing on March 16, 2026. The comment period closed on March 17, 2026. The commission received comments from Allen Boone Humphries Robinson LLP (ABHR) and Haynes and Boone LLP (HBLLP). Both comments received were neither in support of nor against the rulemaking, rather, suggested changes to the proposed language.

Comment

ABHR commented that the changes made to §293.12(g) did not implement the requirement enacted in SB 1397 stating the bill requires TCEQ to provide the "creation notice" to each state representative and state senator who represents an area inside the proposed District boundaries.

Response

The commission agrees with this comment and has implemented the requirement enacted in SB 1397 stating the bill requires TCEQ to provide the "creation notice" to each state representative and state senator who represents an area inside the proposed District boundaries.

Comment

ABHR commented that the changes did not implement changes made by HB 2815 to repeal §54.103 and that this statutory change needs to be implemented in §293.32(a) by deleting §293.32(a)(6) and reordering subsequent numbers.

Response

The commission responds by concurring with the suggestion and will continue to operate under the revised requirements of the statute; however, changes to 30 TAC §293.32(a) regarding the repeal of TWC § 54.103 were not included as a part of the proposal publication for this rulemaking. Therefore, the commission will consider addressing the change to 30 TAC §293.32(a)(6) in a future rulemaking.

Comment

ABHR commented that changes to §293.41 require an update to §293.44(b)(4) to correctly reference §293.41(e)(1) - (7) instead of §293.41(e)(1) - (6) due to reordering of §293.41(e) made during changes to §293.41.

Response

The commission responds by concurring with the suggestion and will continue to operate under the revised requirements of the statute; however, changes to 30 TAC §293.44(b)(4) were not included as a part of the proposal publication for this rulemaking. Therefore, the commission will consider addressing the change to 30 TAC §293.44(b)(4) in a future rulemaking.

Comment

ABHR commented that amendments to TWC §49.455(c) amended by HB 2815 removed "and map or plat" from §49.455(c). ABHR suggests that §293.92(1)(K)(i) be amended to remove "and map or plat" as well.

Response

The commission responds by concurring with the suggestion and will continue to operate under the revised requirements of the statute; however, changes to 30 TAC §293.92(1)(K)(i) were not included as a part of the proposal publication for this rulemaking. Therefore, the commission will consider addressing the change to 30 TAC §293.92(1)(K)(i) in a future rulemaking.

Comment

HBLLP commented that the changes to §293.15 removed the requirement for a district that wishes to convert to hold a public hearing pursuant to §54.032 and that transparency regarding these conversions is particularly important.

Response

The commission responds that the hearing and notice actions are still required under §§54.030 and 54.032 but take place prior to the applicant's submittal of the conversion application to the commission. The requirement to submit proof of the notice and hearing to the commission is deleted from §293.15 because the statute does not require evidence of the publication under §54.032 to be submitted to the commission. No changes have been made in response to this comment.

SUBCHAPTER B. CREATION OF WATER DISTRICTS

30 TAC §§293.11, 293.12, 293.15

Statutory Authority

This rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The rulemaking adoption implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

§293.12. Creation Notice Actions and Requirements.

(a) On receipt by the executive director of all required documentation associated with an application for creation of a district by the commission in accordance with Texas Water Code (TWC), Chapter 51, multi-county Water Control and Improvement Districts or single-county Water Control and Improvement Districts requesting additional powers; Chapter 54, Municipal Utility Districts; Chapter 55, Water Improvement Districts; Chapter 58, multi-county Irrigation Districts; Chapter 59, Regional Districts; Chapter 65, Special Utility Districts; Chapter 66, Stormwater Control Districts; and Texas Local Government Code, Chapter 375, Municipal Management Districts, the executive director shall notify the chief clerk that the application is administratively complete.

(b) For those applications described in subsection (a) of this section, the chief clerk shall send a copy of a notice to the applicant indicating that an application has been received and notifying interested persons of the procedures for requesting a public hearing. The applicant shall cause the notice to be published as follows:

(1) notice must be published once a week for two consecutive weeks in a newspaper regularly published or circulated in the county or counties where the district is proposed to be located with the last publication not later than the 30th day before the date on which the commission may act on the application; and

(2) not later than the 30th day before the date on which the commission may act on the application, the notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.

(c) For those applications described in subsection (a) of this section, the commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under this section. If the commission determines that a public hearing is necessary, the chief clerk shall advise all parties of the time and place of the hearing. The commission is not required to provide public notice of a hearing under this subsection.

(d) For a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, which includes transfer of the certificate of public convenience and necessity, the applicant shall also, unless waived by executive director, mail copies of the notice to customers of the water supply corporation and other affected parties at least 120 days prior to approval. Such notice shall include the following:

- (1) name and business address of the district;
- (2) a description of the service area involved;

(3) the anticipated effect of the conversion on the operation or the rates and services provided to customers; and

(4) a statement that if a hearing is granted, persons may attend the hearing and participate in the process.

(e) If a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, contains a request for approval of an impact fee, the applicant shall comply with the notice provisions of §293.173 of this title (relating to Impact Fee Notice Actions and Requirements).

(f) Regardless of whether a public hearing is held or not, for an application for creation of a Special Utility District in accordance with TWC, Chapter 65, the commission may only consider a purpose for which the district is being created that is specified in the resolution.

(g) Upon receipt of a petition to create a district under TWC, Chapter 54, all of which is to be located outside the corporate limits of a municipality, the executive director shall notify the commissioners court of any county in which the proposed district is to be located that the petition has been filed.

(h) Pursuant to TWC, §49.011(b), the commission shall provide the notice as described in §293.12(b) of this title (relating to creation notice actions and requirements) to each state representative and state senator who represents an area inside the proposed district's boundaries.

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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Amy L. Browning

Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality

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SUBCHAPTER D. APPOINTMENT OF DIRECTORS

30 TAC §293.32

Statutory Authority

The rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The rulemaking adoption implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

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SUBCHAPTER E. ISSUANCE OF BONDS

30 TAC §293.41, §293.59

Statutory Authority

The rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

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SUBCHAPTER F. DISTRICT ACTIONS RELATED TO CONSTRUCTION PROJECTS AND PURCHASE OF FACILITIES

30 TAC §293.63

Statutory Authority

The rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

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§49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

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SUBCHAPTER G. OTHER ACTIONS REQUIRING COMMISSION CONSIDERATION FOR APPROVAL

30 TAC §293.81

Statutory Authority

The rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The rulemaking adoption implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

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SUBCHAPTER H. REPORTS

30 TAC §293.91

Statutory Authority

The rulemaking is adopted under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water

Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The rulemaking adoption implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE

SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.314 - 65.320

The Texas Parks and Wildlife Commission (commission) in a duly noticed meeting on March 26, 2026, adopted amendments to 31 TAC §§65.314 - 65.320, concerning the Migratory Game Bird Proclamation. The amendment to §65.314, concerning Doves, is adopted with changes to the proposed text as published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1023) and will be republished. Sections 65.315 - 65.320 are adopted without changes and will not be republished.

The change to §65.314 alters the dates for the second segment of the dove season in the South Zone. The department proposed the second segment of the dove season in the South Zone to run from November 25 - December 29, 2026, to allow for hunting opportunities around Thanksgiving weekend. After deliberation, the commission adopted a season to run from December 18, 2026 - January 21, 2027. The department has determined that the change will maintain consistency with previous years' hunting seasons and not result in depletion or waste of the resource.

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds in the United States. Regulations adopted by individual states may be more restrictive than the federal frameworks but may not be less restrictive. Responsibility for establishing seasons, bag limits, means, methods, and devices for harvesting migratory game

birds within Service frameworks is delegated to the commission under Parks and Wildlife Code, Chapter 64, Subchapter C.

With exceptions as noted, the amendments specify the season dates for hunting the various species of migratory game birds for the 2026-2027 seasons, along with minor formatting changes to improve the efficiency and clarity of the regulations. The rules (except as noted in the discussion of the elimination of the Special White-winged Dove Area (SWWDA) season and expanded season dates for the South Zone) retain the season structure and bag limits for all species of migratory game birds from last year while adjusting the season dates to allow for calendar shift (i.e., to ensure that seasons open on the desired day of the week), since dates from a previous year do not fall on the same days in following years.

The amendment to §65.314, concerning Doves (Mourning, White-Winged, White-Tipped, White-Fronted Doves), eliminates the Special White-winged Dove Days and the SWWDA distinction from the South Zone and opens the regular season of the South Zone on September 1. Under the federal frameworks, Texas is allowed 90 total days of dove hunting opportunity in the South Zone. Historically, the federal frameworks did not allow full-day dove hunting in the South Dove Zone before September 14, but Texas was authorized to have up to six half-days of hunting opportunity between September 1 and September 19. The department reexamined the available biological information on mourning doves, including population abundance, hatch dates, harvest rates, and current harvest strategies. Based on this reexamination, the department proposed to the Service to allow the regular dove hunting season to begin on September 1st and eliminate federal restrictions on opening season dates in the frameworks for this hunting season since no biological impact is expected to occur, based on the best available information. The Service has approved these changes to the federal frameworks on a three-year experimental basis. As a result, this change will eliminate the special white-winged dove provisions and allow for an earlier regular season in the South Zone.

The amendment to §65.316, concerning Geese, alters section (b)(2)(B) to combine the season dates and bag limits for Dark Geese in the Eastern Zone into one subsection to maintain consistency within the section.

The amendment to §65.317, concerning Special Youth, Active-Duty Military, and Military Veteran Seasons, alters subsection (b) to separate the seasons for moorhens and gallinules from waterfowl seasons to preserve parallelism.

The department received 389 comments opposing adoption of the portion of the proposed amendment to §65.314, concerning Doves, that would have moved the starting date for the second segment of the South Zone dove hunting season from mid-December to the day prior to Thanksgiving. The commenters expressed a variety of rationales for opposition; however, the commission in any event ultimately concluded that maintaining consistency with previous years' hunting seasons was more important than other considerations, given the scope of opposition.

The department received 486 comments supporting adoption of the proposed amendment.

The department received 149 comments opposing adoption of the portion of the proposed amendment to §65.314, concerning Doves, that changes the South Zone dove hunting season structure during the first segment to include an earlier regular season opening date, eliminate the special white-winged dove days, and institute standardized daily bag limits across all days in the South

Zone. Of the 149 comments, 75 provided a reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

Thirteen commenters opposed adoption and stated that starting the season earlier in September is not a good idea because early September is too hot. The department disagrees with the comments and responds that hot weather does not preclude hunting activity, dove season has historically opened on September 1 across most of the state, and there is no biological reason not to open the season on the earliest day possible under the federal frameworks. No changes were made as a result of the comments.

Nine commenters opposed adoption and stated a preference for an opening date later in September because the birds are more numerous later in the season. The department disagrees with the comments and responds that the earlier opening date in the South Zone will allow hunting opportunity while dove populations are at their largest, maximize hunting opportunity, and comport with hunter and landowner preference. No changes were made as a result of the comments.

Eleven commenters opposed adoption and stated that many hunters could miss out on opening day since September 1 could fall on a weekday. A few of the commenters suggested that opening day should be the first weekend in September instead. The department disagrees with the comments and responds that hunter opinion surveys conducted by the department indicate the majority of hunters prefer the earliest opening date possible. No changes were made as a result of the comments.

Eleven commenters opposed adoption and stated that opening dove season on September 1 will harm the population because the birds are still nesting. The department disagrees with the comments and responds that the adopted opening date will have no biological impact on the dove population, based on a contemporary review of best available biological information. No changes were made as a result of the comments.

