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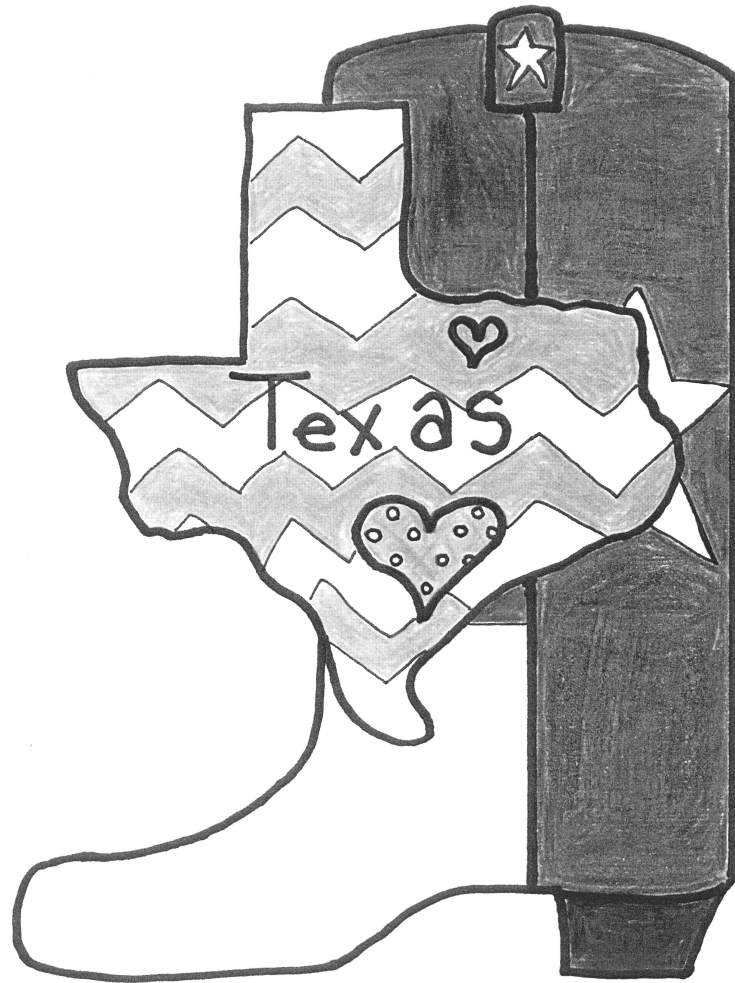
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THE GOVERNOR

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 August 3, 2023

Appointed to the Texas Board of Medical Radiologic Technology for a term to expire February 1, 2029, Lucia D. "Lucy" Sisniega of Midland, Texas (replacing Linda F. Brown of Port Neches, whose term expired).

Greg Abbott, Governor

TRD-202302902



Proclamation 41-3993

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2035 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill 2035 has too many loopholes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 13th day of June, 2023.

Greg Abbott, Governor

TRD-202302800



Proclamation 41-3994

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4158 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

House Bill No. 4158 appears to require more paperwork about property taxes, but does nothing to cut property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 14th day of June, 2023.

Greg Abbott, Governor

TRD-202302801



Proclamation 41-3995

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 467 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 467 would impose a harsher sentence for tampering with a gas pump than for damaging the electric grid or cutting a live-stock fence. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 14th day of June, 2023.

Greg Abbott, Governor

TRD-202302802



Proclamation 41-3996

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2138 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Though House Bill No. 2138 would expand gambling for a worthy cause, our oath obliges us to take a second look at statewide sales of online raffle tickets so that they do not run afoul of Article III, Section 47(d) of the Texas Constitution. Laws authorizing online raffle ticket sales are simply not as important as cutting property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2023.

Greg Abbott, Governor
TRD-202302803



Proclamation 41-3997

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2879 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

House Bill No. 2879 would insert the government into private negotiations involving the work of contractors, subcontractors, and materialmen. Laws about venue selection are simply not as important as cutting property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2023.

Greg Abbott, Governor
TRD-202302804



Proclamation 41-3998

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1998 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 1998 requires data reporting on property taxes, but does nothing to cut property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2023.

Greg Abbott, Governor
TRD-202302805



Proclamation 41-3999

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2493 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While updating our laws about landlord-tenant relations is important, it is simply not as important as cutting property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2023.

Greg Abbott, Governor
TRD-202302806



Proclamation 41-4000

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1080 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While creating a mitigation plan for a single groundwater conservation district is important, it is simply not as important as cutting property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2023.

Greg Abbott, Governor
TRD-202302807



Proclamation 41-4001

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 247 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 247 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302812



Proclamation 41-4002

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 267 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 267 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302813



Proclamation 41-4003

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 315 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 315 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302814



Proclamation 41-4004

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 348 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 348 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302815



Proclamation 41-4005

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 361 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 361 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302816



Proclamation 41-4006

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 485 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 485 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302817



Proclamation 41-4007

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 526 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 526 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302818



Proclamation 41-4008

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1431 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1431 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302819



Proclamation 41-4009

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1568 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1568 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302821



Proclamation 41-4010

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1712 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1712 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302822



Proclamation 41-4011

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2052 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Increasing fees may be important in certain circumstances, but it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302823



Proclamation 41-4012

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2260 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

This bill purports to repeal the requirement for Adult Protective Services supervisors to review cases in which recidivism is a factor, but it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302824



Proclamation 41-4013

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2379 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2379 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302825



Proclamation 41-4014

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2453 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2453 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302826



Proclamation 41-4015

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2604 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2604 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302827



Proclamation 41-4016

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2616 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2616 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof

by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor

TRD-202302828



Proclamation 41-4017

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1979 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1979 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor

TRD-202302829



Proclamation 41-4018

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2597 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2597 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor

TRD-202302830



Proclamation 41-4019

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2598 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2598 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor

TRD-202302831



Proclamation 41-4020

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2605 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2605 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor

TRD-202302832



Proclamation 41-4021

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2613 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2613 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof

by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302834



Proclamation 41-4022

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 181 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

I am signing House Bill No. 1488 into law because sickle cell disease is a serious problem in Texas. House Bill No. 181, however, would force hospitals to share reams of sensitive health information with a sickle cell disease registry, putting the privacy of patients at risk. It would leave the hard work of ensuring confidentiality to agency rulemaking, even though no funds were appropriated to achieve the bill's purported purpose.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302835



Proclamation 41-4023

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 558 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Future governors must have the flexibility to respond to unforeseen calamities and meet the rapidly changing needs that each disaster will present. House Bill No. 558, however, would exempt some organizations that sell alcohol from any emergency directive whatsoever, no matter the disaster at hand. The bill does not carefully distinguish between a future pandemic, in which those organizations should stay open, and a hurricane or a wildfire, in which a mandatory evacuation order might be necessary. Hacking away at the Texas Disaster Act like this poses an unacceptable risk to the health and safety of Texans. I will be glad to work with the author on a more nuanced approach to this issue.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302836



Proclamation 41-4024

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 729 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

House Bill No. 729 pursues the laudable goal of improving the provision of intellectual and developmental disability services in Texas. That goal is so laudable, however, that several Texas committees already do that same important work. Creating a new bureaucracy to duplicate their efforts is wasteful at best, and could even frustrate existing programs.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302837



Proclamation 41-4025

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 1466 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

As governor, I have dismantled unnecessary barriers to employment. Texans should have the freedom to get-and *keep*-a job, but House Bill No. 1466 would raise an unjustified obstacle to maintaining an occupational license for installing fire alarms. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302838



Proclamation 41-4026

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2416 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Texas has a rock-solid commitment to protecting its hundreds of miles of beautiful coastline. House Bill No. 2416 was proposed as part of that commitment. Unfortunately, the bill's text would require the deposit of *any* federal money the State receives for coastal protection into an account that can be spent *only* on a small portion of the Gulf Coast, if at all. I look forward to working with the author on enacting language that will achieve its intended purpose.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302839



Proclamation 41-4027

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 3159 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

According to its author, House Bill No. 3159 is intended "to benefit blind, visually impaired Texans, people with dyslexia, or persons with limited dexterity of their arms or hands such as persons with quadriplegia." While this *intent* is laudable, the *text* of the bill is not limited to assisting this group. Instead, it allows any voter who qualifies to vote by mail to receive a ballot electronically. I look forward to working with the author to craft language that achieves his worthy goal, without unintended consequences.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302840



Proclamation 41-4028

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4128 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Last session, I approved House Bill No. 79 to protect vulnerable Texans through a system of specialized guardianship courts with associate judges. This session's House Bill No. 4128 goes too far, however, in building a new state bureaucracy. I have vetoed similar bills that would have burdened state taxpayers and given outsized authority to associate judges. House Bill No. 4128 suffers from the same flaws and meets the same fate.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302841



Proclamation 41-4029

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4759 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Texas's existing criminal laws penalize attacks by dangerous dogs - so much so that felony arrests have already been made of the dog owners responsible for the tragic attack that took the life of a distinguished Air Force veteran in San Antonio, and that was the catalyst for House Bill No. 4759. The justice system should be allowed to work without the overcriminalization found in this bill. I look forward to working with the author to create investigations and procedures that stop dog attacks *before* they happen.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302842



Proclamation 41-4030

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4779 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Texas's booming economy is built on a foundation of law and order. House Bill No. 4779 sought to advance that goal, but instead it could inadvertently chip away at that foundation, by making it harder to prosecute and punish organized retail theft.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302843



Proclamation 41-4031

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 498 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 498 conflicts with House Bill No. 4553, which I have already signed into law. To avoid uncertainty, I am vetoing Senate Bill No. 498.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302844



Proclamation 41-4032

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 796 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Surplus lines insurance is a product for sophisticated parties who know how to bargain over the terms of an arbitration agreement. Senate Bill No. 796's interference with freedom of contract in this market could inadvertently increase premiums and drive out insurers who want to do business in Texas.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302845



Proclamation 41-4033

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 813 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 813 would add unnecessary bureaucratic duties to what is already required by Texas law. Our goal should be to eliminate bureaucracy, not add to it.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302846



Proclamation 41-4034

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1393 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

The FAIR Plan Association was established in 2005 as an insurer of last resort for owners of residential property in underserved markets. Senate Bill No. 1393 would fundamentally change the Association's purpose by making certain homeowners eligible for subsidized FAIR polices even though insurance is available to them on the traditional market. I look forward to working with the bill authors on ways to improve this legislation.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302847



Proclamation 41-4035

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1399 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 1399 appears to add more bureaucracy and cost.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objec-

tions in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302848



Proclamation 41-4036

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2016 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Removing unnecessary barriers that prevent capable Texans from getting to work has been a priority of mine since I first took office. Senate Bill No. 2016 would impose an unnecessary occupational-licensing limitation that hurts workers and consumers, while straining the economic engine of Texas. A dietitian should not be required to obtain a master's degree to become registered or licensed by the State of Texas.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302849



Proclamation 41-4037

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2275 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

Senate Bill No. 2275 calls out a sloppy subsection in the 1939 Act that lets the Texas Supreme Court write procedural rules for the judicial branch. Senator Hughes is right to ring the alarm about this statutory text, thoughtful lawyer that he is. To avoid unintended consequences within our courts, however, the offending subsection should be rewritten rather than repealed. Next session, the three branches of government should collaborate on new-and-improved language that I can sign into law.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 16th day of June, 2023.

Greg Abbott, Governor
TRD-202302850



Proclamation 41-4038

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2956 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 2956 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor
TRD-202302851



Proclamation 41-4039

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2192 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2192 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor
TRD-202302852



Proclamation 41-4040

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 200 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 200 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302853



Proclamation 41-4041

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 261 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 261 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302854



Proclamation 41-4042

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 335 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 335 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302855



Proclamation 41-4043

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2248 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2248 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302856



Proclamation 41-4044

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2269 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2269 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302857



Proclamation 41-4045

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2277 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2277 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302858



Proclamation 41-4046

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2292 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2292 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302859



Proclamation 41-4047

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2399 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2399 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302860



Proclamation 41-4048

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2474 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2474 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302861



Proclamation 41-4049

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2629 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 2629 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302862



Proclamation 41-4050

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 3436 as passed by the EightyEighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 3436 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302863



Proclamation 41-4051

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4106 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 4106 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302864



Proclamation 41-4052

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 4219 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 4219 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302865



Proclamation 41-4053

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 5332 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 5332 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302866



Proclamation 41-4054

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 5358 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 5358 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302867



Proclamation 41-4055

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 5360 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 5360 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302868



Proclamation 41-4056

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 5366 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While House Bill No. 5366 is important, it is simply not as important as education freedom. At this time, the legislature must concentrate on delivering education freedom to Texans. This bill can be reconsidered at a future special session only after education freedom is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302869



Proclamation 41-4057

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 987 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 987 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302870



Proclamation 41-4058

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1051 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1051 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302871



Proclamation 41-4059

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1367 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1367 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302872



Proclamation 41-4060

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1404 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1404 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302873



Proclamation 41-4061

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1439 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1439 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302875



Proclamation 41-4062

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1467 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1467 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302876



Proclamation 41-4063

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1614 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1614 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302878



Proclamation 41-4064

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1668 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1668 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302879



Proclamation 41-4065

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1916 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 1916 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor
TRD-202302880



Proclamation 41-4066

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2010 as passed by the Eighty-Eighth Texas Legislature, Regular Session, because of the following objections:

While Senate Bill No. 2010 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.

Since the Eighty-Eighth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor
TRD-202302881



Proclamation 41-4067

TO ALL TO WHOM THESE PRESENTS SHALL COME:

House Bill No. 1, the General Appropriations Act, having been duly certified by the Comptroller of Public Accounts pursuant to Article III, Section 49a of the Texas Constitution, has been presented to me for action.