Eleven commenters opposed adoption and stated opening the South Zone on the same day as the Central Zone removes the possibility of taking advantage of the historical opportunity to go hunting on two different opening dates. Some of the commenters stated that a major impact on outfitters could occur. The department disagrees with the comments and responds that hunter opinion surveys conducted by the department indicate that the majority of hunters prefer the earliest opening date possible and commission policy historically is to structure season dates to maximize hunting opportunity for the greatest number of hunters. No changes were made as a result of the comments.

One commenter opposed adoption and stated that people cannot always hunt the first day of September so mid-September is a better opening time for the season. The department disagrees with the comment and responds that hunter opinion surveys conducted by the department indicate the majority of hunters prefer the earliest opening date possible. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season should stay the same to prevent overharvest. The department disagrees with the comment and responds that there will be no biological impact to dove population as a result of the rule as adopted. No changes were made as a result of the comment.

One commenter opposed adoption and stated the department should keep Special White-winged Dove Season and end the

regular dove season on the last day of October. The department disagrees with the comment and responds that opening the regular season on September 1 and eliminating the Special White-winged Dove Season reduces regulatory complexity and provides additional hunter opportunity by allowing all-day hunting and higher daily bag limits, compared to previous years. No changes were made as a result of the comment.

One commenter opposed adoption and stated uncertainty as to the purpose of the proposed rule. The department neither agrees nor disagrees with the comment and responds that the purpose of the rule is to provide additional hunting opportunity in the South Zone in early September and reduce regulatory complexity. No changes were made as a result of the comment.

Three commenters opposed adoption and stated traditionally Special White-winged Dove Days in the South Zone were akin to family holidays. The department neither agrees nor disagrees with the comments and responds that opening days and hunting opportunities are still offered by the department, which does not prevent the continuation of family traditions. No changes were made as a result of the comments.

One commenter opposed adoption and stated, "don't break what is NOT broken." The department neither agrees nor disagrees with the comment and responds that the department continually assesses ways to provide the best possible hunting opportunities for all hunters while ensuring the sustainability of the resource. No changes were made as a result of the comment.

Two commenters opposed adoption and stated that the department should keep the season the same as previous years. The department disagrees with the comments and responds that the season as adopted reduces regulatory complexity and provides increased hunter opportunity. No changes were made as a result of the comments.

One commenter opposed adoption and stated that moving the dates gives an advantage to commercial hunting operations. The department disagrees with the comment and responds that the rule as adopted benefits all hunters equally by providing additional hunting opportunity in early September when dove abundance and hunter participation are typically the highest. No changes were made as a result of the comment.

One commenter opposed adoption and stated that moving the opening day to September 1 will hurt landowner ability to offset hunting pressure on quail. The department disagrees with the comment and responds that the season as adopted will relieve pressure on quail because it will defer hunting pressure until December and January. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the department should expand the season but not shorten the winter segment. The department disagrees with the comment and responds that the season as adopted utilizes all days of hunting opportunity available under the federal frameworks. No changes were made as a result of the comment.

One commenter opposed adoption and stated shooting hours should be from noon to sunset. The department disagrees with the comment and responds that the intent of the rule as adopted is to eliminate the current structure that includes half-day hunting, which is desirable from both the perspective of increased hunter opportunity and of the elimination of problematic enforcement and compliance scenarios. No changes were made as a result of the comment.

One commenter opposed adoption and stated the white-winged dove population is threatened in Hidalgo and Starr counties. The department disagrees with the comment and responds that there is no evidence that the white-winged dove population is threatened anywhere in Texas. No changes were made as a result of the comment.

One commenter opposed adoption and stated that there were not enough white-winged doves where they hunt. The department disagrees with the comment and responds that department surveys indicate that white-winged doves are abundant across the South Zone. No changes were made as a result of the comment.

One commenter opposed adoption and stated, "I do not believe that starting South Zone the same time as the other zones has a significant effect on the dove population. Therefore making it a moot point and no change necessary to the start date." The department disagrees with the comment and responds that the change is not intended to have any effect on dove populations, but rather to provide additional hunting opportunities in the South Zone while reducing regulatory complexity. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the department should return to a 10-bird daily limit until the impact of this change is better understood. The department disagrees with the comment and responds that this change is not expected to have any negative biological effect on dove populations. No changes were made as a result of the comment.

One commenter opposed adoption and stated the department should keep Special White-winged Dove Days. The department disagrees with the comment and responds that the change will provide additional hunting opportunities while not resulting in depletion or waste of the resource. No changes were made as a result of the comment.

One commenter opposed adoption and stated uncertainty about the impacts of "how combining will affect overall harvest in South Zone." The department neither agrees nor disagrees with the comment and responds that the change will provide additional hunting opportunities while not resulting in depletion or waste of the resource. No changes were made as a result of the comment.

The department received 732 comments supporting adoption of the proposed amendment to §65.314, concerning Doves.

The department received 104 comments opposing adoption of the proposed amendment to §65.315, concerning Ducks, Coots, Mergansers, and Teal. Of the 104 comments, 10 provided a reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

Seven commenters opposed adoption and stated that early teal season should be moved up because September 19 is too late. The department disagrees with the comments and responds that the peak migration period for blue-winged teal in Texas as a whole generally occurs in late September and long-term monitoring data indicates this peak is, on average, occurring progressively later each year. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the entire duck season should be moved one month later because huntable numbers are not present until after the season ends. The department disagrees with the comment and responds that under federal frameworks, duck seasons in Texas cannot extend

beyond the last day of January. No changes were made as a result of the comment.

One commenter opposed adoption and recommended approaching the Service to extend duck season through February because ducks are not present in Texas for most of November. The department disagrees with the comment and responds that federal frameworks are developed through a multi-state and international flyway process based on the best available population, nesting, and migration data, which at the current time do not support alteration of the frameworks for Texas. No changes were made as a result of the comment.

One commenter opposed adoption and stated that tree ducks should be included in teal season in some fashion because they are usually gone by November. The department disagrees with the comment and responds that the federal frameworks authorize a September season restricted to teal ducks only. No changes were made as a result of the comment.

The department received 384 comments supporting adoption of the rule as proposed.

The department received 104 comments opposing adoption of the proposed amendment to §65.316, concerning Geese. One commenter provided a reason or rationale for opposing adoption. The commenter stated that the Western Zone should have an additional two weeks for the harvest of white geese, which are abundant after the current season is closed. The department disagrees with the comment and responds that the season as adopted runs until the last day of hunting opportunity possible under the federal frameworks. No changes were made as a result of the comment.

The department received 384 comments supporting adoption of the rule as proposed.

The department received 104 comments opposing adoption of the proposed amendment to §65.317, regarding Special Youth, Active-Duty Military, and Military Veteran Seasons. No commenter provided a reason or rationale for opposing adoption.

The department received 384 comments supporting adoption of the proposed rule.

The department received 104 comments opposing adoption of the proposed amendment to §65.318, regarding Sandhill Crane. Three of the commenters provided a reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated the department should issue tags instead of having a season, which would allow hunters more latitude to harvest opportunistically. The department disagrees with the comment and responds that hunting opportunity for sandhill cranes in Texas must take place during the time periods authorized under the federal frameworks. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season in Zone C should start two weeks later because cranes do not arrive in huntable numbers until late December. The department disagrees with the comment and responds that Zone C is structured to open during a period that generally represents the height of migration, which can vary annually. No changes were made as a result of the comment.

One commenter opposed adoption and stated that Zone A and Zone B should have concurrent season dates. The department disagrees with the comment and responds that under the fed-

eral frameworks, the season in Zone B must be opened later to minimize the potential for interference with migrating whooping cranes, which are an endangered species. No changes were made as a result of the comment.

The department received 384 comments supporting adoption of the proposed rule.

The department received 104 comments opposing adoption of the proposed amendment to §65.319, regarding Gallinules, Rails, Snipe, Woodcock. No commenter provided a reason or rationale for opposing adoption.

The department received 384 comments supporting adoption of the proposed rule.

The department received 104 comment opposing adoption of the proposed amendment to §65.320, concerning Extended Falconry Seasons. No commenter provided a reason or rationale for opposing adoption.

The department received 384 comments supporting adoption of the proposed rule.

The amendments are adopted under the authority of Parks and Wildlife Code, Chapter 64, which authorizes the commission and the executive director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

§65.314. *Doves.*

(a) Zones. (Mourning, White-Winged, White-Tipped, White-Fronted Doves).

(1) North Zone: That portion of the state north of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to Interstate Highway 10 at Fort Hancock; thence east along Interstate Highway 10 to Interstate Highway 20; thence northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; thence northeast along Interstate Highway 30 to the Texas-Arkansas state line.

(2) Central Zone: That portion of the state between the North Zone and the South Zone.

(3) South Zone: That portion of the state south of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to State Loop 1604; thence following Loop 1604 south and east to Interstate Highway 10; thence east along Interstate Highway 10 to the Texas-Louisiana State Line.

(b) Seasons.

(1) North Zone: September 1 - November 8, 2026 and December 18, 2026 - January 7, 2027.

(2) Central Zone: September 1 - October 25, 2026 and December 11, 2026 - January 14, 2027.

(3) South Zone: September 1 - October 25, 2026 and December 18, 2026 - January 21, 2027.

(c) Daily bag limit for all zones: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped (white-fronted) doves per day.

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



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 7. RAIL FACILITIES

SUBCHAPTER H. SHORT LINE RAILROAD IMPROVEMENT STATE FUND PROGRAM

43 TAC §§7.160 - 7.173

The Texas Department of Transportation (department) adopts the new §§7.160 - 7.173; concerning the Short Line Railroad Improvement State Fund Program. The new §§7.160 - 7.173 are adopted without changes to the proposed text as published in the May 15, 2026 issue of the *Texas Register* (51 TexReg 3360) and will not be republished.

EXPLANATION OF ADOPTED NEW SECTIONS

New §§7.160 - §7.173, contained in new Subchapter H of Chapter 7, describe the policies and procedures for the implementation and administration of the Short Line Railroad Improvement State Fund Program ("program") as authorized by Senate Bill (S.B) 2366, 89th Legislature, Regular Session, 2025 and codified as Transportation Code, §201.981.

New §7.160, Purpose, states the purpose of the new subchapter.

New §7.161, Definitions, defines the terms used in the new subchapter.

New §7.162, Program Eligibility, sets criteria a project must meet to be eligible for the program. This includes the statutory criteria that the project must (1) be for the replacement of short line railroad tracks or bridges, the improvement of short line rail capacity, or the restoration of short line railways, (2) increase public safety, enhance economic development, or reduce traffic, and (3) be sponsored by a rural rail district that owns or operates the short line railroad and has authority to undertake the project and to enter the required grant agreement. In order to maximize efficiency and use of available funds, the project must also constitute a logical, self-contained unit of work that can be constructed as an independent project whether it is proposed as an independent project or as a part of a larger transportation project.

New §7.163, Funding and Eligible Costs, sets the allowable costs under the program. To maximize use of funding, allowable costs are limited to direct costs of eligible projects, including planning, detailed design activities, environmental, right of way acquisition, and utility adjustments. Elements that do not qualify for grant funds may be included in the project, but must be funded with non-program funds.

New §7.164, Non-State Funding Match, addresses the statutory requirement that at least 10% of total project costs must be pro-

vided by a source other than the state as matching funds, or, if the grant funds are to be used as matching funds for another grant, at least 10% of the amount used as matching funds must be provided by a source other than the state. The standard policies apply that the matching funds must be provided before the work begins and donated services may be used to reduce the cost of the project but do not constitute matching funds.

New §7.165, Call for Project Nominations, provides that projects will be selected through a competitive process in order to make the best use of available funding. If funding is available, a program call describing the required application contents will be published in the *Texas Register*.

New §7.166, Nomination Package, requires a project sponsor to submit project nominations in the form prescribed by the department. A complete nomination package must be received by the department by the deadline, or it will be deemed ineligible.

New §7.167, Project Evaluation Committee, requires the executive director to appoint a project evaluation committee consisting of department staff to make recommendations for the selection of projects funded under the program.

New §7.168, Nomination Screening, requires the project evaluation committee to screen each nominated project to determine its eligibility under statutory and regulatory requirements. It provides for notification if a project is found ineligible and for an appeals process.

New §7.169, Project Evaluation, requires the project evaluation committee to evaluate the benefits of eligible applications based on statutory requirements, the goals of the program, and specific selection criteria set forth in the program call. The department will provide the evaluation criteria with each program call.

New §7.170, Project Selection and Approval, requires the project evaluation committee to make recommendations for project selection to the department's Railroad Division director. The division director will make a final recommendation of selected projects to the Texas Transportation Commission (commission) for approval.

New §7.171, Project Implementation, requires the project sponsor and applicable railroad to comply with all applicable laws and regulations, including all applicable state procedures, requirements, and standards and specifications. An agreement between the state and the project sponsor is required, which must include the responsibilities and duties of the parties, local match funding commitment, the scope and course of the project, and the maximum amount of available funding.

New §7.172, Elimination of Project from the Program, provides the department's executive director criteria for eliminating a project after selection. A project may be eliminated from the program if a project sponsor does not meet the requirements of the program, if a project sponsor chooses to withdraw, if significant deviations from the approved scope of work would be required, if construction has not been initiated within three years of project selection, or if the required agreement is not signed within one year after project selection.

New §7.173, Reporting to the Commission, requires the department to submit to the commission annually a report regarding project nominations and selected projects.

COMMENTS

No comments on the new §§7.160 - 7.173 were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.981, which requires the commission to adopt rules as necessary to implement that section.

The authority for the adopted amendments is provided by S.B. 2366, 89th Regular Session 2025. The primary authors of that bill are Senators Bryan Hughes and Angela Paxton, and the primary sponsor of that bill is Representative Cole Hefner.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.981

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 July 30, 2026.

TRD-202603229

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Effective date: August 19, 2026

Proposal publication date: May 15, 2026

For further information, please call: (512) 486-5230



CHAPTER 30. AVIATION

SUBCHAPTER C. AVIATION FACILITIES DEVELOPMENT AND FINANCIAL ASSISTANCE RULES

43 TAC §§30.202, 30.203, 30.206, 30.210

The Texas Department of Transportation (department) adopts the amendments to §§30.202, 30.203, 30.206, and §30.210 concerning aviation facilities development and financial assistance. The amendments to §§30.202, 30.203, 30.206, and §30.210 are adopted without changes to the proposed text as published in the May 15, 2026 issue of the *Texas Register* (51 TexReg 3363) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill 4520, 89th Legislature, Regular Session, 2025 amended §21.105(b), Transportation Code, to provide that for a loan or grant for an airport located in an economically disadvantaged county, 5% of the total project cost, rather than 10%, must be provided by sources other than the state. The bill also repealed §21.114(b) of the Transportation Code, which results in the declaration that the department serves as the agent for federal funds for general aviation airports, including reliever airports. The Federal Aviation Administration no longer funds reliever airports separately from general aviation airports. H.B. 4520 brings the statute in line with the State Block Grant Program agreement.

Amendments to §30.202, Scope of the Rules, remove "nonreliever," with the effect that Chapter 30, Subchapter C, applies for

all general aviation airports in accordance with the amendments made by H.B. 4520.

Amendments to §30.203, Definitions, delete the operative provisions in the definition of "grant." Those provisions are moved to §30.206, which provides the requirements applicable to grants and loans. The amendments also make a nonsubstantive clarifying grammatical change in paragraph 14 of the section.

Amendments to §30.206, Amount of Grant or Loan, move the matching requirements for grants from the definition of grant and modify those requirements in accordance with the changes in law made by H.B. 4520. The provision allows the Texas Transportation Commission (commission) to award a grant of up to 95% of eligible project costs if the airport is located in an economically disadvantaged county. The amendments also make nonsubstantive clarifying grammatical changes in subsections (a) and (d) of the section.

Amendments to §30.210, Intergovernmental Agreements, substitute a reference to §30.206 in the description of the terms and conditions of intergovernmental agreements in the place of the percentage numbers that set the limits of matching requirements for financial assistance, as expressed in §30.206. The substitution eliminates redundancy and the potential for discrepancy between the percentages in the two sections. The amendments also make nonsubstantive clarifying grammatical changes in subsections (b)(4), (d)(9), and (e) of the section.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

The authority for the adopted amendments is provided by H.B. 4520, 89th Regular Session, 2025. The primary author and the primary sponsor of that bill are Representative Armando Martinez and Senator Robert Nichols, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 21, Subchapter C

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 30, 2026.

TRD-202603230

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Effective date: August 19, 2026

Proposal publication date: May 15, 2026

For further information, please call: (512) 416-4500



SUBCHAPTER F. METEOROLOGICAL EVALUATION TOWERS

43 TAC §30.502, §30.503

The Texas Department of Transportation (department) adopts the amendments to §30.502 and §30.503 concerning Meteorological Evaluation Towers. The amendments to §30.502 and §30.503 are adopted without changes to the proposed text as published in the May 15, 2026 issue of the *Texas Register* (51 TexReg 3367) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill (H.B.) 2898 89th Legislature, Regular Session, 2025 amended Transportation Code, §21.071, relating to the requirements for certain meteorological evaluation towers.

Amendments to §30.502, Definitions, change the definition of "meteorological evaluation tower" by increasing the diameter at the base of a structure included within the definition from 6 to 12 feet and add a definition of "military aviation training facility."

Amendments to §30.503, Notice and Registration, reflect that not later than the 30th day after the date the department receives notice of a person's intent to erect a meteorological evaluation tower under §30.502, the department will notify each federally owned or operated radar installation or military aviation training facility in this state whose boundaries are within 50 nautical miles of the tower, the county judge of each county in this state that contains a radar installation or military aviation training facility, and the county judge of each county in this state within 25 miles of a radar installation or military aviation training facility.

FISCAL NOTE

Stephen Stewart, chief financial officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or Texas Transportation Commission's (commission) enforcing or administering the proposed rules.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §21.071, which requires the department to adopt rules related to the notice and registration of meteorological evaluation towers.

The authority for the adopted amendments is provided by H.B. 2898, 89th Regular Session, 2025. The primary author and the primary sponsor of that bill are: Representative James Frank and Senator Brent Hagenbuch, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §21.071

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 July 30, 2026.

TRD-202603231

Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Effective date: August 19, 2026
Proposal publication date: May 15, 2026
For further information, please call: (512) 416-4500



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 Commission on Fire Protection

Title 37, Part 13

The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal of, Texas Administrative Code, Title 37, Part 13, Chapter 443, concerning Certification Curriculum Manual. Chapter 443 consists of §443.1, Approval by the Curriculum and Testing Committee; §443.3, Approval by the Texas Commission on Fire Protection; §443.5, Effective Date of New or Revised Curricula and Training Programs Required by Law or Rule; §443.7, Effective Date of New or Revised Curricula and Training Programs Which Are Voluntary; and §443.9, National Fire Protection Association Standard.

This review will be conducted pursuant to Texas Government Code §2001.039. The commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the reason for the rule continues to exist. The Commission, which administers these rules, believes that the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202603221

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Filed: July 29, 2026

The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal of, Texas Administrative Code, Title 37, Part 13, Chapter 445, concerning Administrative Inspections and Penalties. Chapter 445 consists of §445.1, Entity Inspections; §445.3, Right of Access; §445.5, Duty to Comply; Enforcement; §445.7, Procedures; §445.9, Minor Violations; §445.11, Major Violations; §445.13, Disciplinary Hearings; §445.15, Judicial Enforcement; §445.17, Liability for Violations; and §445.19, Inspection Forms.

This review will be conducted pursuant to Texas Government Code §2001.039. The commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the rea-

son for the rule continues to exist. The Commission, which administers these rules, believes that the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202603222

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Filed: July 29, 2026

Texas Department of Transportation

Title 43, Part 1

Notice of Intention to Review

In accordance with Government Code, §2001.039, the Texas Department of Transportation (department) files this notice of intention to review Title 43 TAC, Part 1, Chapter 23, Travel Information, Chapter 25, Traffic Operations, Chapter 26, Regional Mobility Authorities, Chapter 27, Toll Projects, Chapter 28, Oversize and Overweight Vehicles and Loads, Chapter 29, Maintenance, Chapter 30, Aviation, and Chapter 31, Public Transportation.

The department will accept comments regarding whether the reasons for adopting these rules continue to exist. Comments regarding this rule review may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Rule Review." The deadline for receipt of comments is 5:00 p.m. on *September 14, 2026*.

In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

TRD-202603226

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: July 30, 2026

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Adopted Rule Reviews

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 284, Competitive and Integrated Employment Initiative for Certain Medicaid Recipients

Notice of the review of this chapter was published in the May 29, 2026, issue of the *Texas Register* (51 TexReg 3718) for public comment.

The 31-day comment period ended June 29, 2026. During this period, HHSC did not receive any comments regarding the proposed rule review.

HHSC has reviewed Chapter 284 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 284. Any amendments, if applicable, to Chapter 284 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 284 as required by Texas Government Code §2001.039.

TRD-202603251

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 3, 2026

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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 331, LIDDA Service Coordination

Notice of the review of this chapter was published in the May 22, 2026, issue of the *Texas Register* (51 TexReg 3618) for public comment.

The 31-day comment period ended June 22, 2026. During this period, HHSC did not receive any comments regarding the proposed rule review.

HHSC has reviewed Chapter 331 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 331. Any amendments, if applicable, to Chapter 331 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 331 as required by Texas Government Code §2001.039.

TRD-202603253

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 3, 2026

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TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 30 TAC §30.340(a)

<u>License</u>	<u>Education</u>	<u>Required Work Experience</u>	<u>Required Training</u>
<u>Provisional Class D</u>	<u>None</u>	<u>None</u>	<u>20 hours</u>
<u>Class D or Class I</u>	<u>High School diploma (HSD) or Equivalent</u>	<u>None</u>	<u>20 hours</u>
<u>Class C or Class II</u>	<u>HSD or equivalent</u>	<u>2 years</u>	<u>60 hours</u>
<u>Class B</u>	<u>HSD or equivalent</u>	<u>5 years</u>	<u>120 hours</u>
	<u>Bachelor's degree</u>	<u>2 years</u>	<u>120 hours</u>
<u>Class III</u>	<u>HSD or equivalent</u>	<u>5 years</u>	<u>100 hours</u>
	<u>Bachelor's degree</u>	<u>2 years</u>	<u>100 hours</u>
<u>Class A</u>	<u>HSD or equivalent</u>	<u>8 years</u>	<u>160 hours</u>
	<u>Bachelor's degree</u>	<u>5 years</u>	<u>160 hours</u>
	<u>Master's degree</u>	<u>4 years</u>	<u>160 hours</u>

Figure: 30 TAC §30.390(a)

<u>License</u>	<u>Education</u>	<u>Required Work Experience</u>	<u>Required Training</u>
<u>Provisional Class D</u>	<u>None</u>	<u>None</u>	<u>22 hours</u>
<u>Class D</u>	<u>High School diploma (HSD) or Equivalent</u>	<u>None</u>	<u>22 hours</u>
<u>Class C Distribution, Groundwater, Surface Water</u>	<u>HSD or equivalent</u>	<u>2 years</u>	<u>62 hours</u>
<u>Class B Distribution and Groundwater</u>	<u>HSD or equivalent</u>	<u>5 years</u>	<u>122 hours</u>
	<u>Bachelor's degree</u>	<u>2 years</u>	<u>122 hours</u>
<u>Class B Surface Water</u>	<u>HSD or equivalent</u>	<u>5 years</u>	<u>146 hours</u>
	<u>Bachelor's degree</u>	<u>2 ½ years</u>	<u>146 hours</u>
<u>Class A</u>	<u>HSD or equivalent</u>	<u>8 years</u>	<u>186 hours</u>
	<u>Bachelor's degree</u>	<u>5 years</u>	<u>186 hours</u>
	<u>Master's degree</u>	<u>4 years</u>	<u>186 hours</u>

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.