This budget provides historic levels of property tax relief and does not allow government to grow in an amount greater than the increase in population and inflation. This Act also makes targeted investments in areas such as public education, higher education, mental health care, foster care, law enforcement, border security, pension solvency, state parks, and broadband access that will continue building the Texas of Tomorrow.

Before turning to the objectionable item of appropriation in House Bill No. 1, I must note that Section 17.36 of Article IX is unconstitutional. Section 17.36 purports to tell the Lottery Commission that it must issue a new rule on a particular subject. This attempt to make general law in the General Appropriations Act violates Article III, Section 35 of the

Texas Constitution. A similar command to the Lottery Commission was proposed in Senate Bill No. 1820, but the Legislature did not pass that bill.

I hereby object to and veto the following item from House Bill No. 1, and include a statement of my objection to this item.

Article IX - General Provisions

Contingency and Other Provisions

Sec. 18.76. Contingency for Senate Joint Resolution 81. Contingent on the enactment of Senate Joint Resolution 81 by the 88th Legislature, Regular Session, 2023, or similar legislation, and after approval of the constitutional amendment by the voters:

(a) Appropriate \$1,050,000,000 in General Revenue Funds to the Comptroller of Public Accounts, for distribution to the permanent fund on January 1, 2024; and

(b) Create a new bill pattern for the Available Instruction in Manufacturing and Technical Workforce Operations Fund and in relevant strategies; increase funding by an amount of Other Funds the Comptroller determines to be available for distribution from the Permanent Instruction in Manufacturing and Technical Workforce Operations Fund in fiscal year 2024 and fiscal year 2025, in accordance with a distribution policy to be adopted by the Comptroller. Add the following riders to the bill pattern:

1. Texas State Technical College System Share. There is appropriated to the board of regents of the Texas State Technical College System for the biennium ending August 31, 2025, upon request of the system to the Comptroller of Public Accounts, that portion of the Available Instruction in Manufacturing and Technical Workforce Operations Fund apportioned to it by Article VII, Section 23(j) of the Texas Constitution, together with interest and any balance in any account established within the available fund by the system for any previous fiscal year.

2. Texas State University System Share. There is appropriated to the board of regents of the Texas State University System for the biennium ending August 31, 2025, upon request of the system to the Comptroller of Public Accounts, that portion of the Available Instruction in Manufacturing and Technical Workforce Operations Fund apportioned to it by Article VII, Section 23(j) of the Texas Constitution, together with interest and any balance in any account established within the available fund by the system for any previous fiscal year.

3. Reporting. The Texas State Technical College System and the Texas State University System shall report to the Legislature and the Governor no later than December 1 of each year, beginning December 1, 2024, the uses of the Available Instruction in Manufacturing and Technical Workforce Operations Fund for each system component for the two previous fiscal years, the current fiscal year, and two future fiscal years (projected). Each report shall contain detailed information on the following:

- (1) debt service allocations, by component;
- (2) bond proceeds allocations, by component;
- (3) available fund allocations, by component, and their purposes;
- (4) available fund income, interest, beginning and end of year balances; and
- (5) the rationale used by the respective boards to distribute the available funds.

4. Appropriation: Unexpended Balances. Any unobligated and unexpended balances as of August 31, 2023, in Available Instruction in Manufacturing and Technical Workforce Operations Fund appropriations apportioned to the Texas State Technical College System or Texas

State University System are appropriated for the same purpose for the fiscal year beginning September 1, 2023. Any unobligated and unexpended balances as of August 31, 2024, in Available Instruction in Manufacturing and Technical Workforce Operations Fund appropriations apportioned to the Texas State Technical College System or Texas State University System are appropriated for the same purpose for the fiscal year beginning September 1, 2024.

This veto deletes a contingency rider for a joint resolution that did not pass.

I have signed House Bill No. 1 together with this proclamation, stating my objections in accordance with Article IV, Section 14, of the Texas Constitution.

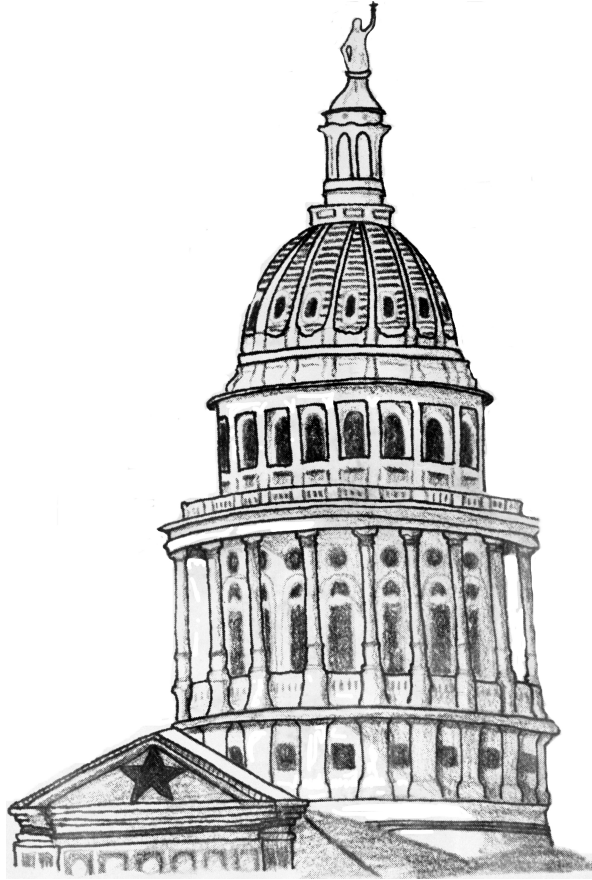
Since the 88th Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing this bill and this objection in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of June, 2023.

Greg Abbott, Governor

TRD-202302883





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>.)

Opinions

Opinion No. AC-0002

The Honorable Julie Renken

Washington County District Attorney

100 East Main, Box 303

Brenham, Texas 77833

Re: Authority of a magistrate to deny bail following a designation under Code of Criminal Procedure article 17.027(a)(1) (RQ-0484-KP)

SUMMARY

Code of Criminal Procedure article 17.027(a)(1) concerns the release on bail of a defendant charged with a felony committed while on bail for a prior felony in the same county. A court designated in writing

pursuant to article 17.027(a)(1) to set bail under these circumstances is not authorized to deny bail unless the designated court is a district court, as only a district judge may deny bail to a person accused of a felony committed while on bail for a prior felony pursuant to Texas Constitution article I, section 11a.

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

TRD-202302833

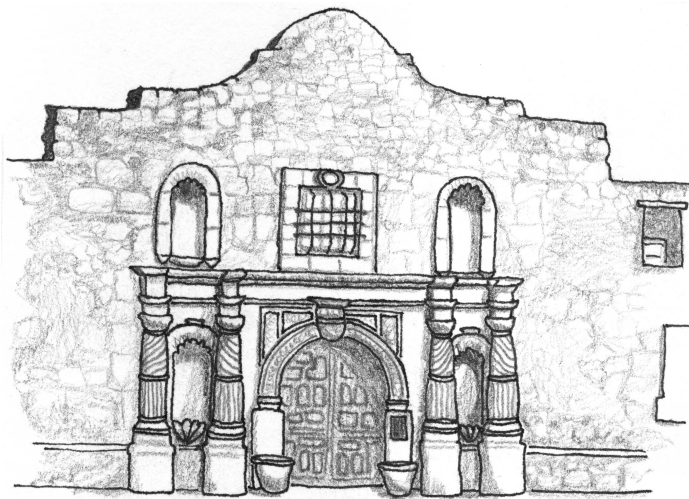
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: August 8, 2023





PROPOSED RULES

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

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

TITLE 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 229. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAMS

19 TAC §§229.1, 229.3, 229.4, 229.6, 229.7

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §229.1(c) is not included in the print version of the Texas Register. The figure is available in the on-line version of the August 18, 2023, issue of the Texas Register.)

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§229.1, 229.3, 229.4, 229.6, and 229.7, concerning the performance standards and procedures for educator preparation program (EPP) accountability. The proposed amendments would provide for adjustments to the 2022-2023 Accountability System for Educator Preparation (ASEP) Manual, would clarify the system for accreditation assignments, would clarify provisions for continuing approval reviews, 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 the 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. The SBEC rules in 19 TAC 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.

Following is a description of the topics for the SBEC's consideration for proposed amendments to 19 TAC Chapter 229.

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

Update of ASEP Manual:

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

Updates to the title would update the appropriate date to the 2022-2023 academic year.

Technical edits to the table of contents would update the title of Chapter 7 to match the corresponding change in the manual and capitalize the title of Chapter 5 to apply style standards for capitalization.

Updates to Chapter 1 would update the appropriate date to the 2022-2023 academic year.

Updates to Chapter 2 would update the small group aggregation to align with proposed 19 TAC §229.4(c)(4) that would provide that an EPP with a three-year cumulated group that is fewer than ten individuals, the group would be measured against the performance standard of the current year or an alternative performance standard of up to one candidate failing to meet the requirement, whichever is more favorable to the EPP. This would allow an EPP to miss the standard by one candidate without failing the performance standard for accountability purposes. The update would also include a diagram to provide a demonstration of the small group aggregation to provide transparency to the field.

Updates to Chapter 3 would update the appropriate dates to the 2022-2023 academic year. Additionally, an unnecessary year designation would be removed to simplify the annual update process.

Updates to Chapter 4 would provide a technical edit to correct the cross-reference to 19 TAC §229.2(19), regarding the definition of first-year teacher. Updates would also clarify that only teachers on standard, intern, and probationary certificates are included in the population of individuals that principals will complete surveys regarding preparation. This provides additional transparency to the field.

Updates to Chapter 5 would provide a technical edit to correct the worked example.

Updates to Chapter 6 would replace the term "license" with the term "certificate" to clarify that individuals apply for a teaching certificate, not license. This would provide consistency of language. Updates would also clarify that surveys related to Indicator 4b are only associated with individuals in the academic year in which they have been issued a certificate. This would provide clarity to the field that although candidates submit a survey when they apply for their certificate, the survey is not used for accountability purposes until the academic year in which they are issued that certificate.

Updates to Chapter 7 would add "Evaluation of Educator Preparation Programs by Teachers" to "New Teacher Satisfaction" in the title and the summary paragraph. This update was recommended by stakeholders to communicate the importance of the instrument for the purpose of increasing response rates. It also aligns with how the instrument is described to teachers. Updates would also clarify that beginning in the 2023-2024 aca-

demographic year, the population included in new teachers submitting a survey will align with the same population as the principal survey. This was recommended by stakeholders and would ensure consistency in which individuals are included in surveys related to EPP accountability.

Updates to Chapter 8 would provide a technical edit to replace the term "petition" with the term "application" to align with the term regarding EPP commendation, Innovative Educator Preparation.

Updates to Chapter 9 would shift language about the applicability of the Index system from an option for status determination to the way that the status determination is made. This aligns with the contents of updated 19 TAC §229.4(b).

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

The proposed amendment to §229.3(f) would strike §229.3(f)(3) as it was never utilized to measure Indicator 3 in ASEP. This would provide clarity as to which data submissions are used for accountability. The subsequent provisions would be renumbered accordingly.

§229.4. *Determination of Accreditation Status.*

The proposed amendment to §229.4(a)(4)(A) would prescribe that EPPs that do not meet the performance standard for the frequency, duration, and documentation of field supervision due to only one candidate failing to receive the minimum number of observations will still meet that standard for accountability purposes. This would prevent a program from failing this standard due to not having documentation for field supervision for only one candidate. This is responsive to stakeholder input about flexibility in the standards for small programs.

The proposed amendment to §229.4(b) would clarify that ASEP accreditation statuses are assigned to EPPs based on the Index system prescribed in the manual. The proposed amendment would also remove outdated language which allowed EPPs to receive the better of the two systems for the 2021-2022 academic year. This would provide clarity to the field as to the assignment of ASEP statuses and remove outdated language.

The proposed amendment to §229.4(b)(1) would remove language regarding the ASEP system used for accountability that began in the 2021-2022 academic year as one of the two systems as options, as all programs will now be assigned statuses based on the Index system. The subsequent provisions would be renumbered or relettered accordingly.

The proposed amendment to §229.4(b)(2) would remove outdated language regarding the ASEP system that was in place through the 2021-2022 academic year. This would provide transparency to the field as to how EPPs are assigned ASEP accreditation statuses. The subsequent provisions would be renumbered accordingly.

The proposed amendment to §229.4(b)(4) would remove outdated language regarding the ASEP status of Not Rated: Declared State of Disaster. This would provide clarity to the field by removing language that is no longer operable.

The proposed amendment to §229.4(c)(4) would prescribe that when there is a small group with fewer than 10 individuals in a cumulative three-year period for that group, the candidate group will either be measured against the performance standard of the current year, or a performance standard where up to one candidate can fail to meet the requirement, whichever one is more

favorable to the EPP. This would allow for standards that are not 100% to not function as though they are 100% for small groups.

The proposed amendment to §229.4(c)(5) would clarify that if an EPP is assigned Accredited-Probation due to carry over status, the status will not be counted against the program as a consecutively measured year for purposes of revocation. This would ensure that a program is not revoked due to a carryover status.

§229.6. *Continuing Approval.*

The proposed amendment to §229.6(b) would prescribe that an EPP has up to four months to comply with SBEC rules and or TEC, Chapter 21, following a continuing approval review, or the Texas Education Agency (TEA) staff will recommend the EPP be sanctioned. This would ensure transparency and consistency in the field regarding how long an EPP has to get into compliance after a continuing approval review.

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

A technical edit is proposed in §229.7(a) and (b) to update a cross reference to §229.5.