Central Texas Workforce Development Board

Request for Quotes - Financial Services

Workforce Solutions of Central Texas is seeking responses from qualified firms to provide professional financial services in support of the organization's fiscal operations, compliance responsibilities, and financial reporting requirements.

The selected firm will be expected to demonstrate experience providing financial services to governmental entities, nonprofit organizations, workforce development boards, or other organizations that administer federal and state funding.

Scope of Services

- Services may include, but are not limited to:
- General accounting and financial management support
- Preparation and review of financial statements and reports
- Grant and fund accounting
- Budget development and financial monitoring
- Accounts payable and accounts receivable support
- Payroll and related financial services
- Internal-control review and recommendations
- Compliance with federal, state, and local financial requirements
- Assistance with audit preparation and responses
- Other financial consulting services as requested

Respondents should provide information regarding their qualifications, relevant experience, proposed staffing, approach to providing the requested services, availability, references, and proposed pricing or fee structure.

RFQ Availability

The complete Request for Quote, including the detailed scope of services, submission requirements, evaluation criteria, and procurement schedule, by emailing jared.porritt@workforcectx.com

Submission Deadline

Responses must be received no later than: Aug. 21, 2026, at 5:00 p.m.

Workforce Solutions of Central Texas reserves the right to reject any or all responses, waive minor informalities, request additional information, and award a contract in the best interest of the organization. Issuance of this RFQ does not obligate Workforce Solutions of Central Texas to award a contract or reimburse respondents for costs associated with preparing a response.

TRD-202603220

Jared Porritt

Sr VP of Strategic Initiatives

Central Texas Workforce Development Board

Filed: July 29, 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, 303.005, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/10/26 - 08/16/26 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/10/26 - 08/16/26 is 18.00% for commercial² credit.

The monthly ceiling as prescribed by §303.005³ and §303.009 for the period of 08/01/26 - 08/31/26 is 18.00%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

³ Only for variable rate commercial transactions, as provided by §303.004(a)

TRD-202603304

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: August 5, 2026

Texas Education Agency

Notice of Additional Public Comment Period for Proposed Commissioner of Education Rules

The Texas Education Agency (TEA) published the following proposed rules:

Proposed Amendments to 19 TAC Chapter 100, Charters, Subchapter AA, Commissioner's Rules Concerning Open-Enrollment Charter Schools, in the July 3, 2026 issue of the *Texas Register* (51 TexReg 4312); and

Proposed New 19 TAC Chapter 103, Health and Safety, Subchapter BB, Commissioner's Rules Concerning General Provisions for Health and Safety, §103.1105, Procedure Related to Notification to a Student's Parent Regarding the Student's Mental, Emotional, or Physical Health or Well-Being, in the June 26, 2026 issue of the *Texas Register* (51 TexReg 4070).

In the Public Comments section of the preambles, the web address to the Proposed Commissioner of Education Rules web page on the TEA website was incorrect. As a result, TEA is scheduling an additional public comment period on the proposals. The additional public comment period will be from August 14-28, 2026.

To view the proposed rules and access a form for submitting public comments, go to <https://tea.texas.gov/laws-and-rules/commissioner-rules-tac/proposed-commissioner-education-rules>.

Issued in Austin, Texas, on August 5, 2026.

TRD-202603305

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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 **September 14, 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 **September 14, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENF-COMNT@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: AFTON CHEMICAL CORPORATION; DOCKET NUMBER: 2024-1457-AIR-E; IDENTIFIER: RN101613230; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: lube and fuel additives manufacturing plant; PENALTY: \$80,717; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$32,287; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(2) COMPANY: Ashley and Fagan Investments Co., Inc.; DOCKET NUMBER: 2026-0603-PWS-E; IDENTIFIER: RN103105805; LOCATION: Snyder, Kent County; TYPE OF FACILITY: public water supply; PENALTY: \$4,400; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(3) COMPANY: Austin County Water Supply Corporation; DOCKET NUMBER: 2025-1073-MWD-E; IDENTIFIER: RN103001012; LOCATION: Bellville, Austin County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(4) COMPANY: Bayport Polymers LLC; DOCKET NUMBER: 2024-1410-AIR-E; IDENTIFIER: RN109845768; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petrochemical manufacturing plant; PENALTY: \$29,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$11,850; ENFORCEMENT COORDINATOR: Katie Phillips, (713) 767-3628; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(5) COMPANY: City of Blum; DOCKET NUMBER: 2026-0638-PWS-E; IDENTIFIER: RN101175792; LOCATION: Blum, Hill County; TYPE OF FACILITY: public water supply; PENALTY: \$375; ENFORCEMENT COORDINATOR: Anjali Talpallikar, (512) 239-2507; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(6) COMPANY: City of Centerville; DOCKET NUMBER: 2026-0532-PWS-E; IDENTIFIER: RN101390227; LOCATION: Centerville, Leon County; TYPE OF FACILITY: public water supply; PENALTY: \$1,287; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (512) 239-2510; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(7) COMPANY: City of Cresson; DOCKET NUMBER: 2026-0586-PWS-E; IDENTIFIER: RN101197051; LOCATION: Cresson, Parker County; TYPE OF FACILITY: public water supply; PENALTY: \$1,580; ENFORCEMENT COORDINATOR: Katherine Mckinney, (512) 239-4619; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: City of Fort Worth; DOCKET NUMBER: 2026-0037-WQ-E; IDENTIFIER: RN101424687; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; PENALTY: \$9,375; ENFORCEMENT COORDINATOR: Cynthia Sidaa, (713) 767-3525; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(9) COMPANY: City of Jourdanton; DOCKET NUMBER: 2025-1687-MWD-E; IDENTIFIER: RN101919900; LOCATION: Jourdanton, Atascosa County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$125; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(10) COMPANY: City of La Feria; DOCKET NUMBER: 2022-1084-MWD-E; IDENTIFIER: RN104675756; LOCATION: La Feria, Cameron County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$63,600; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$50,880; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 4 - DALLAS-FORT WORTH.

(11) COMPANY: Dar-Con Properties, LLC; DOCKET NUMBER: 2025-0066-WQ-E; IDENTIFIER: RN111770095; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: construction site; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(12) COMPANY: Eagle Railcar Services - Orange, Texas, LLC; DOCKET NUMBER: 2026-0278-AIR-E; IDENTIFIER: RN100234681; LOCATION: Orange, Orange County; TYPE OF FACILITY: railcar painting and blast cleaning site; PENALTY: \$16,500; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(13) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2025-0708-AIR-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petroleum refinery; PENALTY: \$14,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$5,700; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(14) COMPANY: GABER, JOSEPH; DOCKET NUMBER: 2026-0280-PWS-E; IDENTIFIER: RN101230654; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: public water supply; PENALTY: \$3,743; ENFORCEMENT COORDINATOR: Ilia Perez Ramirez, (512) 239-2556; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(15) COMPANY: Harris County Fresh Water Supply District No. 51; DOCKET NUMBER: 2024-1382-MLM-E; IDENTIFIER: RN101612125; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$102,963; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$82,371; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(16) COMPANY: JGE Gas Solutions, LP; DOCKET NUMBER: 2024-1462-AIR-E; IDENTIFIER: RN100237502; LOCATION: Longview, Gregg County; TYPE OF FACILITY: natural gas plant; PENALTY: \$49,912; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(17) COMPANY: LVMX Asphalt, LLC; DOCKET NUMBER: 2025-0032-AIR-E; IDENTIFIER: RN111296620; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: asphalt production plant; PENALTY: \$11,000; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(18) COMPANY: LyondellBasell Acetyls, LLC; DOCKET NUMBER: 2023-0741-AIR-E; IDENTIFIER: RN100224450; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: \$288,225; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$115,290; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(19) COMPANY: MILK AND HONEY RANCH HOLDINGS, LLC; DOCKET NUMBER: 2026-0660-PWS-E; IDENTIFIER: RN112456405; LOCATION: Burton, Washington County; TYPE OF FACILITY: public water supply; PENALTY: \$2,413; ENFORCEMENT COORDINATOR: Katherine Argueta, (512) 239-4131; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(20) COMPANY: Prabatham LLC; DOCKET NUMBER: 2024-1664-PST-E; IDENTIFIER: RN102365079; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail

sales of gasoline; PENALTY: \$12,727; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(21) COMPANY: Sky Ranches, Inc.; DOCKET NUMBER: 2023-0145-MWD-E; IDENTIFIER: RN102816741; LOCATION: Van, Smith County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$57,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$45,900; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(22) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2025-1338-MWD-E; IDENTIFIER: RN110875580; LOCATION: Huffman, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$24,750; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2026-0475-PWS-E; IDENTIFIER: RN101376085; LOCATION: Caney City, Henderson County; TYPE OF FACILITY: public water supply; PENALTY: \$2,875; ENFORCEMENT COORDINATOR: Katherine Mckinney, (512) 239-4619; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(24) COMPANY: The Lubrizol Corporation; DOCKET NUMBER: 2024-0218-AIR-E; IDENTIFIER: RN100221589; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: \$61,605; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$24,642; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(25) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2026-0692-PWS-E; IDENTIFIER: RN102693306; LOCATION: Somerville, Burleson County; TYPE OF FACILITY: public water supply; PENALTY: \$749; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(26) COMPANY: VACEK, EDWARD P; DOCKET NUMBER: 2026-0596-WOC-E; IDENTIFIER: RN104218714; LOCATION: Wallis, Wharton County; TYPE OF FACILITY: public water supply; PENALTY: \$1,187; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(27) COMPANY: Vallourec Star, LP; DOCKET NUMBER: 2025-1532-MWD-E; IDENTIFIER: RN100215474; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$12,937; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$5,175; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(28) COMPANY: Winkler Water Supply Corporation; DOCKET NUMBER: 2026-0449-PWS-E; IDENTIFIER: RN101212017; LOCATION: Streetman, Navarro County; TYPE OF FACILITY: public water supply; PENALTY: \$5,812; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

TRD-202603278

◆ ◆ ◆
Combined Notice of Public Meeting (NOPM) and Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater (NAPD) New Permit No. WQ0016885001

PURPOSE OF COMBINED NOTICE. This Combined notice announces that TCEQ's Executive Director, after completing the technical review of the application referenced below, has made a preliminary decision on the application and prepared a draft permit. This Combined notice also announces TCEQ will hold a public meeting on the application, draft permit, and the Executive Director's preliminary decision.

PUBLIC COMMENT / PUBLIC MEETING. The public may submit comments about this application at the public meeting that TCEQ is holding after receiving a request from a local legislator. Please see the meeting information at the bottom of the following page of this notice.

ADDITIONAL PURPOSE. This Combined notice amends and clarifies the information provided in the NORI, issued December 7, 2025. The notice inadvertently provided the wrong disposal site location and segment number. This change is conspicuous as the terms are "**bold**" and **underlined** within the descriptions provided below.

APPLICATION. YUPEL, LLC, 1387 County Road 464, Thorndale, Texas, 76577, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, TCEQ Permit No. WQ0016885001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day via non-public access subsurface area drip dispersal system with a minimum area of 10.85 acres. This permit will not authorize the discharge of pollutants into waters in the State. TCEQ received this application on September 18, 2025.

DESCRIPTION OF FACILITY AND LOCATION OF DISPOSAL SITE. The wastewater treatment facility and disposal site will be located at 1830 South State Highway 95, in Williamson County, Texas 76574. The wastewater treatment facility and **disposal site will be located in the drainage basin of Granger Lake in Segment No. 1247 of the Brazos River Basin.** This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMap-per/?marker=-97.42857,30.622408&level=18>

PRELIMINARY DECISION and Technical REVIEW.

TCEQ's Executive Director has completed the technical review of the application, prepared a draft permit, and has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit, if approved, would establish the conditions under which the facility must operate. The permit application, draft permit, and the Executive Director's preliminary decision are available for viewing and copying at Taylor Public Library, Circulation Desk, 801 Vance Street, Taylor, Texas, 76574. The application and associated notices are available electronically at the following webpage: <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tlap-applications>.

PUBLIC MEETING. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, September 21, 2026 at 7:00 p.m.

Thrall Country Diner

216 U.S. Highway 79

Thrall, Texas 76578

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and

physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice, or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from YUPEL, LLC at the address stated above or by calling Mr. Robert H. Thonhoff, Jr., P.E., WTC, Inc., at (512) 328-6736.

Issuance Date: August 4, 2026

TRD-202603306

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 5, 2026



Enforcement Orders

An agreed order was adopted regarding City Of Lawn, Docket No. 2020-1245-MLM-E on July 30, 2026 assessing \$17,906 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylore Packell, 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 Blanchard Refining Company LLC, Docket No. 2020-1568-AIR-E on July 30, 2026 assessing \$182,265 in administrative penalties with \$36,453 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Bartlett, Docket No. 2022-0489-MWD-E on July 30, 2026 assessing \$23,550 in administrative penalties with \$4,710 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Blue Mound, Docket No. 2022-1615-WQ-E on July 30, 2026 assessing \$23,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An default order was adopted regarding Rios, Elvira B, Docket No. 2023-0288-PST-E on July 30, 2026 assessing \$6,563 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 City Of Terrell, Docket No. 2023-0524-MWD-E on July 30, 2026 assessing \$43,750 in administrative penalties with \$8,750 deferred. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Robstown Truck & Food Stop Inc, Docket No. 2023-1006-PST-E on July 30, 2026 assessing \$15,778 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 City Of Lufkin, Docket No. 2024-0085-MLM-E on July 30, 2026 assessing \$15,000 in administrative penalties with \$3,000 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Cotton Center WSC, Docket No. 2024-0091-PWS-E on July 30, 2026 assessing \$8,550 in administrative penalties. Information concerning any aspect of this order may be ob-

tained 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 Syensqo Specialty Polymers USA LLC, Docket No. 2024-0308-AIR-E on July 30, 2026 assessing \$14,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Bethany Batchelor, 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 Oxy USA Inc, Docket No. 2024-0634-AIR-E on July 30, 2026 assessing \$25,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Bellamy, Rhonda, Docket No. 2024-0722-MSW-E on July 30, 2026 assessing \$3,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DDM Materials Inc, Docket No. 2024-0889-MLM-E on July 30, 2026 assessing \$48,118 in administrative penalties with \$9,623 deferred. Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, 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 Dow Chemical Company, Docket No. 2024-1288-AIR-E on July 30, 2026 assessing \$16,875 in administrative penalties with \$3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Eden, Docket No. 2024-1292-MWD-E on July 30, 2026 assessing \$32,000 in administrative penalties with \$6,400 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 BASF Corporation, Docket No. 2024-1308-AIR-E on July 30, 2026 assessing \$14,290 in administrative penalties with \$2,858 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hexp Operating LLC, Docket No. 2024-1459-AIR-E on July 30, 2026 assessing \$62,375 in administrative penalties with \$12,475 deferred. 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.

A default order was adopted regarding Wolf-Tech Industries Llp, Docket No. 2024-1562-AIR-E on July 30, 2026 assessing \$5,000 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 Midland International Airport, Docket No. 2024-1671-WQ-E on July 30, 2026 assessing \$13,500 in

administrative penalties with \$2,700 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 City Of Florence, Docket No. 2024-1713-MWD-E on July 30, 2026 assessing \$20,250 in administrative penalties with \$4,050 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 306 Partners Investments LLC, Docket No. 2024-1742-MLM-E on July 30, 2026 assessing \$36,377 in administrative penalties with \$7,275 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 TotalEnergies Petrochemicals & Refining USA Inc, Docket No. 2024-1793-AIR-E on July 30, 2026 assessing \$13,190 in administrative penalties with \$2,638 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 Honey Holding I Ltd, Docket No. 2024-1798-WQ-E on July 30, 2026 assessing \$33,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding Multani BKP LLC, Docket No. 2025-0166-PST-E on July 30, 2026 assessing \$16,275 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 LyondellBasell Acetyls LLC, Docket No. 2025-0206-AIR-E on July 30, 2026 assessing \$14,400 in administrative penalties with \$2,880 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding OHK Global Inc, Docket No. 2025-0317-PST-E on July 30, 2026 assessing \$6,285 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 Asset Guard Products Inc, Docket No. 2025-0351-MLM-E on July 30, 2026 assessing \$69,874 in administrative penalties with \$13,974 deferred. Information concerning any aspect of this order may be obtained by contacting Katie Phillips, 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 Quadvest LP, Docket No. 2025-0442-MWD-E on July 30, 2026 assessing \$34,417 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Penny Wimberly, 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 Hope Concrete LLC, Docket No. 2025-0444-WQ-E on July 30, 2026 assessing \$23,157 in administrative penalties with \$4,631 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Shiner, Docket No. 2025-1010-MWD-E on July 30, 2026 assessing \$19,488 in administrative penalties with \$3,897 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 Tidehaven ISD, Docket No. 2025-1075-MWD-E on July 30, 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 City Of Boyd, Docket No. 2025-1275-PWS-E on July 30, 2026 assessing \$16,020 in administrative penalties with \$3,204 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, 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 TPC Group LLC, Docket No. 2025-1422-AIR-E on July 30, 2026 assessing \$82,425 in administrative penalties with \$16,485 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, 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 Ash Grove Cement Company, Docket No. 2025-1481-IWD-E on July 30, 2026 assessing \$64,780 in administrative penalties with \$12,956 deferred. Information concerning any aspect of this order may be obtained by contacting Kadrienn Woodard, 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 Quadvest LP, Docket No. 2025-1533-MWD-E on July 30, 2026 assessing \$65,812 in administrative penalties. 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 Seaboard WSC, Docket No. 2025-1544-PWS-E on July 30, 2026 assessing \$7,297 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, 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 Brad Shaw, Docket No. 2025-1569-PWS-E on July 30, 2026 assessing \$17,541 in administrative penalties with \$3,508 deferred. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, 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. 2025-1572-AIR-E on July 30, 2026 assessing

\$14,243 in administrative penalties with \$2,508 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, 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 Global Energy Transfer Inc, Docket No. 2025-1681-MLM-E on July 30, 2026 assessing \$17,126 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alon USA LP2020-1568-air, Docket No. 2025-1717-IWD-E on July 30, 2026 assessing \$69,575 in administrative penalties. 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 Red River Authority Of Texas, Docket No. 2025-1833-PWS-E on July 30, 2026 assessing \$3,500 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 Aqua Texas Inc, Docket No. 2025-1852-PWS-E on July 30, 2026 assessing \$15,300 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, 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 Tyson Foods Inc, Docket No. 2025-1856-AIR-E on July 30, 2026 assessing \$12,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS Oligomers USA LLC, Docket No. 2025-1867-AIR-E on July 30, 2026 assessing \$20,250 in administrative penalties with \$4,050 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Celina, Docket No. 2026-0022-MWD-E on July 30, 2026 assessing \$20,312 in administrative penalties with \$4,062 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 Dobbin-Plantersville Water Supply Corporation A Non-Profit Corporation, Docket No. 2026-0163-PWS-E on July 30, 2026 assessing \$9,350 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, 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 Harrold WSC, Docket No. 2026-0223-PWS-E on July 30, 2026 assessing \$4,975 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, 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 Swenson WSC, Docket No. 2026-0259-PWS-E on July 30, 2026 assessing \$1,437 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ilia Perez Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Of Florence, Docket No. 2026-0265-PWS-E on July 30, 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 Blanchard Refining Company LLC, Docket No. 2026-0315-AIR-E on July 30, 2026 assessing \$107,045 in administrative penalties with \$21,409 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blanchard Refining Company LLC, Docket No. 2026-0316-AIR-E on July 30, 2026 assessing \$333,775 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blanchard Refining Company LLC, Docket No. 2026-0318-AIR-E on July 30, 2026 assessing \$22,613 in administrative penalties with \$4,522 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202603225

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2026



Notice and Comment Hearing Draft Permit No. O4898

This is a notice for a notice and comment hearing on Federal Operating Permit Number O4898. During the notice and comment hearing informal questions on the Federal Operating Permit will be answered and formal comments will be received. The Texas Commission on Environmental Quality (TCEQ) has scheduled the notice and comment hearing regarding this application and draft permit as follows:

Date: October 1, 2026

Time: 7:00 p.m.

Location: Hartman Park's Community Center

9311 E Avenue P

Houston, Texas 77012

Location phone: (713) 928-4803

Application and Draft Permit. Valero Refining-Texas, L.P., 9701 Manchester St, Houston, Texas 77012-2408, a Petroleum Refineries facility, has applied to TCEQ for an Initial Issuance of Federal Operating Permit (herein referred to as permit) No. O4898, Application No. 39767 to authorize operation of the Valero Houston Refinery. The area addressed

by the application is located at 9701 Manchester St in Houston, Harris County, Texas 77012-2408. This application was received by TCEQ on February 2, 2026.

TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, will codify the conditions under which the site must operate. TCEQ Executive Director recommends issuance of the draft permit. The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code (30 TAC) §122.10. The permit will not authorize new construction or new emissions.

Notice and Comment Hearing. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration and an informal discussion period with commission staff members will begin during the first 30 minutes. During the informal discussion period, the public is encouraged to ask questions and engage in open discussion with the applicant and TCEQ staff concerning this application and draft permit. Issues raised during this discussion period will only be addressed in the formal response to comments if the issue is also presented during the hearing. After the conclusion of the informal discussion period, TCEQ will conduct a notice and comment hearing regarding the application and draft permit. Individuals may present oral statements when called upon in order of registration. A reasonable time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing. The purpose of this hearing will be to receive formal public comment which TCEQ will consider in determining whether to revise and/or issue the permit and in determining the accuracy and completeness of the permit. Any person may attend this meeting and submit written or oral comments. The hearing will be conducted in accordance with the Texas Clean Air Act §382.0561, as codified in the Texas Health and Safety Code, and 30 TAC §122.340.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the TCEQ Public Education Program toll free at (800) 687-4040 or (800) RELAY-TX (TDD), at least five business days prior to the hearing.

Any person may also submit written comments before the hearing to the Texas Commission on Environmental Quality, Office of Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Written comments should include (1) your name, address, and daytime telephone number, and (2) the draft permit number found at the top of this notice.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted: written comments and/or hearing requests, attended and signed in at the hearing, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with applicable requirements or the requirements of 30 TAC Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the TCEQ Office of the Chief Clerk at the address above. Those on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box

13087, Austin, Texas 78711-3087 or toll free at (800) 687-4040. General information about TCEQ can be found at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained for Valero Refining-Texas, L.P. by calling April Twu, Senior Staff Environmental Engineer at (713) 923-3392.

Notice Issuance Date: July 29, 2026

TRD-202603276

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 4, 2026



Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 30

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 Texas Administrative Code (TAC) Chapter 30, *Occupational Licenses and Registrations*, §§30.7, 30.24, 30.26, 30.30, 30.33, 30.192, 30.317, 30.340, 30.355, 30.390, 30.392, and 30.400, under the requirements of Texas Water Code, §37.006 and Texas Occupations Code Chapters 53 and 55.