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement has determined that for the first five years there is no additional fiscal impact on state and local governments and that there are no additional costs to entities 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 (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 not 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: 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 not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or repeal 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. Garcia has determined that for the first five years that the rule will be in effect that the public benefit anticipated as a result of the proposal would be an accountability system that informs the public of the quality of educator preparation provided by each SBEC-approved EPP. The TEA staff has determined there is no antic-

ipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposed amendment would have no additional data and reporting impact and would strike the data requirement in §229.3(f)(3) as it was never utilized to measure Indicator 3 in ASEP.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins August 18, 2023, and ends September 18, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the September 29, 2023 meeting in accordance with the SBEC board operating policies and procedures.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.041(a), which allows the SBEC to adopt rules as necessary for its own procedures; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; §21.041(d), which states that the 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; §21.043(b) and (c), which requires SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through the Public Education Information Management System (PEIMS) that enables an EPP to assess the impact of the program and revise the program as needed to improve; §21.0441(c) and (d), which requires the SBEC to adopt rules setting certain admission requirements for EPPs; §21.0443, which states that the 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 the SBEC. The SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. The SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; §21.045, which states that the board shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; §21.0451, which states that the 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; and §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, the

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

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (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(c)]

(d) An accredited EPP that is not under an active SBEC order or otherwise sanctioned by the SBEC may receive commendations for success in the following four dimensions identified by the SBEC and prescribed in the figure in subsection (c) of this section:

- (1) Rigorous and Robust Preparation;
- (2) Preparing the Educators Texas Needs;
- (3) Preparing Educators for Long-Term Success; and
- (4) Innovative Educator Preparation.

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

(a) Educator preparation programs (EPPs), EPP candidates, first-year teachers, new teachers, beginning teachers, field supervisors, administrators, mentors, site supervisors, 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 participant in an EPP. All surveys and information required to be submitted pursuant to this chapter by new 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) (No change.)

(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 individual teacher performance surveys, in a form to be approved by the SBEC, for each beginning teacher.]~~

~~(3) [(4)] Administrators in Texas public schools and open-enrollment charter schools shall complete surveys, in a form to be approved by the SBEC, evaluating the effectiveness of preparation for classroom success based on experience with first-year teachers who were participants in an EPP.~~

~~(4) [(5)] New 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.~~

§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 the 2021-2022 and 2022-2023 academic years, the Performance Assessment for School Leaders (PASL) shall be treated as a content pedagogy test.

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

(D) 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";

(3) the growth of students taught by beginning teachers as indicated by the STAAR Progress Measure, 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. The performance standard shall be 70% of beginning teachers from the EPP reaching the individual performance threshold. The first two academic years for which the Texas Education Agency (TEA) has data necessary to calculate this performance standard following the 2019-2020 academic year will be reporting years only and will not be used to determine accreditation status;

(4) the results of data collections establishing EPP compliance with SBEC requirements specified in §228.35(g) of this title (relating to Preparation Program Coursework and/or Training), regarding the frequency, duration, and quality of field supervision to candidates completing clinical teaching 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 of documentation of §228.35(g) of this title for 95% of the EPP's candidates. EPPs who 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.

(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 new teachers administered at the end of the first year of teaching under a standard certificate. The performance standard shall be 70% of teachers responding that they were "sufficiently prepared" or "well prepared" by their EPP.

(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) In-

dex system, as described in Figure: 19 TAC §229.1(c) of this title. [For the 2021–2022 academic year, the assigned accreditation status shall be the better result for the EPP from the system described in paragraph (1) of this subsection and paragraph (2) of this subsection.]

~~[(1) Beginning in the 2021–2022 academic year, 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) [(A)] Accredited status. An EPP shall be assigned an Accredited status if the EPP has met the standard of 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) [(B)] Accredited-Not Rated status. 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.~~

~~(3) [(C)] Accredited-Warning status.~~

~~(A) [(i)] An EPP shall be assigned Accredited-Warning status if the EPP accumulates 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.~~

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

~~(4) [(D)] Accredited-Probation status.~~

~~(A) [(i)] 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.~~

~~(B) [(ii)] 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.~~

~~[(2) Through the 2021–2022 academic year, all approved EPPs may be assigned an accreditation status as follows.]~~

~~[(A) Accredited status. An EPP shall be assigned an Accredited status if the EPP has met the accountability performance standards described in subsection (a) of this section and has been approved by the SBEC to prepare, train, and recommend candidates for certification.]~~

~~[(B) Accredited-Not Rated status. 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 performance standards described in subsection (a) of this section. An EPP is fully accredited and may recommend candidates for certification while it is in Accredited-Not Rated status.]~~

~~[(C) Accredited-Warning Status.]~~

~~[(i) An EPP shall be assigned Accredited-Warning status if the EPP:]~~

~~[(i) fails to meet the performance standards set by the SBEC for the overall performance of all its candidates on any of the indicators set forth in subsection (a) of this section in any one year;]~~

~~[(ii) fails to meet the performance standards in two demographic groups on an indicator set forth in subsection (a) of this section in any one year; or]~~

~~[(iii) fails to meet the performance standards for a demographic group on any of the indicators set forth in subsection (a) of this section for two consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.]~~

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

~~[(D) Accredited-Probation status.]~~

~~[(i) An EPP shall be assigned Accredited-Probation status if the EPP:]~~

~~[(i) fails to meet the performance standards set by the SBEC for the overall performance of all its candidates on any of the indicators set forth in subsection (a) of this section for two consecutively measured years;]~~

~~[(ii) fails to meet the performance standards in three demographic groups on an indicator set forth in subsection (a) of this section in any one year; or]~~

~~[(iii) fails to meet the performance standards for a demographic group on any of the indicators set forth in subsection (a) of this section for three consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.]~~

~~[(ii) 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) [(3)] 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, 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 may not admit new candidates for educator certification but may complete the training of candidates already admitted by the EPP and recommend them for certification. If necessary, TEA staff and other EPPs shall~~

cooperate to assist the previously admitted candidates of the revoked EPP to complete their training.

[(4) Not Rated: Declared State of Disaster status.]

[(A) Due to the governor's declaration of disaster on March 13, 2020, in accordance with Texas Government Code, §418.014, all EPPs shall be assigned a status of Not Rated: Declared State of Disaster for the 2019-2020 and 2020-2021 academic years.]

[(B) The assignment of Not Rated: Declared State of Disaster shall not interrupt consecutively measured years or next most recent prior years as prescribed in this chapter. The assignment of Not Rated: Declared State of Disaster shall not be included in any count of years prescribed in this chapter.]

[(C) For the purposes of §228.10 of this title (relating to Approval Process), §228.17(e) of this title (relating to Change of Ownership and Name Change), and §228.20 of this title (relating to Governance of Educator Preparation Programs), the status the SBEC assigned an EPP for the 2018-2019 academic year shall be the operative accreditation status.]

[(D) For EPPs with an assigned status other than Accredited for the 2018-2019 academic year that meet the requirements for a status of Accredited as described in subsection (b)(1)(A) or (b)(2)(A) of this section based on their 2020-2021 data:]

[(i) the 2020-2021 academic year shall represent a break in consecutively measured years or next most recent prior years as prescribed in subsection (b)(1)-(3) of this section; and]

[(ii) the EPP shall be eligible for commendations as described in §229.1(d) of this title for the 2020-2021 academic year.]

(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 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, the accreditation status will continue from the prior year. Any sanction assigned as a result of an accredited-warned or accredited-probation status in a prior year will continue if that candidate group has not met performance standards since being assigned accredited-warned or accredited-probation status. If an EPP has a status of Accredited-Probation carried over as a result of this subsection, the year in which the EPP has the carried over status will not count as a consecutively measured year for the purpose of subsection (b)(5)(A) of this section. The SBEC may modify the sanction as the SBEC deems necessary based on subsequent performance, even though that performance is not measured against performance standards for a rating.

§229.6. *Continuing Approval.*

(a) The continuing approval of an educator preparation program (EPP) to recommend candidates for educator certification, which shall be reviewed pursuant to §228.10(b) of this title (relating to Approval Process), will be based upon the EPP's accreditation status and compliance with the State Board for Educator Certification (SBEC) rules regarding program-approval components specified in §228.10(a) of this title (relating to Approval Process).

(b) After a continuing approval review pursuant to §228.10(b) of this title, if the Texas Education Agency (TEA) staff finds that an EPP is in compliance with SBEC rules and/or Texas Education Code (TEC), Chapter 21, the TEA staff shall issue a proposed recommendation for SBEC to approve the renewal of an EPP. After a continuing approval review pursuant to §228.10(b) of this title or a complaint investigation pursuant to §228.70 of this title (relating to Complaints and Investigations Procedures), if the TEA staff finds that an EPP has failed to comply with SBEC rules and/or the TEC, Chapter 21, and the EPP does not obtain compliance within four months, [the timelines established by TEA staff,] the TEA staff shall recommend that the SBEC sanction the EPP. The TEA staff may recommend that the SBEC action include, but is not limited to, public reprimand, revocation of program approval, or the imposition of conditions upon continuing program approval.

(c) TEA staff shall provide notice of the proposed recommendation for SBEC action relating to the EPP's continuing approval to recommend candidates for educator certification in the manner provided by §229.7 of this title (relating to Informal Review of Texas Education Agency Recommendations), and an EPP shall be entitled to an informal review of the proposed recommendation, under the conditions and procedures set out in §229.7 of this title, prior to the submission of the recommendation for action to either the SBEC or the State Office of Administrative Hearings (SOAH). If the EPP fails to request an informal review in a timely manner, the proposed recommendation will become a final recommendation.

(d) Following the informal review, a final recommendation will be issued by the TEA staff. The final recommendation may include changes or additions to the proposed recommendation and such modifications are not subject to another informal review procedure.

(e) 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 SOAH, as provided by §229.8 of this title (relating to Contested Cases for Accreditation Revocation).

(f) 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 and entry of a final order.

§229.7. Informal Review of Texas Education Agency Recommendations.

(a) Applicability. This section applies only to a notice required under §229.5(d) [§229.5(f)] 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-Warning, 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(d) [§229.5(f)] 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.

(c) Request. The chief operating officer 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 7, 2023.

TRD-202302785

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: September 17, 2023

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



TITLE 34. PUBLIC FINANCE

PART 9. TEXAS BOND REVIEW BOARD

CHAPTER 181. BOND REVIEW BOARD

SUBCHAPTER A. BOND REVIEW RULES

34 TAC §181.11

The Texas Bond Review Board (BRB) proposes a new rule to Texas Administrative Code (TAC) Title 34, Part 9, Chapter 181, Subchapter A, adding §181.11. Report on State Lending and Credit Support Programs.

Background and Justification:

The BRB proposes a new rule within Texas Administrative Code, Title 34, Part 9, Chapter 181 based on the passage of House Bill (HB) 1038 by the 88th Legislature (2023 Regular Session). HB 1038 amends Chapter 1231 of the Texas Government Code by adding Section 1231.064 related to a biennial report on state lending and credit support programs.

This proposed new rule facilitates the gathering of relevant information from state agencies or political subdivisions regarding lending and credit support programs within the state to enable the BRB to prepare a biennial report due by December 31 of each even-numbered year as mandated by Section 1231.064 of the Texas Government Code.

New rule §181.11, as proposed, requires as follows: For each state lending and credit support program, a state agency or political subdivision shall provide a description of the program, the total amount of state money lent through or debt supported by the program, a citation to the law authorizing each program, a reasonable estimate of the cost of default associated with each program computed in accordance with private-sector accounting standards for credit or other losses, and policies and procedures in place for each program to mitigate the risk of future default in the programs.

Fiscal Impact on State and Local Government:

Robert Latsha, Executive Director for the BRB, has determined that for the first five-year period the proposed new rule is in effect, there should only be minimal administrative costs for the state or local government to provide the financial information required to comply with the rule because this financial information should be and likely is already available.

Public Benefit:

Mr. Latsha also has determined that for each year of the first five years the proposed new rule is in effect, the public benefit of the new rule will be to increase transparency on state lending and credit support programs. Texas has a strong reputation for fiscal transparency. This new rule furthers that reputation by ensuring that the BRB receives sufficient information for BRB to track and accurately report, for each lending program and for each credit support program, the total amount of state money (taxpayer dollars) lent through and debt supported by that program.

Impact on Local Employment or Economy:

There is no effect on local economy for the first five years that the proposed new rule is in effect because the rule merely facilitates the gathering of relevant information from state agencies or political subdivisions in order for the BRB to provide the report required by HB 1038. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§ 2001.022 or 2001.024(a)(6).

Government Growth Impact Statement:

The BRB provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed new rule.

For each year of the first five years the proposed new rule is in effect, Mr. Latsha has determined:

- 1) The proposed new rule does not create or eliminate a government program.
- 2) Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
- 3) Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the BRB.

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

5) The proposed new rule creates a new regulation in order to obtain the necessary information required by the BRB to provide a new biennial report required by HB 1038.

6) The proposed new rule does not expand, limit, or repeal an existing BRB rule.

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

8) The proposed new rule does not positively or adversely affect the state's economy.

Fiscal Impact on Small and Microbusinesses and Rural Communities:

The proposed new rule will have no adverse economic effect on micro-businesses, small businesses, or rural communities because the new rule only increases transparency regarding state lending and credit support programs. The proposed new rule does not affect operations of any small or micro-business, and the proposed new rule should not have an adverse impact on rural communities because the rule only requires more detailed reporting of information that each rural community that participates in the programs should and likely does already possess. The proposed new rule does not affect any local economy within the state.

One-for-One Rule Analysis:

The proposed new rule is not subject to Texas Government Code § 2001.0045, concerning increasing costs to regulated persons, and is exempt from that statute because pursuant to the exception contained in section 2001.0045(c)(9), the rule is necessary to implement section 1231.064 of the Government Code, as added by House Bill 1038. Subsection (c) of section 1231.064 provides that a state agency or political subdivision of this state shall provide to the board in the manner provided by board rule any information necessary for the board to prepare the report required by section 1231.064.