The proposed rulemaking would amend 30 TAC Chapter 30 to implement House Bill (HB) 1237, HB 5629, Senate Bill (SB) 1818, and SB 1080 from the 89th Texas Legislative session related to license renewal timelines and fees, reciprocal licensing for military service members, veterans, and military spouses, and revisions to felony-based license revocation. In addition, the rulemaking would include minor updates to Chapter 30 to improve clarity.

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 9, 2026, at 2:00 p.m. in building E, room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 7, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 8, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/3e5e0072-0b2a-4c8f-b7aa-c7597329a161@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or (800) RELAY-TX (TDD). Requests should be made as far in advance as possible.

If you need translation services, please contact TCEQ at (800) 687-4040. Si desea información general en español, puede llamar al (800) 687-4040.

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/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2025-027-030-WS. The comment period closes at 11:59 p.m. on September 15, 2026. Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adapt.html. For further information, please contact Rebecca Morigan, Occupational Licensing and Registration Division, (512) 239-2463.

TRD-202603242

Amy L. Browning

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: July 31, 2026



Notice of Public Meeting for the Creation of Houston County Groundwater Conservation District GPA-260305

PETITION. The Texas Commission on Environmental Quality (TCEQ) has received a complete submittal for the proposed creation of Houston County Groundwater Conservation District (GCD). The boundaries of the GCD will be coterminous with the political boundaries of Houston County, Texas. The petition was submitted to the TCEQ on March 5, 2026.

The petition and supporting information are available for viewing and copying at the Houston County Courthouse Annex in Houston County, located at 401 East Goliad, Crockett, Texas 75835, during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. The petition and supporting information are available on the TCEQ website, www.tceq.texas.gov/groundwater/groundwater-planning-assessment/districts.html. Commission records on the petition are also available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), for the current petition until final action is taken).

PUBLIC COMMENT / PUBLIC MEETING. TCEQ will conduct an informational meeting to answer questions regarding the petition and to take formal comments.

The meeting is to be held:

Tuesday, September 29, 2026 at 7:00 p.m.

Crockett Civic Center

1100 Edmiston Drive

Crockett, Texas 75835

Public written or oral comments about this petition may be submitted at any time during the public meeting. The comment period will end at the close of the public meeting. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. Following the public meeting, the executive director will summarize the public meeting comments and make recommendations to the commission on certification of the petition and the appointment of temporary directors.

Written public comments should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>, by entering **GPA-260305** in the **Permit Number** search field be-

fore the comment period closes. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Landowner Petition Project Number GPA-260305. Please choose one of the methods provided to submit your written comments.

INFORMATION. For more information about this petition, please call the Public Education Program toll free at (800)-687-4040. General information can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: July 31, 2026

TRD-202603275

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 4, 2026



Notice of Water Quality Application - WQ0015930001 Minor Amendment

The following notice was issued on July 31, 2026:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER*.

INFORMATION SECTION

City of Bryan has applied for a minor amendment of Texas Pollutant Discharge Elimination System Permit No. WQ0015930001, to authorize a decrease in the Interim I phase flow from 6.0 million gallons per day (MGD) to 4.0 MGD, along with the addition of an Interim II phase flow of 8.0 MGD. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 12.0 MGD. The facility will be located approximately 1,400 feet northeast of the intersection of Australia Lane and Cole Lane, in Brazos County, Texas 77845.

TRD-202603277

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 4, 2026



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of July 20, 2026 to July 31, 2026. As re-

quired by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, August 7, 2026. The public comment period for this project will close at 5:00 p.m. on Sunday, September 6, 2026.

Federal License and Permit Activities:

Applicant: Nueces County Coastal Parks

Location: The project area is located along the Gulf of America shoreline of Nueces and Kleberg Counties, Texas, and encompasses the beach and adjacent nearshore environment. The project area includes four shoreline segments on Mustang Island and North Padre Island within Nueces County, as well as the portion of Kleberg County shoreline. The four nourishment zones include: (1) North Port Aransas Jetty to Lantana Drive (33.67 acres); (2) Newport Pass Road to Marker 203 (32.61 acres); (3) Access Road 4 to Access Road 6 (40.63 acres); and (4) Access Road 6 to Marker 253 (56.83 acres). Proposed activities are limited to areas seaward of the 4.0-foot (NAVD88) contour and extend to the Mean Lower Low Water line.

Latitude and Longitude: Center Point Coordinates

Zone 1: 27.831297, -97.049409

Zone 2: 27.626555, -97.196512

Zone 3: 27.587759, -97.216980

Zone 4: 27.567357, -97.227619

Project Description: The applicant proposes to conduct beach nourishment activities within four established County-managed beach maintenance zones along the Gulf-facing shoreline of Mustang Island and North Padre Island in Nueces and Kleberg Counties, Texas. The project would involve placement of up to 779,671 cubic yards (CY) total of beach quality sand in an estimated 163.74 acres of sandy gulf beach and open water within four zones on the beach and within the nearshore system to restore and maintain beach width, improve shoreline resilience, reduce storm-related beach loss and damage, support coastal habitat functions, and maintain public beach access and recreational use. The final sediment source has not yet been selected. Based on the anticipated volume of nourishment material, the material is expected to be obtained from an aquatic borrow source. The specific borrow area and final construction methodology would be determined during final engineering design, procurement, and agency coordination. Depending on the selected sediment source and contractor, sand placement may be accomplished using hydraulic dredging with submerged or floating pipeline transport, or another suitable construction method. Any selected construction method would remain within the authorized project limits and comply with applicable permit conditions.

Construction activities may include mobilization and demobilization of equipment, temporary access and staging, grading and shaping of placed material, and other activities necessary to complete nourishment activities within the designated zone. Final beach nourishment template geometry, construction methods, equipment, access routes, staging limits, sequencing, and the precise seaward toe of fill would be refined during final engineering design, contractor selection, and agency coordination. Existing developed or previously utilized County facilities and public beach-access areas are anticipated to be used where practicable. These include the existing staging and access areas at I.B. Magee Beach Park and Padre Balli Park, together with existing public beach-access corridors serving the applicable nourishment zones.

No new permanent haul roads, stringing areas, or contractor-specific equipment routes are proposed. Construction access, staging, and work activities would remain seaward of the dune system, and no impacts to dunes are proposed. Final temporary work limits will be established during final design and contractor mobilization and will be configured to avoid dunes and minimize disturbance outside the authorized nourishment footprint.

Depending on the final construction approach, equipment may include hydraulic dredges, booster pumps, submerged and/or floating pipelines, excavators, bulldozers, front-end loaders, graders, articulated haul trucks, support vessels, or other equipment commonly used for coastal beach nourishment projects.

Because the permit request contemplates recurring nourishment events, future event volumes may differ from the planning-level estimates depending on the degree and location of erosion occurring between nourishment cycles. Each event would remain within the authorized project limits and would not exceed the approved impact footprint or authorized quantities without additional agency coordination, as applicable.

The overall construction schedule and daily operating hours have not yet been determined. Construction is anticipated to occur in phases based on the selected contractor, sediment source, weather conditions, tidal conditions, equipment availability, and applicable environmental restrictions or permit conditions.

The applicant's stated purpose and need for the proposed project is to restore and maintain beach width and shoreline resilience within established County-managed shoreline reaches on Mustang Island and North Padre Island through periodic placement of compatible beach-quality sand on the beach and within the nearshore system. The project is intended to address chronic shoreline change and storm-related erosion while maintaining public beach access, supporting coastal habitat functions, and improving the long-term resilience of the Gulf shoreline.

The applicant has not proposed any compensatory mitigation because impacts would occur primarily within dynamic sandy beach and nearshore habitats subject to frequent natural disturbance; effects to substrate and benthic use are expected to be temporary and recoverable; no permanent fill or conversion of wetlands, oyster reefs, seagrass beds, hard-bottom habitat, or other special aquatic sites is anticipated; and the proposed action is a non-structural shoreline management measure intended to restore sediment to the beach and nearshore system rather than convert habitat to a new or incompatible use. The U.S. Army Corps of Engineers will determine the type and amount of compensatory mitigation necessary to offset losses of waters of the United States which may result from the proposed activity in accordance with 33 CFR §332.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-2026-00349. This application will be reviewed pursuant Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Note: The consistency review for this project may be conducted by The Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 26-1187-F1

Applicant: Port of Houston Authority

Location: Dredging will occur within the Houston Ship Channel (HSC), a federally authorized and maintained waterway situated in Galveston Bay. Dredge material will be disposed within the Offshore Ocean Dredged Material Disposal Site (ODMDS) in the Gulf of America, offshore Galveston County, Texas.

The Galveston ODMDS is located approximately 3.7 nautical miles offshore, and 1.3 to 1.9 nautical miles southwest of the centerline of the

Entrance Channel. This disposal site occupies an area of approximately 6.6 square nautical miles, with depths ranging from 33 to 51 ft.

Latitude and Longitude:

The Galveston ODMDS is trapezoidal in shape with vertex coordinates located at:

Project Description: The applicant proposes to utilize the Offshore Ocean Dredged Material Disposal Site (ODMDS) for the disposal of dredged material generated from dredging activities within the Houston Ship Channel.

More specifically, the project consists of maintenance dredging and disposing of the material in approved Dredge Material Placement Areas including the U.S. Army Corps of Engineers ODMDS. Dredging will occur within the existing federally authorized Houston Ship Channel, extending from the Upper Turning Basin in Houston, Texas through Galveston Bay to the Galveston Entrance Channel and the Gulf of America, including all channel reaches, turning basins, and approach areas extending approximately 52 miles along the Houston Ship Channel. Dredging may be conducted using hopper dredges, hydraulic pipeline dredges, cutterhead dredges, mechanical dredges (clamshell or bucket), and excavator mounted dredging equipment. Bed leveling may also be performed to redistribute localized shoaling within the channel prism. Equipment may include plow-type bed levelers, drag beams, leveling blades, silt blades, sweep bars, chains, rollers, sledge frames, sediment redistribution beams, or similar devices. Water injection dredging will not be used.

The applicant has not proposed compensatory mitigation for the maintenance dredging and use of the Galveston ODMDS.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-2026-00414. This application will be reviewed pursuant Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) and Section 103 of the Marine Protection, Research, and Sanctuaries Act.

CMP Project No: 26-1189-F1

Applicant: Enterprise Products Operating L.L.C.

Location: The project site is located in the Neches River at the Enterprise Beaumont Marine West (BMW) terminal, in an area approximately 6.5 miles southeast of Beaumont, within Jefferson County, Texas.

Latitude and Longitude: 30.032449, -94.0333882

Project Description: The applicant proposes to modify Department of the Army Permit SWG-2000-02956 to mechanically and/or hydraulically dredge approximately 461,000 cubic yards of material from a 27.8-acre area of the Neches River at the Enterprise Beaumont Marine West (BMW) Ship Docks 1 and 2, North Dock, and South Dock to a maximum depth of -54 feet mean lower low water. The dredged material would be placed within an upland confined dredge material placement area (DMPA). The purpose of the proposed dredging is to ensure navigational safety and operability of vessel traffic within the Enterprise BMW Ship Docks, and to match the future depths of the Sabine Neches Waterway channel.

The applicant has stated that they have avoided and minimized environmental impacts to waters of the United States associated with the proposed activity by maintaining the previously authorized dredge footprint and only requesting the increase the depth to match the new authorized depth of the federal channel. Only temporary impacts to Waters of the United States are expected as a result of the proposed project. Best Management Practices (BMPs) will be used, where possible, to minimize temporary impacts to the maximum extent practicable. BMPs will

be employed to limit adverse impacts to the maximum extent practicable. The applicant has not proposed any compensatory mitigation because there would be no permanent loss of waters of the United States or discharge into special aquatic sites associated with the proposed activity. The U.S. Army Corps of Engineers will determine the type and amount of compensatory mitigation necessary to offset losses of waters of the United States which may result from the proposed activity in accordance with 33 CFR §332.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-2000-02956. This application will be reviewed pursuant Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Note: The consistency review for this project may be conducted by The Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 26-1190-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202603272

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: August 3, 2026



Texas Health and Human Services Commission

Texas Home Living (TxHml) Program Waiver Renewal Application

Public Notice

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to renew the Texas Home Living (TxHmL) waiver program authorized under §1915(c) of the Social Security Act. CMS has approved the TxHmL waiver application through February 28, 2027. The proposed effective date for the renewal is March 1, 2027.

This renewal request proposes to make the following changes:

Main Appendix

HHSC revised the waiver description and HHSC's role as a single state Medicaid agency to align with existing policies.

Appendix B: Participant Access and Eligibility

HHSC updated the hyperlink to the Diagnostic Codes for Persons with Related Conditions.

HHSC removed the cost ceiling amount in section B-2-b as the methodology for the cost limit is listed in B-2-a.

HHSC updated the total number of unduplicated participants served, the total number of participants served at any given point-in-time and the reserved capacity projections for waiver years one through five in section B-3-a.

Appendix C: Participant Services

HHSC removed the day habilitation service as well as references to day habilitation from the waiver application since it is no longer a service in the waiver since March 1, 2023.

HHSC updated the hyperlink to the Billing Requirements and handbooks.

HHSC updated, as applicable, the service provider cannot be the individual or the individual's spouse, the individual's legally authorized representative (LAR) or the spouse of the LAR.

HHSC updated the respite service definition to clarify that individualized skills and socialization is a setting where Respite can be provided.

HHSC updated service limitations for the Supported Employment and Employment Assistance services to clarify that the service cannot be provided at the same time as Individualized Skills and Socialization, Employment Readiness, Employment Assistance (when Supported Employment is provided), Employment Assistance (when Supported Employment is provided) or Respite to align with existing policy.

HHSC clarified in the Prescription Medication service definition that the service is available for "Adults (21 years and older)" who are dually eligible and excluded from enrollment into managed care.

HHSC clarified in the service definition for Financial Management Services Agency (FMSA) the role the FMSA has with timesheets, processing payroll and ensuring filing and payment of applicable withholdings and updated the term "provider" to "financial services management" under verification of provider qualifications.

HHSC added a link to the billing requirements for Adaptive Aids and Minor Home Modifications.

HHSC updated the Community Support definition to clarify that the service cannot be delivered at the same time as Individualized Skills and Socialization to align with existing policy.

HHSC added clarification that the Dental Treatment limit is one thousand dollars, and the provider can bill for requisition fees which do not count toward the Dental limit to align with existing policy.

HHSC revised section C-5-2, person-centered planning process for Home and Community-Based Settings.

HHSC revised the corrective action plan process for FMSAs during the review period to align with existing practice. HHSC revised the elements in the corrective action plans and clarified the FMSA and the HHSC contract manager's responsibilities.

Appendix D: Service Delivery

HHSC updated terms, as applicable, from "principles" to "standards" and "option" to "employer," throughout the appendix.

HHSC removed outdated language about the COVID-19 Public Health Emergency from section D-1-g, as it no longer applies.

HHSC updated interview modes, in-person or face-to-face, as applicable.

HHSC clarified the Enforcement process in section D-2-b under monitoring safeguards to address noncompliance identified through inspections and surveys.

Appendix E: Participant Direction of Services

HHSC revised the type of traditional agency option individuals can choose.

HHSC updated the Consumer Directed Services (CDS) participant projections for waiver years one through five.

HHSC removed the individual cost limit amount since the methodology is in appendix B-2.

Appendix F: Participant Rights

HHSC revised section F-3 to describe the process the provider must follow to inform the individual or LAR of how to file a complaint to HHSC or the Local Intellectual and Developmental Disability Authority (LIDDA) when the providers resolution is unsatisfactory to the individual or LAR.

Appendix G: Health and Welfare

HHSC clarified in section G-2-c that seclusion is physical abuse and clarified the critical incident reporting requirement and requirements to report to the Department of Family and Protective Services Statewide Intake.

HHSC revised updated abuse, neglect, and exploitation reporting processes to DFPS Statewide Intake and the LIDDA and provider agency complaint process.

Appendix H: Quality Improvement Strategy

HHSC revised section H-1, System Improvements and updated H-1-bi, System design changes and section H-1-b-ii Quality Improvement Strategy sections.

HHSC updated the type of survey tool to NCI-IID IPS Survey.

Appendix I: Financial Accountability

HHSC clarified that the LIDDA may contract as TxHmL provider agencies and must provide all TxHmL services and receive payment for services provided.

Performance Measures

HHSC added a new performance measure, A.a.2, that reads "Number and percent of individuals with records reflecting settings are selected by the individual based on their needs, preferences, and HCBS settings requirements. N: Number of individuals with records reflecting settings are selected by the individual based on their needs, preferences, and HCBS settings requirements. D: Number of individuals with reviewed records requirements."

HHSC revised the Data Sources for performance measures C.a.2, C.a.3, C.c.1, D.a.1, D.c.1, D.c.2, D.c.3, D.d.1, G.a.1, G.a.2, G.a.3, G.a.4, G.a.5, G.a.6, G.a.7, G.a.8, G.b.1, G.b.2, G.c.1, G.c.2, G.c.2, and G.d.1.

HHSC revised the Sampling Approach for performance measures C.a.2, C.a.3, C.b.2, C.c.1, D.a.1, D.c.2, D.c.3, D.d.1, D.e.1, D.e.2, G.a.4, G.a.6, G.b.1, G.b.3, G.c.1, G.c.2, G.c.3, and G.d.1.

HHSC removed performance measures C.a.4 and G.b.3. Due to the removal of performance measure G.b.3, G.b.4 was renumbered as G.b.3.

HHSC revised performance measures D.a.1, D.c.2, D.c.3, D.d.1, G.a.4, G.a.6, G.d.1 to include the term surveyed contracts instead of reviewed contracts.

Miscellaneous

HHSC updated Texas Administrative Code references throughout the waiver and references of "The State" to "HHSC" throughout the waiver.

HHSC updated the projections in appendix J for the waiver costs (Factor D) and other Medicaid costs for waiver recipients (Factor D') and the annual average per capita Medicaid costs for all non-waiver institutional services (Factor G) and other Medicaid costs for the institutional population (Factor G') for all five waiver years.

TxHmL Program Overview

The TxHmL waiver provides essential community-based services and supports to individuals with intellectual disabilities who live in their own homes or in the home of another person, such as a family member. Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued commu-

nity-based living and to supplement, rather than replace, existing informal or formal supports and resources.

Current services in the TxHmL waiver are adaptive aids, audiology, behavioral support, community support, dental treatment, dietary services, employment assistance, employment readiness, individualized skills and socialization, minor home modifications, nursing, occupational therapy, physical therapy, respite, speech and language pathology, support consultation, and supported employment.

To obtain a free copy of the proposed waiver renewal, ask questions, obtain additional information, or submit comments about the renewal, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver renewal may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/regulations/policies-rules/waivers>

Comments about the proposed waiver renewal must be submitted to HHSC by September 14, 2026.

The Access and Eligibility Services for local benefit offices will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4333

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202603273

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 3, 2026

Texas Department of Licensing and Regulation

Scratch Ticket Game Number 2758 "BONUS CROSSWORD"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2758 is "BONUS CROSSWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2758 shall be \$3.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2758.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, BLACK-ENED SQUARE SYMBOL, CHERRY SYMBOL, DIAMOND SYMBOL, HORSESHOE SYMBOL, SAILBOAT SYMBOL, ANCHOR SYMBOL, WATERMELON SYMBOL, GOLD BAR SYMBOL and HEART SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol Captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2758 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	
BLACKENED SQUARE SYMBOL	

CHERRY SYMBOL	CHERRY
DIAMOND SYMBOL	DIAMND
HORSESHOE SYMBOL	HRSHOE
SAILBOAT SYMBOL	BOAT
ANCHOR SYMBOL	ANCHOR
WATERMELON SYMBOL	WTRMLN
GOLD BAR SYMBOL	BAR
HEART SYMBOL	HEART

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2758), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2758-0000001-001.

H. Pack - A Pack of the "BONUS CROSSWORD" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 125 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 125 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BONUS CROSSWORD" Scratch Ticket Game No. 2758.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BONUS CROSSWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total of one hundred forty-three (143) Play Symbols. BONUS CROSSWORD PLAY INSTRUCTIONS: The player completely scratches all of the YOUR 20 LETTERS Play Symbols. The player then scratches all the letters found in the BONUS CROSS-

WORD puzzle that exactly match the YOUR 20 LETTERS Play Symbols. If the player has scratched at least 3 complete WORDS, the player wins the prize found in the PRIZE LEGEND. Only 1 prize paid per Ticket. Only letters within the BONUS CROSSWORD puzzle that are matched with the YOUR 20 LETTERS Play Symbols can be used to form a complete WORD. Every lettered square within an unbroken horizontal (left to right) or vertical (top to bottom) sequence must be matched with the YOUR 20 LETTERS Play Symbols to be considered a complete WORD. Words revealed in a diagonal sequence are not considered valid WORDS. Words within WORDS are not eligible for a prize. Words that are spelled from right to left or bottom to top are not eligible for a prize. A complete WORD must contain at least 3 letters. BONUS GAME PLAY INSTRUCTIONS: If the player reveals 2 matching Play Symbols in the BONUS GAME, the player wins \$10. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly one hundred forty-three (143) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption. Crossword and Bingo style games do not typically have Play Symbol Captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly one hundred forty-three (143) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the one hundred forty-three (143) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the one hundred forty-three (143) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director of the Texas Lottery ("Executive Director") may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.
- B. GENERAL: A Ticket can win as indicated by the prize structure.
- C. GENERAL: A Ticket can win one (1) time in the BONUS CROSSWORD puzzle grid and one (1) time in the BONUS GAME play area.

D. GENERAL: There will be no correlation between any exposed data on a Ticket and its status as a winning or Non-Winning Ticket.

E. GENERAL: Each Ticket consists of a BONUS CROSSWORD puzzle grid, a YOUR 20 LETTERS play area and a BONUS GAME play area.

F. GENERAL: Each Ticket in a Pack will be different (i.e., the BONUS CROSSWORD puzzle grid will have different words and configurations of words).

G. BONUS GAME: A winning BONUS GAME play area will contain two (2) matching Play Symbols and will win as per the prize structure.

H. BONUS GAME: A non-winning BONUS GAME play area will have two (2) different Play Symbols.

I. BONUS CROSSWORD: The BONUS CROSSWORD puzzle grid will be formatted with at least one thousand (1,000) configurations (i.e., puzzle layouts not including words).

J. BONUS CROSSWORD: All BONUS CROSSWORD puzzle grid configurations will be formatted within a grid that contains eleven (11) spaces (height) by eleven (11) spaces (width).

K. BONUS CROSSWORD: There will be a random distribution of all Play Symbols on the Ticket, unless restricted by other parameters, play action or prize structure.

L. BONUS CROSSWORD: There will be no matching words on a Ticket.

M. BONUS CROSSWORD: There will be no matching Play Symbols in the YOUR 20 LETTERS play area.

N. BONUS CROSSWORD: Each BONUS CROSSWORD puzzle grid will contain the following:

- a) Four (4) 3-letter words
- b) Five (5) 4-letter words
- c) Three (3) 5-letter words
- d) Three (3) 6-letter words
- e) One (1) 7-letter word
- f) Two (2) 8-letter words
- g) One (1) 9-letter word

O. BONUS CROSSWORD: There will be a minimum of three (3) vowels in the YOUR 20 LETTERS play area. Vowels are A, E, I, O and U.