Takings-Impact Assessment:

The proposed new rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

Environmental Rule Analysis:

BRB has determined that this proposal is not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure. Thus, the proposed rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the preparation of an environmental impact analysis is not required.

Public Comment:

Comments on the proposed rule may be submitted in writing to Robert Latsha, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292. Comments may also be submitted electronically to rob.latsha@brb.texas.gov or faxed to (512) 475-4802. The deadline for providing comments is thirty days after publication in the *Texas Register*.

Statutory Authority:

The new rule is proposed under Texas Government Code §1231.064(c) authorizing the BRB to adopt rules relating to a biennial report on state lending and credit support programs.

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

§181.11. Report on State Lending and Credit Support Programs.

(a) A state agency or political subdivision of this state must file a report on state lending and credit support programs in electronic format, and in a manner directed by the Board, with the bond finance office. Reports shall be submitted in electronic format no later than September 15 of each even-numbered year for the prior two fiscal year periods ending August 31.

(b) For each lending program, the report shall include but is not limited to:

(1) Program name;

(2) Detailed description of the program;

(3) Number of loans outstanding separated by program;

(4) Policies and guidelines for all lending programs including policies and procedures in place for each program to mitigate the risk of future default in the program;

(5) Citation to the law authorizing the program;

(6) Total amount of state money lent through the lending program;

(7) Total amount of debt supported by the lending program;

(8) Total dollar amount of outstanding loans separated by program;

(9) Reasonable estimate of the costs of default associated with the program, computed in accordance with private-sector accounting standards for credit or other losses. The estimate shall include all assumptions, factors, formulas, and analysis used to calculate the cost of default;

(10) Current default rate of program;

(11) Highest default rate experienced in program;

(12) Total amount of principal and interest payments received from borrowers;

(13) Total amount of principal and interest payments in default;

(14) Assets, if any, pledged as collateral to secure existing loans;

(15) For each of the items described in paragraphs (6) through (14) of this subsection provide total amount broken down by each entity in the lending structure, if the public or private entity receiving funds also lends the money to another public entity or private entity. Provide the total amounts for each entity; and

(16) Any additional information required by the Board.

(c) For each credit support program, the report shall include but is not limited to:

(1) Program name;

(2) Detailed description of the program;

(3) Policies and guidelines for all credit support programs including policies and procedures in place for each program to mitigate the risk of future default in the programs;

(4) Citation to the law authorizing the program;

(5) Total amount of state money lent through or debt supported by the program, as applicable;

(6) Total amount of credit support for interest or principal payments;

(7) Reasonable estimate of the costs of default associated with the program, computed in accordance with private-sector accounting standards for credit or other losses. The estimate shall include all assumptions, factors, formulas, and analysis used to calculate the cost of default;

(8) Current default rate of program;

(9) Highest default rate experienced in program;

(10) For each of the items described in paragraphs (5) through (9) of this subsection provide total amounts broken down for each public or private entity; and

(11) Any additional information required by the Board.

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

Filed with the Office of the Secretary of State on August 2, 2023.

TRD-202302726

Rob Latsha

Executive Director

Texas Bond Review Board

Earliest possible date of adoption: September 17, 2023

For further information, please call: (512) 475-4805



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

SUBCHAPTER A. PROGRAM RULES

34 TAC §§190.1 - 190.6, 190.8

The Texas Bond Review Board (BRB) proposes amendments to Texas Administrative Code, Title 34, Part 9, Chapter 190, Subchapter A, §190.1 General Provisions; §190.2 Allocation and Reservation System; §190.3 Filing Requirements for Applications for Reservation; §190.4 Filing Requirements for Applications for Carryforward; §190.5 Consideration of Qualified Applications by the Board; §190.6 Expiration Provisions; and §190.8 Notices, Filings, and Submissions.

Background and Justification:

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

An overview of the proposed rule amendments is as follows:

1) Proposed rule amendment to §190.3(e)(11) extends the limited "state ceiling" by restricting the amount of allocation designated at closing to a residential rental project if the program

is oversubscribed for a program year (the amount of residential rental requests submitted for the lottery exceeds the total available amount for SC4 and SC5) as required by HB 1766,

2) Proposed rule amendment to §190.2(d), and §190.3(e)(10) incorporate a new first priority classification and shifts the subsequent existing priority classifications down by one increment as required by HB 1766,

3) Proposed rule amendment to §190.1(c)(34), and §190.3(e)(4) provide uniformity among the timeframe requirements for all bond resolutions to make them valid for a period of 18 months,

4) Proposed rule amendment to §190.5(h), and §190.8(e) correct or eliminate any outdated language in order to conform to current practice, and

5) Proposed rule amendment to §190.2(d), §190.3(b)(13)-(16), §190.3(e)(7), §190.3(e)(9), §190.4(e)(5), §190.6(a), and §190.8(d) correct capitalization, punctuation, typographical, and other miscellaneous grammatical errors.

Fiscal Impact on State and Local Government:

Robert Latsha, Executive Director for the BRB, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the amendments of these rules. The anticipated economic cost to persons who are required to comply with the amendments, as proposed, is minimal to none.

Public Benefit:

Mr. Latsha also has determined that for each year of the first five years the rule amendments are in effect, the anticipated public benefit will be extending the limited "state-ceiling-resource" by restricting the amount of allocation designated at closing to a residential rental project if the program is oversubscribed for a program year as required by HB 1766 and incorporating a new first-priority classification pursuant to HB 1766.

Impact on Local Employment or Economy:

There is no effect on local economy for the first five years that the proposed amendments are in effect because the rule changes relating to allocations designated at closing and changes relating to the new first-priority classification are administrative in nature and the remaining changes merely clarify the language they replace. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§ 2001.022 or 2001.024(a)(6).

Government Growth Impact Statement:

The BRB provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed rule amendments. For each year of the first five years the proposed amendments are in effect, Mr. Latsha has determined:

1) The proposed rule amendments do not create or eliminate a government program; instead, the proposed amendments streamline and modernize the current PAB program to reflect the current administration of the program; and they implement required amendments pursuant to HB 1766.

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

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

4) The proposed rule amendments do not require an increase or decrease in fees paid to the BRB.

5) The proposed rule amendments do not create a new regulation.

6) The proposed rule amendments do not limit or repeal an existing BRB rule but expand or modify existing rules to comply with HB 1766.

7) The proposed rule amendments do not increase or decrease the number of individuals subject to the rule's applicability.

8) The proposed repeal does not positively or adversely affect the state's economy.

Fiscal Impact on Small and Microbusinesses and Rural Communities:

The proposed amendments will have no adverse economic effect on micro-businesses, small businesses, or rural communities because the amendments only affect the administration of the PAB program. The proposed amendments do not affect operations of any small or micro-business, and the proposed amendments should not have an impact on rural communities because the changes are administrative in nature or clarify existing language. The proposed amendments do not affect any local economy within the state.

One-for-One Rule Analysis:

The proposed rule amendments related to designated allocations at closing and amendments related to first-priority classification are exempt from §2001.0045 because, pursuant to the exception contained in §2001.0045(c)(9), the rule amendments are necessary to implement the requirements of HB 1766. As for the remaining rule amendments, they are not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons because the proposed amendments merely streamline administration of the PAB program and, as described above in the public benefit and cost note, the proposed amendments do not impose a cost on regulated persons under Government Code §2001.024, including another state agency, a special district, or a local government.

Takings-Impact Assessment:

The proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore, they do not constitute a taking under Texas Government Code §2007.043.

Environmental Rule Analysis:

BRB has determined that this proposal is not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure. Thus, this proposal is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the preparation of an environmental impact analysis is not required.

Public Comment:

Comments on the proposal may be submitted in writing to Robert Latsha, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292. Comments may also be submitted electronically to rob.latsha@brb.texas.gov or faxed to (512)

475-4802. The deadline for providing comments is thirty days after publication in the *Texas Register*.

Statutory Authority:

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

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

§190.1. *General Provisions.*

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

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

(1) - (33) (No change.)

(34) Local population--The population in the local government unit or units on whose behalf a housing finance corporation is created. If two local government units overlap, each having created housing finance corporations with the power to issue bonds to provide home mortgage financing, prior to the submission of either the application for reservation or the application for carryforward by either housing finance corporation, there shall be excluded from the population of the larger local government unit that portion of the population of any smaller local government unit having a population of 50,000 or more which is within the larger local government unit, unless the smaller local government unit assigns its authority to issue qualified mortgage bonds, based upon its population, to the larger local government unit. A resolution assigning authority to issue qualified mortgage bonds must have been adopted within the 18 [twelve] months preceding the date of submission of the application to the board.

(35) - (59) (No change.)

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

§190.2. *Allocation and Reservation System.*

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

(d) The order of priority for reservations in the category described in Government Code §1372.022(a)(4) shall further be determined as provided in Government Code §1372.0321 and Government Code §1372.0231.

(1) The first category of priority shall include those applications for a reservation for projects that:

(A) during the four-year period preceding the date of the application, have:

(i) filed an application for a low-income housing tax credit with the Texas Department of Housing and Community Affairs; and

(ii) closed on a previous reservation of bonds in accordance with Government Code §1372.042, as determined based on the date of allocation of those bonds; and

(B) require a subsequent issuance of bonds to maintain compliance with the percentage requirement described in Government Code §1372.0321(e); and

(C) have not previously applied for a subsequent issuance of bonds under Government Code §1372.0321(a).

(2) ~~[(4)]~~ The second ~~[first]~~ category of priority shall include those applications for a reservation for:

(A) projects:

(i) in which 50% of the units are reserved for families and individuals earning not more than 50% of the area median family income and in which the maximum allowable rents are restricted to 30% of 50% of area median family income, minus an allowance for utility costs authorized under the federal Low Income Housing Tax Credit Program; and

(ii) (No change.)

(B) (No change.)

(C) projects:

(i) in which 100% of the residential units in the project are reserved for families and individuals earning not more than 60% of or the area median family income and in which the maximum allowable rents are restricted to 30% of 60% of area median family income, minus an allowance for utility costs authorized under the federal Low Income Housing Tax Credit Program; and

(ii) (No change.)

(D) (No change.)

(3) ~~[(2)]~~ The third ~~[second]~~ category of priority shall include those applications for a reservation for a project in which at least 80% of the units are reserved for families and individuals earning not more than 60% of the area median family income and in which the maximum allowable rents are restricted to 30% of 60% of area median family income, minus an allowance for utility costs authorized under the federal Low Income Housing Tax Credit Program; ~~for at least 80% of the units~~.

(4) ~~[(3)]~~ The fourth ~~[third]~~ category of priority shall include those applications for any other qualified residential rental project.

(5) ~~[(4)]~~ Within each category of priority, reservations shall be granted in the order established by the lottery subject to Government Code §1372.0231.

(6) ~~[(5)]~~ Owners of Low Income Housing Tax Credits (LIHTC) and 501(c)(3) properties that issue through State agencies are prohibited from having policies, procedures and/or screening practices which have the effect of excluding applicants because they have Section 8 voucher or certificate. The verification of such an exclusionary practice on the part of the owner or manager by a state agency will be considered a violation and may result in the owner's inability to participate in future housing programs of the state.

(7) ~~[(6)]~~ When determining the priority level of an application established under Government Code §1372.0321, the applicant shall use the most current data available on October 1 of the year preceding the program year in which allocation is being sought, unless specifically otherwise provided in federal or state law or in this title. All American Community Survey (ACS) data must be five year estimates, and any reference to median income in this title shall be synonymous with median family income unless otherwise specified.

(e) - (p) (No change.)

§190.3. *Filing Requirements for Applications for Reservation.*

(a) (No change.)

(b) Application Filing. The issuer shall submit one electronic copy or one original application for reservation. Each application must be accompanied by the following:

(1) - (12) (No change.)

(13) ~~for~~ ~~[For]~~ a qualified residential rental project issue, an issuer shall provide a copy of an active executed earnest money contract between the borrower and the seller of the project. The earnest money contract for Tax-Exempt Bond Lottery Applications must be in effect at the time of submission of the application to the board and expire no earlier than December 1 of the year preceding the applicable program year. The earnest money contract must stipulate and provide for the borrower's option to extend the contract expiration date through March 1 of the program year, subject only to the seller's receipt of additional earnest money or extension fees, so that the borrower will have site control at the time a reservation is granted. If the borrower owns the property, evidence of ownership must be provided. For subsequent reservations granted throughout the remainder of the program year, the borrower must provide within the close of three business days following the notification of pending reservation:

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

(14) ~~the~~ ~~[The]~~ borrower must be specified in the application for reservation of allocation. The borrower may be identified as a to-be-formed entity only if the application for reservation of allocation specifies a related entity or an entity that will be a component of the to-be-formed entity as borrower;

(15) ~~for~~ ~~[For]~~ qualified residential rental project issues where the borrower is an entity or to-be-formed entity that is designated or intends to seek abatement from ad valorem taxation, that intent to seek abatement must be specified on the application for reservation of allocation;

(16) ~~each~~ ~~[Each]~~ issuer of qualified student loan bonds authorized by §53B.47, Education Code, shall submit with the application for reservation the information as required in Government Code 1372.0281.

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

(e) Closing documents. Not later than the fifth business day after the day on which the bonds are closed the issuer shall file with the board:

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

(4) a certified copy of the bond resolution authorizing the issuance of bonds, and setting forth the specific principal amount of the bond issue and, unless the resolution authorizes the issuer to seek an allocation in multiple program years, adopted within 18 months ~~[one year]~~ of the application date;

(5) - (6) (No change.)