P. BONUS CROSSWORD: All words will contain a minimum of three (3) letters.

Q. BONUS CROSSWORD: Words will contain a maximum of nine (9) letters.

R. BONUS CROSSWORD: All words used will be from TX_Aproved_Words_Vers.2.042321.doc.

S. BONUS CROSSWORD: Words from TX_Prohibited_Words_Vers.2.042321.docx will not appear horizontally in the YOUR 20 LETTERS play area when read left to right or right to left.

T. BONUS CROSSWORD: A player will never find a word horizontally (in either direction), vertically (in either direction) or diagonally (in either direction) in the YOUR 20 LETTERS play area that matches a word in the BONUS CROSSWORD puzzle grid.

U. BONUS CROSSWORD: Each BONUS CROSSWORD puzzle grid will have a maximum number of different grid formations with respect to other constraints. That is, for identically formatted grids (i.e., the

same puzzle grid), all "approved words" will appear in every logical (i.e., 3 letter word = 3 letter space) position, with regards to limitations caused by the actual letters contained in each word (i.e., this will not place the word "ZOO" in a position that causes an intersection word to require the second letter to be "Z" when in fact, there are no approved words with a "Z" in the second letter position).

V. BONUS CROSSWORD: No consonant will appear more than nine (9) times in the BONUS CROSSWORD puzzle grid.

W. BONUS CROSSWORD: There will be no more than twelve (12) complete words in the BONUS CROSSWORD puzzle grid.

X. BONUS CROSSWORD: On Non-Winning Tickets, there will be two (2) completed words in the BONUS CROSSWORD puzzle grid.

Y. BONUS CROSSWORD: At least fifteen (15) of the YOUR 20 LETTERS Play Symbols will open at least one (1) letter in the BONUS CROSSWORD puzzle grid.

Z. BONUS CROSSWORD: The presence or absence of any letter in the YOUR 20 LETTERS play area will not be indicative of winning or Non-Winning Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS CROSSWORD" Scratch Ticket Game prize of \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied, and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BONUS CROSSWORD" Scratch Ticket Game prize of \$5,000 or \$50,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BONUS CROSSWORD" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

- B. if there is any question regarding the identity of the claimant;

- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "BONUS CROSSWORD" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "BONUS CROSSWORD" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the

Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 18,000,000 Scratch Tickets in Scratch Ticket Game No. 2758. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2758 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$3.00	1,980,000	9.09
\$5.00	1,008,000	17.86
\$10.00	864,000	20.83
\$15.00	252,000	71.43
\$20.00	216,000	83.33
\$50.00	72,000	250.00
\$100	29,250	615.38
\$500	1,500	12,000.00
\$5,000	30	600,000.00
\$50,000	10	1,800,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.07. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2758 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2758, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140, and all final decisions of the Executive Director.

TRD-202603307

Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: August 5, 2026



Scratch Ticket Game Number 2782 "\$1,000,000 DIAMOND DELUXE"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2782 is "\$1,000,000 DIAMOND DELUXE". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2782 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2782.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24,

25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$20.00, \$40.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$1,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2782 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY

31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI

60	SXTY
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
\$20.00	TWY\$
\$40.00	FRTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$1,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2782), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2782-0000001-001.

H. Pack - A Pack of the "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 025 while the other fold will show the back of Ticket 001 and front of 025.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game No. 2782.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of

each Scratch Ticket. A prize winner in the "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy (70) Play Symbols. PLAY INSTRUCTIONS: If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy (70) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy (70) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy (70) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy (70) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director of the Texas Lottery ("Executive Director") may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$40 and 40).

D. KEY NUMBER MATCH: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

E. KEY NUMBER MATCH: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

F. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

G. KEY NUMBER MATCH: A Ticket may have up to six (6) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. KEY NUMBER MATCH: The "5X" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

I. KEY NUMBER MATCH: The "10X" (WINX10) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

J. KEY NUMBER MATCH: The "20X" (WINX20) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game prize of \$20.00, \$40.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied, and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game prize of \$1,000, \$10,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Taxpayer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$1,000,000 DIAMOND DELUXE" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$1,000,000 DIAMOND DELUXE" Scratch

Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2782. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2782 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	660,000	9.09
\$40.00	480,000	12.50
\$100	360,000	16.67
\$200	73,750	81.36
\$500	5,000	1,200.00
\$1,000	200	30,000.00
\$10,000	16	375,000.00
\$1,000,000	4	1,500,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.80. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2782 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2782, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140, and all final decisions of the Executive Director.

TRD-202603252
Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: August 3, 2026



Scratch Ticket Game Number 2784 "LUCKY SCRATCH"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2784 is "LUCKY SCRATCH". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2784 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2784.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2784 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFO
26	TWSX
27	TWSV
28	TWET

29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$1,000	ONTH
\$100,000	100TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2784), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2784-0000001-001.

H. Pack - A Pack of the "LUCKY SCRATCH" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "LUCKY SCRATCH" Scratch Ticket Game No. 2784.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "LUCKY SCRATCH" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-one (51) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. LUCKY SCRATCH PLAY INSTRUCTIONS: If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly fifty-one (51) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-one (51) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the fifty-one (51) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-one (51) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director of the Texas Lottery ("Executive Director") may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to twenty-three (23) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. KEY NUMBER MATCH: Each Ticket will have five (5) different WINNING NUMBERS Play Symbols.

E. KEY NUMBER MATCH: Non-winning YOUR NUMBERS Play Symbols will all be different.

F. KEY NUMBER MATCH: Non-winning Prize Symbols will never appear more than three (3) times.

G. KEY NUMBER MATCH: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

H. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 20 and \$20).

I. BONUS: Matching Prize Symbols will only appear in a winning BONUS play area as dictated by the prize structure.

J. BONUS: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

K. BONUS: A Ticket will not have matching non-winning Prize Symbols across the three (3) BONUS play areas.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY SCRATCH" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied, and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY SCRATCH" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

C. As an alternative method of claiming a "LUCKY SCRATCH" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Taxpayer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not

responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied, and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "LUCKY SCRATCH" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "LUCKY SCRATCH" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is

placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 5,040,000 Scratch Tickets in Scratch Ticket Game No. 2784. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2784 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	537,600	9.38
\$10.00	604,800	8.33
\$20.00	134,400	37.50
\$50.00	67,200	75.00
\$100	16,884	298.51
\$500	336	15,000.00
\$1,000	98	51,428.57
\$100,000	4	1,260,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.70. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2784 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2784, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140, and all final decisions of the Executive Director.

TRD-202603249

Deanne Rienstra
General Counsel
Texas Department of Licensing and Regulation
Filed: July 31, 2026

Texas Department of Transportation

Request for Qualifications

Pursuant to the authority granted under Transportation Code, Chapter 223, Subchapter F (enabling legislation), the Texas Department of Transportation (department), may enter into, in each state fiscal biennium, up to six design-build contracts for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project with a construction cost estimate of \$150 million or more. The enabling legislation authorizes private involvement in design-build projects and provides a process for the department to solicit proposals for such projects. Transportation Code § 223.245 prescribes requirements for issuance of a request for qualifications and requires the department to publish a notice of such issuance

in the *Texas Register*. Pursuant to the enabling legislation, the Texas Transportation Commission (Commission) adopted Texas Administrative Code, Title 43, Chapter 9, Subchapter I relating to design-build contracts (the rules). The enabling legislation, as well as the rules, govern the submission and processing of qualifications statements, and provide for the issuance of a request for qualifications that sets forth the basic criteria for qualifications, experience, technical competence, and ability to develop a proposed project and such other information the department considers relevant or necessary.

The Commission has authorized the issuance of a request for qualifications (RFQ) to design and construct the North Houston Highway Improvement Project (NHHIP) 3C-2 Project (Project) in Harris County, Texas. The improvements will include widening and realigning mainlanes on I-45, realigning and reconstructing mainlanes and adding non-tolled managed lanes on I-10, and realigning and reconstructing mainlanes on US 59/I-69. The Project includes constructing associated ramps, bridges, utility bridges, rail line crossings, local collector roads, frontage roads, intersections, and bicycle and pedestrian facilities. The Project also includes constructing direct connectors to and from I-69 to the future Hardy Toll Road and realigning and reconstructing the existing ramps with termini at Jackson Street and Chenevert Street that extend to the Houston Metro reversible High Occupancy Vehicle/High Occupancy Toll lane.

The Project has an estimated design-build cost of approximately \$2.14 billion.

Through this notice, the department is seeking qualifications statements (QSs) from teams interested in entering into a design-build contract. The department intends to evaluate any QS received in response to the RFQ and may request submission of detailed proposals, potentially leading to the negotiation, award, and execution of a design-build contract. The department will accept for consideration any QS received in accordance with the enabling legislation, the rules, and the RFQ, on or before the deadline in this notice. The department anticipates issuing the RFQ, receiving and evaluating the QSs, developing a shortlist of proposing entities or consortia, and issuing a request for proposals (RFP) to the shortlisted entities. After review and a best value evaluation of the responses to the RFP, the department may negotiate and enter into a design-build contract for the Project.

RFQ Evaluation Criteria. QSs will be evaluated by the department for shortlisting purposes using the following general criteria: project qualifications and experience, statement of technical approach, and safety qualifications. The specific criteria under the foregoing categories will be identified in the RFQ, as will the relative weighting of the criteria.

Release of RFQ and Due Date. The department currently anticipates that the RFQ will be available on August 14, 2026. The RFQ will be available at the following website:

<https://www.txdot.gov/business/road-bridge-maintenance/alternative-delivery/nhhip-3c2/rfq.html>

QSs will be due by 12:00 p.m. (noon) CT on October 20, 2026, at the address specified in the RFQ.

TRD-202603295

James Kirk

Senior General Counsel

Texas Department of Transportation

Filed: August 4, 2026

Workforce Solutions Brazos Valley Board

Public Notice for Independent Financial Monitoring

The purpose of the RFP is to solicit proposals for a qualified contractor with program knowledge of Texas Workforce Commission programs, per Texas Workforce Commission guidelines for their workforce center. The Independent Financial Monitoring Request for Proposal (RFP) will be available for download on the Workforce Solutions Brazos Valley website at www.bvjobs.org beginning **August 6, 2026** under the **Board** tab. Interested parties can go to the Board tab on this page and select Request for Proposals. The link for the proposal is listed at Request for Proposals for Independent Financial Monitoring Services. The primary consideration in selecting a vendor will be their ability to provide these services as specified in the RFP.

Interested vendors can also email Barbara Clemmons at bclemmons@bvcog.org to request a copy of the proposal.

The deadline for proposals will be 4:00 p.m. CST on September 3, 2026.

Bidders will have the opportunity to ask questions during the **Zoom** bidder's conference call, which is scheduled for **August 13, 2026, 10:00 a.m. CST**. Attendance on the bidder's conference **Zoom** call is not mandatory. All answers to questions from the bidder's **Zoom** conference call and any other questions received from interested parties will be posted at www.bvjobs.org by close of business on August 14, 2026.

Deadline for Questions: The Bidder's Conference Call will be held on August 13, 2026 at 10:00 a.m. CST via Zoom. Below is the Zoom link: <https://us02web.zoom.us/j/82944142819?pwd=EQGrcxraSjVtTuCubeZVw6vPC3jnw.1>

If Bidders cannot attend the bidder's conference call on August 13, 2026, they can submit their questions in writing concerning this RFP to Barbara Clemmons at bclemmons@bvcog.org no later than August 14, 2026, 5:00 p.m. CST. Answers to all questions received will be posted to www.bvjobs.org no later than Monday, August 17, 2026, 5:00 p.m. CST under the under the Board tab's Request For Proposals For Independent Financial Monitoring Services tab.

TRD-202603274

Vonda Morrison

Program Manager

Workforce Solutions Brazos Valley Board

Filed: August 3, 2026

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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