(7) other documents relating to the issuance of bonds, including a statement of the bonds':

(A) principal amount;

(B) interest rate or the formula by which the interest is calculated;

(C) maturity schedule; and

(D) purchaser or purchasers; ~~[and]~~

(8) (No change.)

(9) ~~for~~ ~~[For]~~ mortgage credit certificates the issuer shall file item in paragraph (1) of this subsection and the following:

(A) a certified copy of the issuer's resolution electing to convert state ceiling to mortgage credit certificates;

(B) issuer's mortgage credit certificate election; and

(C) program plan;[-]

(10) ~~for [For]~~ a residential rental project described in §190.2(d)(1), ~~[or]~~ (2) or (3) of this title, evidence from the Texas Department of Housing and Community Affairs that an award of Low Income Housing Tax Credits has been approved for the project;[-]

(11) if for a program year Government Code §1372.037(b) applies, the certification issued by the Attorney General pursuant to Government Code §1202.003(b-1).

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

§190.4. *Filing Requirements for Applications for Carryforward.*

(a) - (d) (No change.)

(e) Closing documents. Not later than the fifth business day after the day on which the bonds are closed the issuer shall file with the board:

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

(5) other documents relating to the issuance of bonds, including a statement of the bonds':

(A) principal amount;

(B) interest rate or the formula by which the interest is calculated;

(C) maturity schedule; and

(D) purchaser or purchasers; ~~[and]~~

(6) (No change.)

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

§190.5. *Consideration of Qualified Applications by the Board.*

(a) - (g) (No change.)

(h) If any change in a qualified application or in any of the items accompanying the application should occur prior to the date state ceiling becomes available to an issuer, the issuer or authorized representative shall promptly notify the board of any such change. ~~[Upon state ceiling becoming available, an issuer or authorized representative, within three business days upon receipt of notice from the board that a portion of the state ceiling will be available to the issuer, must confirm and certify that the information contained in the qualified application and all items accompanying the application are and remain accurate and in full force and effect, except as may be specifically set forth in any amendment to the qualified application (which does not result in the application failing to constitute a qualified application); which amendment will constitute such certification.]~~ Prior to receiving a reservation, only an issuer, or authorized representative of the issuer, may amend the application to change the amount of the state ceiling requested, but the board may not accept an amendment to increase the amount of the state ceiling requested unless at the time of the amendment seeking an increase in the amount of state ceiling there are no other qualified applications pending, subsequent in order to said application, for which

state ceiling is not available. ~~[A reservation date will not be given by the board until the receipt of such certification.]~~

(i) (No change.)

§190.6. *Expiration Provisions.*

(a) A certificate of reservation for an application within the categories described by Government Code §1372.022(a)(1) and (2) shall expire at the close of business on the 210th calendar day after the date on which the reservation is given. A certificate of reservation for an application within the category ~~[categories]~~ described by Government Code §1372.022(a)(4), or an application for a qualified residential rental project contained in category Government Code §1372.022(a)(5), shall expire at the close of business on the 180th calendar day after the date on which the reservation is given. A certificate of reservation for an application within the categories described by Government Code §1372.022(a)(3) and (5), excluding applications for qualified residential rental projects contained in category Government Code §1372.022(a)(5), shall expire at the close of business on the 150th calendar day after the date on which the reservation is given. A certificate of reservation for an application for a qualified nonprofit corporation issuer of qualified student loan bonds shall expire at the close of business on the 210th calendar day after the date on which the reservation is given.

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

§190.8. *Notices, Filings, and Submissions.*

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

(d) Fees should be sent by either:

(1) check through overnight delivery and addressed as follows: Comptroller of Public Accounts Item Processing - Lockbox Section 208 ~~[200]~~ E. 10th St. Austin, Texas 78701; or

(2) (No change.)

(e) Fees must be received:

(1) (No change.)

(2) no later than 1 business day ~~[24 hours]~~ after the corresponding filing, but in no case may a fee be received after the corresponding filing deadline in order to meet the requirements of that deadline unless provided for in Chapter 1372, Government 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 2, 2023.

TRD-202302732

Rob Latsha

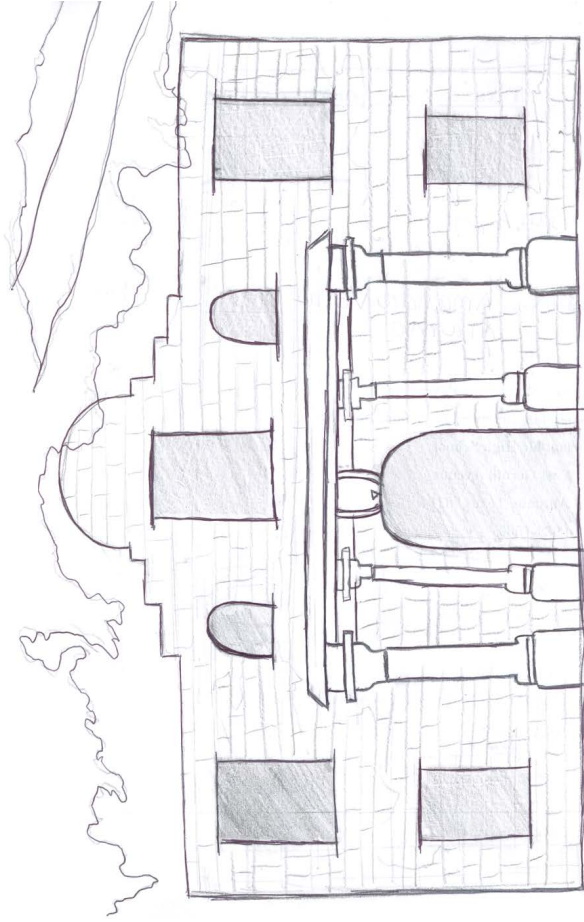
Executive Director

Texas Bond Review Board

Earliest possible date of adoption: September 17, 2023

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





ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 18. GENERAL RULES CONCERNING REPORTS

1 TAC §18.13

The Texas Ethics Commission (the Commission) adopts amendments to Texas Ethics Commission rules in Chapter 18. Specifically, the Commission adopts amended §18.13, regarding Fine for a Late Report. The amendment is adopted without changes to the proposed text as published in the April 28, 2023, issue of the *Texas Register* (48 TexReg 2169). The rule will not be republished.

Rule 18.13 contains rules related to fines for campaign finance reports that are filed late. Currently, it includes Chapter 302 filings for speaker candidates. Chapter 302 does not provide for fines for late statements of contributions, loans, and expenditures filed by speaker candidates in the "administrative process." The administrative process is the process by which a civil penalty is automatically assessed against a filer of a late campaign finance report, lobby registration or report, or personal financial statement. The Election Code and Government Code expressly require the Commission to determine whether a person failed to file a timely report and assess a civil penalty for late or missing campaign finance, lobby, and personal financial statements. Tex. Elec. Code § 254.042; Tex. Gov't Code §§ 305.033, 572.031. There is no similar authorization or requirement to assess an administrative fine in Chapters 302 (relating to the speaker election) and 571 (relating to the Ethics Commission). With no statutory authority to automatically assess fines for late or missing speaker election reports, the Commission proposes to amend its rule so that no such authority is implied. This amendment does not affect the Commission's authority to issue fines through the sworn complaint process. See Tex. Gov't Code § 571.061(a)(1) (authorizing the commission to administer and enforce Chapter 302 of the Government Code).

No public comments were received on this amended rule.

The amended rule is adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 302 of the Government Code.

The amended rule affects Chapter 302 of the Government Code.

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, 2023.
TRD-202302752

James Tinley

General Counsel

Texas Ethics Commission

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For further information, please call: (512) 463-5800



CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

1 TAC §22.37

The Texas Ethics Commission adopts new Texas Ethics Commission rule in Chapter 22 of Title 1 of the Administrative Code. Specifically, the Commission adopts new §22.37, regarding Virtual Currency Contributions. The new rule is adopted without changes to the proposed text as published in the April 28, 2023, issue of the *Texas Register* (48 TexReg 2170). The rule will not be republished.

The Commission seeks to address and clarify the reporting requirements of political contributions made with virtual currency, such as Bitcoin. The new rule permits candidates, officeholders, and political committees to accept virtual currency. It does not distinguish between any types of virtual currencies, like Bitcoin. The rule requires filers to report virtual currency as in-kind contributions.

Title 15 of the Election Code allows, with some exceptions for source and amount, candidates to accept contributions of goods or services. There is no express prohibition on the acceptance of virtual currency. This rule reflects the reality that candidates have and will accept virtual currency contributions.

The new rule also directs filers to report the value of any accepted virtual currency as the fair market value at the time of receipt. Although virtual currencies may possess attributes associated with both currency and a non-monetary asset, at least for the purposes of reporting, the Commission believes virtual currency is best described as non-monetary. This requirement is designed to address the well-known volatility of virtual currency value and provide guidance on how to report the value of virtual currency contributions. The rule does not require filers to liquidate their virtual currency holdings within any particular timeframe.

The Commission first proposed this rule in September 2021, and received numerous public comments. Based on those comments, the Commission deleted the previous subsection (c), and changed "cryptocurrency" to "virtual currency" throughout the proposed new rule to match the language used by the legislature in House Bill 4474 of the 87th regular session, effective on September 1, 2021. Additional public comments were received

before and at the Commission's May 2022 meeting. Mr. Andrew Cates did not support the removal of subsection (e), saying that "the relative nascency of virtual currency and the potential for fraud dictate a public policy argument that the Commission should keep the requirement in rule to ensure that folks aren't simply taking contributors at their word that they are the true source/owner of the virtual currency and the receiving party is doing their due diligence to ensure compliance with the law."

Other Comments included the following:

Dimitra Tsavachidou, President and Founder, Vastogen, Inc., 10-28-21: commented on an earlier version of the proposed rule. She supported most of the earlier version of the proposed rule, but opposed a part that stated cryptocurrency may not be used to make an expenditure and must be sold first because it contradicts the consideration of cryptocurrency as an "in-kind" contribution, and it should be able to be used without the obligation to sell it first. The republished and adopted rule dropped that requirement.

Lee Bratcher, Executive Director, IGE, Dallas Baptist University, 11-4-21: commented on an earlier version of the proposed rule in support of most of the proposal, but opposed a part of an earlier version of the proposed rule that states cryptocurrency may not be used to make an expenditure and must be sold first because it contradicts the consideration of cryptocurrency as an "in-kind" contribution. The republished and adopted rule dropped that requirement.

Michael Scharf, MA Scharf Consulting, 11-4-21: commented on an earlier version of the proposed rule in support of most of the proposal, but opposed the part of the earlier version of the proposed rule that states cryptocurrency may not be used to make an expenditure and must be sold first because it fails to recognize the unique nature of virtual currencies and their use as an "in-kind" contribution. The republished and adopted rule dropped that requirement.

Natalie Smolenski, Chairman of the Board, Texas Blockchain Council, 11-4-21: commented on an earlier version of the proposed rule in support of most of the proposal, but opposed the part that states cryptocurrency may not be used to make an expenditure and must be sold first because such an obligation to sell is more consistent with currency issued by foreign countries. However, its increasing use in the U.S. suggests that cryptocurrency will increasingly be used to pay for goods and services in the U.S. An obligation to sell creates unnecessary red tape and overhead. The republished and adopted rule dropped those requirements.

Andrew Cates, Cates Legal Group, 11-10-21: Commented on an earlier version of the proposed rule. He suggested the word "cryptocurrency" be changed to "virtual currency" based on the passage of HB 4474 in the 87th Legislature. He suggested that treatment of virtual currency as an in-kind contribution be only a stop gap for now with a legislative recommendation to change the definition of "contribution" in the next session. He further suggested an addition to chapter 572 of the Government Code requiring disclosure of virtual currency holdings by Personal Financial Statement filers. The suggestions were incorporated in the republished and adopted rule.

Kristin Smith, Executive Director of Blockchain Association, and Karen Blackstone and Chris Gober, Gober Group, 11-17-21: supported most of an earlier version of the proposed rule, but opposed the part of an earlier version of the proposed rule that states cryptocurrency may not be used to make an expenditure

and must be sold first because it is based on a misinterpretation of the FEC's position on a committee's use of cryptocurrency. The republished and adopted rule dropped those requirements.

Andrew Cates, Cates Legal Group, 4-5-22: suggested a reference to TEC Rule 20.51 in the subsection that discusses valuation of the in-kind contribution, and suggested keeping the subsection stating that the value of the virtual currency contribution is its fair market value upon receipt. The suggestion was incorporated in the republished and adopted rule.

Elizabeth Shimeck, Senior Legal Counsel, Campaign Finance, and Patrick Llewellyn, Director, State Campaign Finance, Campaign Legal Center ("CLC"), 11-11-22: Provided detailed comments that included the following: "Any regulations seeking to allow and govern the use of virtual currency in campaign finance must account for both cryptocurrency's usage as a form of electronic cash, which differentiates it from other types of in-kind support, and the federal government's intent to regulate it alongside securities and commodities." CLC recommended adopting additional safeguards to ensure transactions are traceable, and would require more stringent reporting of receipt of virtual currency. The rules should clarify how virtual currency contributions are valued, including the reporting of all transactions, gains or losses, and how to deal with illegal contributions. They made suggestions on proper recordkeeping by campaign finance filers. They agree with valuing virtual currency as the fair market value upon receipt and would require virtual currency contributions to be made via Treasury-registered service providers that utilize KYC protocols. They suggested rules for reporting the use of virtual currency for expenditures. The Commission determined further study was necessary before adopting more substantive regulations on the acceptance and use of virtual currency beyond reporting obligations.

The new rule is adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code.

The adopted new rule affects Title 15 of the Election Code.

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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Jim Tinley

General Counsel

Texas Ethics Commission

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For further information, please call: (512) 463-5800



CHAPTER 28. REPORTS BY A CANDIDATE FOR SPEAKER OF THE HOUSE OF REPRESENTATIVES

1 TAC §28.3

The Texas Ethics Commission adopts the repeal of a rule in Chapter 28 of Title 1 of the Administrative Code. Specifically, the Commission repeals §28.3, regarding Termination of Candidacy. The repeal is adopted without changes to the proposed

text as published in the April 28, 2023, issue of the *Texas Register* (48 TexReg 2170). The rule will not be republished.

Rule 28.3, regarding the termination of a speaker candidacy, has caused confusion regarding the requirements of a speaker candidate following the election for speaker and the necessity to file a new speaker declaration for each legislative session in which a member seeks to be elected speaker of the house. Rule 28.3 could be read to be contrary to Chapter 302 and should be repealed.

Rule 28.3 states that "a speaker candidate is considered to have terminated the candidacy when the candidate is no longer seeking the office or is ineligible to seek the office." Chapter 302 states a speaker's candidacy is terminated when a speaker is elected or when a speaker candidate files a statement terminating his or her candidacy. Tex. Gov't Code § 302.0121(d). In the past, speaker candidates unnecessarily continued to file campaign finance reports in their capacity as a speaker candidate or officeholder after the speaker was elected. The statute is clear. Rule 28.3 is unnecessary and should be repealed.

The Commission did not receive comments for this rulemaking.

The repeal is adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 302 of the Election Code.

The repeal affects chapter 302 of the Government Code.

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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Jim Tinley

General Counsel

Texas Ethics Commission

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For further information, please call: (512) 463-5800



TITLE 28. INSURANCE

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

CHAPTER 133. GENERAL MEDICAL PROVISIONS

SUBCHAPTER B. HEALTH CARE PROVIDER BILLING PROCEDURES

28 TAC §133.30

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §133.30, concerning Telemedicine and Telehealth Services. Section 133.30 implements Texas Labor Code §413.011, which requires DWC to adopt health care reimbursement policies and guidelines that reflect the standardized reimbursement structures found in other health care delivery systems with mini-

mal modifications. The amendments are adopted with a change to correct an editorial error in the proposed text published in the June 23, 2023, issue of the *Texas Register* (48 TexReg 3396). The rule will be republished.

REASONED JUSTIFICATION. Amending §133.30 is necessary to conform the section to Texas Occupations Code Chapter 111, which was amended to define "teledentistry dental service" by House Bill (HB) 2056, 87th Legislature, Regular Session (2021). Section 133.30 sets billing requirements when a health care provider provides telemedicine and telehealth services.

Section 133.30 has definitions for "telemedicine services" and "telehealth services" and requires health care providers to bill for "telemedicine services" and "telehealth services" using the applicable Medicare payment policies and requirements of Chapter 133 of this title. DWC adopts the amendments that add a definition for "teledentistry services" and add Medicaid payment policies to the list of applicable payment policies that health care providers must use to bill for telemedicine, telehealth, and teledentistry services.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received one written comment, no oral comments, and no requests for a hearing. The Office of Injured Employee Counsel (OIEC) commented in support of the proposal.

Comment on §133.30: "OIEC supports the proposed amendments to conform with the statutory changes of Texas Occupations Code Chapter 111 as amended by the Texas Legislature under House Bill (HB) 2056 and effective September 1, 2021. OIEC also supports the Division's actions to expand access to teledentistry services. The Division's proposal should benefit the injured employees of Texas."

Agency Response to Comment on §133.30: DWC thanks OIEC for the comment.

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to 28 TAC §133.30 under Labor Code §§402.00111, 402.00116, 402.061, 408.027, and 413.011; Insurance Code §§1305.003 and 1305.153; and Occupations Code §111.001.

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

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Workers' Compensation Act.

Labor Code §408.027 addresses payment of health care providers. Labor Code §408.027(g) provides that, despite any other provision in Title 5, Subtitle A, Labor Code or Insurance Code Chapter 1305, §408.027 applies to health care provided through a workers' compensation health care network established under Chapter 1305. Subsection (g) also requires the commissioner to adopt rules as necessary to implement §408.027.

Labor Code §413.011 requires the commissioner to adopt health care reimbursement policies and guidelines that reflect the standardized reimbursement structures found in other health care

delivery systems with minimal modifications to those reimbursement methodologies as necessary to meet occupational injury requirements. To match these standardizations, §413.011 requires the commissioner to adopt the current reimbursement methodologies, models, and values or weights the federal Centers for Medicare and Medicaid Services uses. This includes applicable payment policies related to coding, billing, and reporting.

Insurance Code §1305.003(b) states that Chapter 1305 prevails if there is a conflict between the Workers' Compensation Act and Chapter 1305 regarding:

- the provision of medical benefits for injured employees;
- the establishment and regulation of fees for medical treatments and services;
- the time frames for payment of medical bills;
- the operation and regulation of workers' compensation health care networks;
- the regulation of providers who contract with those networks; or
- the resolution of disputes about medical benefits provided through those networks.

Insurance Code §1305.153(a) states that the amount of reimbursement for services provided by a network provider is determined by the contract between the network and the provider or group of providers.

Insurance Code §1305.153(d) states that, subject to Insurance Code §1305.153(a), billing by, and reimbursement to, contracted and out-of-network providers are subject to the requirements of the Workers' Compensation Act and DWC's applicable rules, consistent with Chapter 1305. The paragraph further states that this subsection may not be construed to require application of a rule on reimbursement if that application would negate the reimbursement amounts the network negotiated.

Occupations Code §111.001(2-a) defines "teledentistry dental service" as a health care service delivered by a dentist, or a health professional acting under the delegation and supervision of a dentist, acting within the scope of the dentist's or health professional's license or certification to a patient at a different physical location than the dentist or health professional using telecommunications or information technology.

§133.30. *Telemedicine, Telehealth, and Teledentistry Services.*

(a) This section applies to medical billing and reimbursement for telemedicine, telehealth, and teledentistry services provided on or after September 1, 2021, to injured employees in the Texas workers' compensation system, including injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305.

(b) For the purposes of this section:

- (1) "telemedicine services" means telemedicine medical services as defined in Occupations Code §111.001;
- (2) "telehealth services" means telehealth services as defined in Occupations Code §111.001; and
- (3) "teledentistry services" means teledentistry dental services as defined in Occupations Code §111.001.

(c) Except as provided in subsection (d) of this section, a health care provider must bill for telemedicine, telehealth, and teledentistry services according to applicable:

(1) Medicare payment policies, as defined in §134.203 of this title (relating to Medical Fee Guideline for Professional Services);

(2) Medicaid payment policies, in accordance with the dental fee guideline in §134.303 of this title (relating to 2005 Dental Fee Guideline); and

(3) provisions of Chapter 133 of this title.

(d) A health care provider may bill and be reimbursed for telemedicine, telehealth, or teledentistry services regardless of where the injured employee is located at the time the telemedicine, telehealth, or teledentistry services are provided.

(e) The provisions of this section take precedence over any conflicting provisions adopted or used by:

(1) the Centers for Medicare and Medicaid Services in administering the Medicare program; and

(2) the Texas Health and Human Services Commission in administering the Texas Medicaid Program.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202302727

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

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For further information, please call: (512) 804-4703



CHAPTER 180. MONITORING AND ENFORCEMENT

SUBCHAPTER C. MEDICAL QUALITY REVIEW PANEL

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amended 28 TAC §§180.64, 180.66, 180.68, 180.72, and 180.76, concerning the Medical Quality Review Panel (MQRP), under Texas Labor Code §§413.05115, 413.0512, 413.05121, and 413.05122. DWC also adopts the repeal of 28 TAC §180.78, concerning the effective date of the subchapter, because it is no longer necessary.

The amendments to §180.64 and §180.72 and the repeal of §180.78 are adopted without changes to the proposed text published in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3171) and will not be republished. The amendments to §§180.66, 180.68, and 180.76 are adopted with minor changes to the proposed text published in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3171) and will be republished.

REASONED JUSTIFICATION. Amending §§180.64, 180.66, 180.68, 180.72, and 180.76 is necessary to conform with related rules and practices, clarify the amount of notice to which a respondent is entitled before an informal settlement conference (ISC), and clarify that DWC may conduct an ISC remotely or in person. The amendments also make editorial changes for plain language and agency style.

Labor Code §413.05115 requires the commissioner to adopt criteria for the medical case review process, in consultation with the medical advisor. Labor Code §413.0512 requires the medical advisor to establish a medical quality review panel of health care providers to assist the medical advisor in performing the duties §413.0511 requires.

The MQRP assists DWC's medical advisor in conducting medical case reviews as part of the medical quality review process to ensure that injured employees in the workers' compensation system get timely, cost-effective, appropriate, medically necessary health care to help them recover and return to work. Labor Code §413.05121 requires the medical advisor to establish the Quality Assurance Panel, also referred to as arbiters, within the MQRP. Labor Code §413.05122 requires the commissioner, after consulting with the medical advisor, to adopt rules concerning the operation of the MQRP.

Section 180.64 concerns the MQRP application process. The amendment to subsection (g) updates the language with the current MQRP membership term of 10 years, as 28 TAC §180.62(e) provides.

Section 180.66 concerns medical case review. The amendment replaces an obsolete reference to recertification with a current reference to renewal to reflect recent amendments to 28 TAC Chapter 127 that updated the certification and renewal process.

Section 180.68 concerns the medical quality review process. The amendment to subsection (a) replaces an obsolete reference to recertification with a current reference to renewal to reflect recent amendments to 28 TAC Chapter 127 that updated the certification and renewal process.

Section 180.72 concerns conflicts of interest. The amendment to subsection (d) deletes an obsolete reference to the associate medical advisor and clarifies that, if the medical advisor must recuse himself due to a conflict of interest, the commissioner will delegate the medical advisor's duties for that case to an arbiter.

Section 180.76 concerns the rights and responsibilities of persons involved in the medical quality review process. The amendments clarify that a person subject to the medical quality review process has the right to 45 days' written notice of an ISC; that DWC may, at its discretion, conduct the ISC remotely or in person; and that the copies of documents that the person has the right to receive are documents that pertain to the substance of the case and that were given to the arbiters to review for that case. The amendments also update an obsolete reference to DWC's attorneys and contain editorial changes for plain language and agency style to make the rule easier to read.

Section 180.78 concerns a 2013 effective date for Subchapter C. That date is now long past. Repealing §180.78 is necessary to ensure that the rules in the subchapter are relevant, which reduces clutter and confusion.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received two written comments, no requests for a hearing, and no oral comments. Commenters in support of the proposal with changes were: Texas Mutual Insurance Company. One individual commented against the proposal.

Comment on §180.66 and §180.68. A commenter recommended that the term "recertification" be replaced with "renewal" instead of being deleted in those sections.

Agency Response to Comment on §180.66 and §180.68. DWC appreciates the comment and has made those changes.

Comment on §180.76. A commenter recommended that the section specifically state that a request to reschedule an ISC be decided by the attorney presiding over the ISC.

Agency Response to Comment on §180.76. DWC appreciates the comment and has changed the proposed text of "the division" to "the division's presiding attorney."

Comment on Unspecified Sections. A commenter stated, "I want to know when a company do not follow the instructions of their own doctors and just push hurt employees under the bus, will changing the rules do any good when they don't follow the first set."

Agency Response to Comment on Unspecified Sections. DWC appreciates the comment. The comment does not request revisions to the proposed text, but instead refers to potential compliance issues in the system. DWC may refer any potential compliance issues to the Audits and Investigations program area.

28 TAC §§180.64, 180.66, 180.68, 180.72, 180.76

STATUTORY AUTHORITY. DWC adopts §§180.64, 180.66, 180.68, 180.72, and 180.76 under Labor Code §§413.0511, 413.05115, 413.0512, 413.05121, 413.05122, 402.00111, 402.00116, and 402.061.

Labor Code §413.0511 requires DWC to have a medical advisor and describes the medical advisor's duties, including making recommendations about rules and policies to regulate medical matters in the workers' compensation system.

Labor Code §413.05115 requires the commissioner to adopt criteria for the medical case review process, in consultation with the medical advisor.

Labor Code §413.0512 requires the medical advisor to establish a medical quality review panel of health care providers to assist the medical advisor in performing the duties §413.0511 requires.

Labor Code §413.05121 requires the medical advisor to establish the Quality Assurance Panel within the MQRP.

Labor Code §413.05122 requires the commissioner, after consulting with the medical advisor, to adopt rules concerning the operation of the MQRP.

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

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

§180.66. Medical Case Review.

The MQRP may perform medical case review for the medical advisor. Medical case review may be performed for the purposes of the medical quality review process, designated doctor certification and renewal, performance-based oversight, or any other medical case review necessary to assist the medical advisor in performing the medical advisor's duties under the Labor Code.

§180.68. Medical Quality Review Process.

(a) The medical quality review process is medical case review initiated on the basis of complaints, plan-based audits, or monitoring

as a result of a consent order and performed in accordance with criteria adopted under Labor Code §413.05115. The medical quality review process does not include medical case review performed for the purpose of:

- (1) certification and renewal of designated doctors;
- (2) performance-based oversight;
- (3) administrative violations that do not require an expert medical opinion; or
- (4) complaints about professionalism that do not require an expert medical opinion.

(b) A complaint must be documented in accordance with the provisions of §180.2 of this title (relating to Filing a Complaint).

(c) Nothing in this subchapter prevents referrals of complaints to another licensing or law enforcement authority.

§180.76. Rights and Responsibilities of Persons Involved in the Medical Quality Review Process.

(a) The person subject to the medical quality review process has the right:

- (1) to be notified that the person has been selected for the medical quality review process;
- (2) to be notified of the disposition of the medical quality review process;
- (3) to communicate with the office of the medical advisor at any time during the medical quality review process;
- (4) to be represented by legal counsel, including legal counsel at the informal settlement conference (ISC);
- (5) to receive written notice of an ISC at least 45 days before the ISC, including the time and place of the ISC and the nature of the allegations; and

(6) to an ISC in accordance with the provisions of this section. The ISC provides persons subject to the medical quality review process an opportunity to discuss and resolve their medical case review with arbiters. The division may, at its discretion, conduct an ISC remotely or in person. An ISC is available under the following conditions:

- (A) The case has been referred to enforcement.
- (B) The request for an ISC must be in writing.
- (C) The division will notify the requester of the scheduled date of the ISC.
- (D) The requester has the right to receive copies of all documents that pertain to the substance of the case and that were given to the arbiters for review for that particular case.

(E) All information the requester wishes the arbiters to consider at the ISC must be received by the division no later than 15 days before the ISC. The arbiters may refuse to consider any information not timely received by the division.

(F) The requester may request to reschedule the scheduled date of the ISC for good cause shown, in writing, as determined by the division's presiding attorney. Good cause means circumstances beyond the requester's control that reasonably prevent the requester from attending the ISC and requesting that the ISC be rescheduled any sooner.

(G) If a requester fails to attend an ISC as scheduled, the requester loses the right to an ISC. But failure to attend the ISC does not affect the requester's rights to:

- (i) communicate with the office of the medical advisor as paragraph (3) of this subsection provides;
- (ii) enter into a consent order with the division; or
- (iii) defend an enforcement case at the State Office of Administrative Hearings.

(b) A person subject to a medical case review must:

- (1) provide records and information requested from the office of the medical advisor in the format and manner specified by the division;
- (2) provide the records and information within the time period specified in the request; and
- (3) attach an accurate and completed business records affidavit to the request for records and information.

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 2, 2023.

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Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: August 22, 2023

Proposal publication date: June 16, 2023

For further information, please call: (512) 804-4703



28 TAC §180.78

STATUTORY AUTHORITY. DWC adopts the repeal of §180.78 under Labor Code §§413.05122, 402.00111, 402.00116, and 402.061.

Labor Code §413.05122 requires the commissioner, after consulting with the medical advisor, to adopt rules concerning the operation of the MQRP.

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

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 338. ABOVEGROUND STORAGE VESSEL SAFETY PROGRAM

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts new §§338.1 - 338.3, 338.5, 338.7, 338.9, 338.20, 338.21 and 338.22.

New §§338.1 - 338.3, 338.5, 338.7, 338.9, 338.20, 338.21 and 338.22 are adopted *with changes* to the proposed text as published in the March 10, 2023, issue of the *Texas Register* (48 TexReg 1409) and, therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The adopted new Chapter 338, Aboveground Storage Vessel Safety (ASVS) Program, is necessary to implement Senate Bill (SB) 900, 87th Texas Legislature, which requires the establishment of the new ASVS Program in the state.

SB 900 amended the Texas Water Code (TWC) to establish the Performance Standards for Safety at Storage Vessels Program within the commission. This program has been designated as the Aboveground Storage Vessel Safety Program by the executive director. The bill identifies the safety elements that the commission must include in these standards and the entities regulated under this new program. The bill requires the commission to establish an ASVS Program by September 1, 2023, to provide for the protection of groundwater and surface water resources in the event of an accident or natural disaster. SB 900 requires this program to include all critical safety elements applicable to a storage vessel and that the commission determines to be critical for the protection of groundwater and surface water resources based on the federal statutes and regulations identified in the bill, along with national consensus standards also listed in the bill.

The bill authorizes the commission to conduct rulemaking to establish the effective date of the standards used in implementing the program under the conditions identified in the bill.

The commission must establish fees sufficient to cover the costs of implementing the registration program, reviewing initial and ten-year certifications, amending certifications, inspecting certified facilities, and enforcing compliance with the statutes, rules, and orders.

Section by Section Discussion

The commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. These non-substan-

tive changes are not intended to alter the proposed rule requirements in any way and are not specifically discussed in the preamble.

SUBCHAPTER A: General Applicability, Standards, and Recordkeeping

§338.1 Purpose and Applicability

The commission adopts new §338.1 to state the purpose and scope of the adopted new Chapter 338 (Aboveground Storage Vessel Safety Program).

Adopted subsection (a) establishes that the goal of the ASVS Program is to protect groundwater and surface water resources in the event of accidents and natural disasters by requiring compliance with the safety standards for the design, construction, operation, and maintenance of storage vessels, as provided in §338.5.

Adopted subsection (b) specifies that the requirements of new Chapter 338 apply to aboveground storage vessels that are made of non-earthen materials, have a storage capacity of 21,000 gallons (based on overflow level height) or more, store a regulated substance, and are fully or partially located within a petrochemical plant, a petroleum refinery, or a bulk storage terminal, except as exempted in §338.3. Subsection (b) further states that the requirements of this chapter apply to all existing and future installed storage vessels that meet the definition of an aboveground storage vessel, as defined in §338.2 related to Definitions.

Adopted subsection (c) establishes that the owner or operator of an aboveground storage vessel is required to comply with any other laws and regulations, including any other federal, state, or local governmental agencies or entities, and that this chapter does not relieve an owner or operator from those responsibilities of compliance.

Adopted subsection (d) establishes that the owners and operators of aboveground storage vessels that are subject to the provisions in new Chapter 338 are responsible for complying with this chapter. Owners and operators are responsible for any violations or noncompliance of any person employed or contracted by the owner or operator.

§338.2 Definitions

The commission adopts new §338.2, which identifies the definitions that apply for the purposes of Chapter 338. For the standards provided in §338.5, the words and terms used in those specific standards will have the meanings of that standard, if defined. However, the words and terms, as defined in this subsection, shall supersede a definition if provided in a specific standard found in §338.5 of this title.

Adopted paragraph (1) defines the term "aboveground storage vessel", as was provided in SB 900, in that it refers to a vessel made of non-earthen materials (e.g., concrete, steel, or plastic) located on or above the surface of the ground that: has a capacity of 21,000 gallons (500 barrels) or more; stores a regulated substance, as defined in the TWC, §26.343, and also defined in this chapter; is located at or is part of a petrochemical plant, a petroleum refinery, or a bulk storage terminal, as is defined in this chapter; and is not a vessel exempted under §338.3.

Adopted paragraph (2) defines the term "bulk storage terminal" as provided in SB 900, as end-of-line pipeline storage terminals (excluding breakout tanks), refinery storage terminals, for-hire storage terminals, rail storage terminals, and barge storage

terminals. The term "breakout tanks" is also defined as tanks which are used to relieve surges in a pipeline system and/or receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline. Typically, Standard Industrial Classification (SIC) code 5171, along with North American Industry Classification System (NAICS) 424710 would be the codes associated with a bulk storage terminal, however, other codes could apply.

Adopted paragraph (3) defines the term "facility" as a site, tract, or other defined area where one or more aboveground storage vessels are located.

Adopted paragraph (4) defines the term "flow-through process vessel" as a vessel through which regulated substances flow as an integral part of a production process, such as petroleum refining or petrochemical production. These vessels collect material discharged from a feedstock storage vessel, or from equipment within the process before the material is transferred to other equipment or storage vessel(s) within the process or to a product or by-product storage vessel. The definition of a flow-through process vessel excludes any vessel that is used for the static storage of regulated substances prior to the introduction into the production process or used for static storage of regulated substances that are products or by-products of the production system.

Adopted paragraph (5) defines the term "National consensus standard" as was provided in SB 900, in that it refers to any performance standard for storage vessel, or a modification thereof, that has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption and were afforded an opportunity for diverse views to be considered. The American Petroleum Institute (API) and National Fire Protection Association (NFPA) standards listed in §338.5 of this chapter meet this requirement.

Adopted paragraph (6) defines the term "petrochemical plant." The SIC/NAICS codes were reviewed but no specific definitions were found in the codes or there were multiple codes that could apply. Therefore, the commission used the definition for a petrochemical plant that was found in Title 34 Texas Administrative Code (TAC) Chapter 3 of the Comptroller of Public Accounts, Tax Administration, §3.362, Labor Relating to Increasing Capacity in a Production Unit in a Petrochemical Refinery or Chemical Plant. In general, the petrochemical plant industry comprises of sites primarily engaged in (1) manufacturing acyclic (i.e., aliphatic) hydrocarbons, such as ethylene, propylene, and butylene made from refined petroleum or liquid hydrocarbons, and/or (2) manufacturing cyclic aromatic hydrocarbons such as benzene, toluene, styrene, xylene, ethyl benzene, and cumene made from refined petroleum or liquid hydrocarbons. Typically, SIC 2865 and 2869, along with NAICS 325110 would be the codes associated with a petrochemical plant, however other codes could apply. The adopted definition refers to a facility that in a single continuous operation or using a batch processing method manufactures a basic or an intermediate chemical. A petrochemical plant may be either, a single facility existing by itself or a facility within a chemical plant complex, consisting of several separate chemical plants each producing a single basic or intermediate chemical product. In a chemical plant complex, each facility is considered individually to determine whether it qualifies as a petrochemical plant.

It should be noted that the petrochemical plant definition does not include a facility or chemical plant that manufactures "allied chemical products", or a facility or chemical plant, other than one that produces a basic or an intermediate chemical, that generates any chemical as a waste product or a by-product. The term "allied chemical product" was also defined in Title 34 TAC §3.362 as "a consumer or end-user product manufacture from basic or intermediate chemicals. Examples include drugs, soaps, detergents, paints, and agricultural chemical formulations." Based on these two definitions, it is not the intent of the commission that ASVs at facilities that are producing end-user product would be subject to these regulations. However, if a general site or complex has multiple facilities within its property boundary, producing a combination of basic, intermediate, or allied chemicals, then each facility is considered individually and any ASVs meeting the applicability of these rules that are producing a basic or intermediate chemical would be subject to these regulations. The Comptroller of Public Accounts definition of a chemical plant could be seen as somewhat confusing, to help resolve this confusion, the commission has revised the definition of a petrochemical plant in §338.2 to remove the sentence "A chemical plant complex may include any combination of distinct facilities that manufacture basic chemicals, intermediate chemicals, or allied chemical products."

Adopted paragraph (7) defines the term "petroleum refinery." The definition was taken from 34 TAC Chapter 3 of the Comptroller of Public Accounts, Tax Administration, §3.362, Labor Relating to Increasing Capacity in a Production Unit in a Petrochemical Refinery or Chemical Plant. The term refers to a facility that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates. Products of these refineries include gasoline, diesel, kerosene, distillate fuel oils, liquefied petroleum gas (LPG), residual fuel oils, lubricants, and other products refined through alkylation, coking, cracking, dewaxing, desulphurization, distillation, hydrotreating, isomerization, polymerization, or other chemical processes. These facilities also produce petrochemical feedstock for use by chemical plants. The term does not include facilities at an oil or gas lease site that remove water or other impurities to make the product more marketable.

Typically, SIC 2911 along with NAICS 324110, would be the codes associated with a petroleum refinery. The NAICS code in general states that petroleum refineries are primarily engaged in refining crude petroleum into refined petroleum. Petroleum refining involves one or more of the following activities: fractionation, straight distillation of crude oil, and cracking. The SIC code states that petroleum refining is primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.

Adopted paragraph (8) defines the term "regulated substance" as defined by TWC, §26.343 to include: a substance defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. Section 9601 et seq.), but does not include a substance regulated as a hazardous waste under the federal Solid Waste Disposal Act (42 U.S.C. Section 6921 et seq.); petroleum, including crude oil or a fraction of it, that is liquid at standard conditions of temperature and pressure; and any other substance designated by the commission. For mixtures containing one percent or greater by weight of a regulated substance, the total mixture would be considered to meet the definition

of regulated substance and therefore, be subject to the rules found in this chapter if the ASV meets the other definitions and applicability requirements. The following link lists the regulated substances under CERCLA §101(14): <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-J/part-302#302.4>.

§338.3 Exemptions

The commission adopts new §338.3 related to Exemptions. The exemptions listed in this subsection were provided in SB 900. The types of vessels listed in this subsection are exempt from the regulation of this chapter. It should be noted that the executive director may ask for supporting information that proves that the vessel is exempt from the standards found in this chapter.

Adopted paragraph §338.3(a)(1) states that vessels used in or associated with the production or gathering of crude oil or natural gas are exempt. This exemption is specific to upstream sites and should not affect the three types of sites that are affected by the program: petrochemical plants, petroleum refineries, or bulk storage terminals.

Adopted paragraph (2) states that a vessel that is part of a stormwater or wastewater collection system is exempt. Paragraph (3) is the exemption for flow-through process vessels. This exemption also includes pressure vessels, process vessels and water separators. The definition of a flow-through process vessel is provided in §338.2(4). If there is an ASV that is part of a wastewater treatment systems, the exemption in §338.3(a)(4) for flow-through process vessel could apply.

Adopted paragraph (4) provides an exemption for aboveground storage vessels that are operating above 0.5 pounds per square inch gauge (psig) or are designed or intended to operate above 0.5 psig. To determine status of this exemption the owner or operator should either: measure the operating pressure of the storage vessel with a pressure gauge located in the vapor space of the vessel or calculate the operating pressure as the total mixture vapor pressure at the storage temperature converted to gauge pressure. In the case of floating roof vessels, the void space between the liquid level and roof is typically small or practically nonexistent since the roof uses seals to minimize the vapor space, with the floating roof nearly sitting on the liquid. The option to calculate the total mixture vapor pressure at the storage temperature may be a preferred option for storage vessels with minimal vapor spaces, such as vessels equipped with a floating roof.

Adopted paragraph (5) provides an exemption for heated vessels. For this exemption to apply, the storage vessel must be continuously heated using an external heat source. This heat source could include, but is not limited to, steam, electric heating elements, or a heat medium such as hot oil. A storage vessel in which the process fluid being received is above ambient temperature and/or stored in an insulated vessel that is not heated using an external heat source will not be considered a heated vessel. Furthermore, any ASV that is continuously heated, as specified in §338.3(a)(5), would be considered exempt from the program. However, if the tank is intermittently heated, it would be subject to the requirements of the rule and this exemption would not apply.

Adopted paragraph (6) provides an exemption for intermediate bulk containers or similar vessels that can be moved within a facility. Most intermediate bulk containers, which are designed for mechanical handling, are likely below the capacity threshold of 21,000 gallons and therefore would not be subject to Chapter 338. For example, in general, intermediate bulk containers are

defined as a pallet mounted, industrial grade reusable container used for storing and transporting bulk liquids and powders also known as totes, which are capable of stacking and can be moved by a pallet jack or forklift. However, a 'frac' tank could potentially meet the capacity threshold to be regulated under Chapter 338 but if they are not being used as permanent storage, would qualify for an exemption as an intermediate bulk container.

Adopted paragraph (7) provides an exemption for vessels that are regulated under the federal Surface Mining Control and Reclamation Act. The adopted paragraph (8) provides an exemption for vessels used for the storage of products regulated under the Federal Food, Drug, and Cosmetic Act.

Adopted paragraph (9) provides an exemption for vessels, including associated piping and collection and treatment systems, that are used in the management of leachate, methane gas, or methane gas condensate, unless the vessel is used for storage of a regulated substance, which is defined in §338.2.

Adopted paragraph (10) provides an exemption for pressure vessels that are used to store liquified petroleum gas. Vessels that are regulated under the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration are exempted under adopted paragraph (11).

Adopted paragraph (12) provides an exemption for vessels regulated under 40 CFR Part 262, Standards Applicable to Generators of Hazardous Waste, Part 264, Standards for Owners and Operators of Hazardous Waste Treatment, and Part 265, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, and 30 TAC Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste. The executive director has reviewed the requirements found in 40 CFR Part 264 and compared them to the definitions listed in this rule, along with the language found in SB 900 and has determined that there should not be any storage tanks that would be subject to both the Chapter 338 rules and 40 CFR Part 264.

Adopted subsection (b) provides that the owner or operator of an affected aboveground storage vessel may submit a request for an aboveground specific storage vessel to be exempted from the requirements of this chapter. The request must be submitted in writing to the executive director. The request must demonstrate that the aboveground storage vessel presents a sufficiently low risk from floods, storm surges, hurricanes, accidents, fires, explosions, or other hazards, such that it does not warrant regulation under this chapter. If an exemption request is submitted, the aboveground storage vessel is subject to all applicable requirements until the executive director has provided written approval for the requested exemption. The executive director will determine what is a "sufficiently low risk" and does not foresee this type of exemption being widely requested or approved.

Adopted subsection (c) states that upon the request by the executive director, an owner or operator claiming to be exempted under subsection (a) or (b) of this section, must provide appropriate documentation or other information in a timely manner to support the exemption claim.

§338.5 Standards

The commission adopts new §338.5, which provides the applicable performance standards for safety at affected storage vessels to provide for the protection of groundwater and surface water resources from a release of regulated substances in the event of an accident or natural disaster. The selected standards were

limited to those listed in SB 900. The bill directed the commission to include only the critical safety elements that are applicable to a storage vessel that the commission determines to be critical for the protection of groundwater and surface water resources. The adopted standards are taken from national consensus standards and federal statutes/regulations.

In following the requirements found in SB 900, the commission is also adopting the listed standards to ensure that the correct critical safety elements are applied to the correct types of storage vessels, as delineated in the applicability section of each national consensus standard or federal statute/regulation. This requirement is being adopted in subsection (a) and clarifies that for the listed standards, applicability of the requirements is based on the applicability section for each of the referenced standards. It is not the intent of the executive director to expand the applicability of the national consensus standards or federal statutes/regulations beyond the applicability provided in those specific standards. The proposed rule was revised to clarify the applicability of the standards. The standards are applicable when both of the following are met: the vessel meets the definition of an aboveground storage vessel as defined in §338.2, and the ASV satisfies the applicability criteria of the listed standard. For any national consensus standard or federal statute/regulation incorporated by reference in this rule, owners or operators must comply with any separate applicable standards and regulations included in the incorporations by reference.

Adopted subsection (b) establishes the standards that will apply to existing storage vessels that were in service before or on September 1, 2027. This subsection makes it clear that all of the listed performance standards for safety will apply, if the ASV meets the applicability criteria of the listed standard.

The adopted paragraph (1) incorporates by reference, 40 Code of Federal Regulations (CFR) Part 68, Chemical Accident Prevention Provisions, with the specific sections in that Part that will apply. With the adoption of these specific sections concerning the Risk Management Plan requirements (RPM) found in Part 68, it should be noted that it is not the agency's intent to create a separate State RMP program. Adopted subparagraph (A) incorporates by reference as amended through December 19, 2019, 40 CFR §68.3 concerning Definitions (84 Federal Register (FR) 69913). Adopted subparagraph (B) incorporates by reference, as amended through December 19, 2019, (84 FR 69913) 40 CFR §68.10, Applicability. As already stated, the applicability is limited to aboveground storage vessels, which are defined in §338.2.

The revision of §338.5(a) eliminates the need for §338.5(b)(1)(B)(i) - (ii). The proposed language of §338.5(b)(1)(B)(iii), which specifies that the compliance dates provided in this chapter concerning registration and certification apply instead of the multiple compliance dates listed in §338.10(a)- (f) was moved into §338.5(b)(1)(B), and §338.5(b)(1)(B)(iii) was also removed.

Adopted subparagraph (C) incorporates by reference, as amended through December 19, 2019, (84 FR 69913) 40 CFR §68.12 General Requirements. 40 CFR §68.12 establishes the general requirements for Programs 1, 2, and 3. If the referenced section requires that a plan or document be submitted, this will either be required under the certification requirements found in §338.21 or will be captured as a recordkeeping requirement in §338.9.

Adopted subparagraph (D) incorporates by reference, as amended through June 20, 1996, (61 FR 31718) 40 CFR §68.15, Management. 40 CFR §68.15 establishes that a management system must be developed to oversee the implementation of the risk management program.

Adopted subparagraph (E) incorporates by reference, as amended through June 20, 1996, (61 FR 31718) 40 CFR §68.48, Safety Information. This incorporation by reference concerns the Program 2 Prevention Program specific to safety information that the owner or operator must maintain.

Adopted subparagraph (F) incorporates by reference, as amended through December 19, 2019, (84 FR 69914) 40 CFR §68.50, Hazard Review. Subparagraph (F) adopts the incorporated requirements that an owner or operator must conduct to ensure that a review of hazards associated with the regulated substances has been conducted.

Adopted subparagraph (G) incorporates by reference, as amended through January 31, 1994, (59 FR 4493) 40 CFR §68.56, Maintenance. This incorporation provides the requirements that an owner or operator must follow to ensure mechanical integrity of the aboveground storage vessels, along with required training.

Adopted subparagraph (H) incorporates by reference, as amended through December 19, 2019, (84 FR 69914), 40 CFR §68.65, Process Safety Information. This incorporation by reference concerns the Program 3 Prevention Program specific to process safety information that the owner or operator must develop and maintain. This process safety information must include information pertaining to the hazards of the regulated substances used or stored and information pertaining to the technology of the process, in this case the storing of the regulated substances.

Adopted subparagraph (I) incorporates by reference, as amended through December 19, 2019, (84 FR 69914) 40 CFR §68.67, Process Hazard Analysis. This subparagraph incorporates the requirement that the owner or operator must perform an initial process hazard analysis. It should be noted that where the term process is used, this is specific to only aboveground storage vessels that meet the applicability of the standard. The process hazard analysis must be appropriate to the complexity of the process and must identify, evaluate, and control the hazards involved in the process. The owner or operator must determine and document the priority order for conducting process hazard analyses based on a rationale, which includes such considerations as extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process.

Adopted subparagraph (J) incorporates by reference, as amended through January 31, 1994, (59 FR 4493) 40 CFR §68.73, Mechanical Integrity. 40 CFR §68.73 establishes that the requirements apply to aboveground storage vessels and provides requirements including: written procedures, training, inspection and testing, equipment deficiencies, and quality assurance.

Adopted subparagraph (K) incorporates by reference, as amended through January 31, 1994, (59 FR 4493) 40 CFR §68.75, Management of Change. This incorporation establishes the need for a written procedure to manage changes to chemicals, technology, equipment, and procedures.

Adopted subparagraph (L) incorporates by reference, as amended through January 31, 1994, (59 FR 4493) 40 CFR §68.77, Pre-Startup Review. 40 CFR §68.77 establishes the requirements to perform a pre-startup safety review for any new or modified aboveground storage vessel.

Adopted subparagraph (M) incorporates by reference, as amended through December 19, 2019, (84 FR 69915) all sections of 40 CFR Part 68, Subpart E, Emergency Response, (40 CFR §§68.90, 68.93, 68.95, 68.96). Subparagraph (M) incorporates the requirements for responding to an emergency response including applicability, emergency response coordination activities, an emergency response program, and emergency response exercises.

Adopted subparagraph (N) incorporates by reference, as amended through April 9, 2004, (69 FR 18832) all sections of 40 CFR Part 68, Subpart G, Risk Management Plan; (40 CFR §§68.150, 68.151, 68.152, 68.155, 68.160, 68.165, 68.168, 68.170, 68.175, 68.180, 68.185, 68.190, 68.195). Subparagraph (N) incorporates the requirements for a risk management plan including submissions, assertion of claims of confidential business information, substantiating claims of confidential business information, executive summary, registration, offsite consequence analysis, five-year accident history, prevention program, emergency response program and exercises, certification, updates, and required corrections. Submission of plans, registration, and certification will follow the requirements found in this chapter.

Adopted subparagraph (O) incorporates by reference, as amended through December 19, 2019, (84 FR 69916) all sections of 40 CFR Part 68, Subpart H, Other Requirements, (40 CFR §§68.200, 68.210, 68.215, 68.220). 40 CFR Part 68, Subpart H establishes requirements for recordkeeping, availability of information to the public, permit content and air permitting authority or designated agency requirements, and audits. The recordkeeping timeframes found in this chapter should be used instead of the five-year recordkeeping requirement in 40 CFR §68.200.

The adopted paragraph (2) incorporates by reference, 40 CFR Part 112, Oil Pollution Prevention, with the specific sections in that Part that will apply. Adopted subparagraph (A) incorporates by reference as amended through April 18, 2011, (76 FR 21550) 40 CFR §112.1, General Applicability. The applicability of 40 CFR Part 112 applies to any owner operator of a non-transportation-related onshore or offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to its location, could be expected to discharge oil in quantities that may be harmful into waters of United States. For this chapter, the 40 CFR Part 112 rules apply only to aboveground storage vessels, which meet the definition of an aboveground storage vessel in §338.2 and that meet the applicability requirements of the federal standard. The storage vessel exemptions found in §338.3 will also apply when determining applicability for this part. The exemptions found in 40 CFR §112.1(d) will also apply when determining applicability for this chapter. In 40 CFR §112.1(f), the term 'Regional Administrator' should be considered to be the executive director.

Adopted subparagraph (B) incorporates by reference, as amended through April 21, 2020, (85 FR 223399) 40 CFR §112.2, Definitions. 40 CFR §112.2 provides definitions of terms that will be specific to this Part.

Adopted subparagraph (C) incorporates by reference, as amended through November 22, 2011, (76 FR 72124) 40 CFR §112.3, Requirement to Prepare and Implement a Spill Prevention, Control, and Countermeasure Plan. 40 CFR §112.3 establishes the requirements associated with the development and implementing a Spill Prevention Control and Countermeasure Plan.

Adopted subparagraph (D) incorporates by reference, as amended through November 13, 2009, (74 FR 58810) 40 CFR §112.6, Qualified Facilities Plan Requirements. 40 CFR §112.6 provides the requirements for Tier I and Tier II qualified facilities concerning spill prevention control and countermeasure plans. The requirements for Tier I facilities include preparation and self-certification of the plans, technical amendments, and plan templates along with applicable requirements. The requirements for Tier II facilities include preparation and self-certification of plans, technical amendments, applicable requirements, and professional engineer certification of portions of a qualified facility's self-certified plan.

Adopted subparagraph (E) incorporates by reference, as amended through November 13, 2009, (74 FR 58810) 40 CFR §112.7, General Requirements for Spill Prevention, Control, and Countermeasure Plans. 40 CFR §112.7 establishes the general requirements for a spill prevention, control, and countermeasure plan, including but not limited to: the plan uses good engineering practices, has full management approval, the plan must be available in writing, if the plan does not follow the specifically listed sequence specified in the plan, an equivalent plan must be approved and followed. The plan must also address when additional facilities or procedures, methods, or equipment are not yet fully operational, by providing details of installation and operational start-up information.

Adopted subparagraph (F) incorporates by reference, as amended through December 5, 2008, (73 FR 74304) 40 CFR §112.8, Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities). For facilities that are subject to this section, the owner or operator must meet the requirements of 40 CFR §112.7 and the specific discharge prevention and containment procedures listed in 40 CFR §112.8.

Adopted subparagraph (G) incorporates by reference, as amended through December 5, 2008, (73 FR 74305) 40 CFR §112.12, Spill Prevention, Control, and Countermeasure Plan Requirements. For facilities that are subject to this section, the owner or operator must meet the requirements of 40 CFR §112.7 and the specific discharge prevention and containment procedures listed in 40 CFR §112.12.

Adopted subparagraph (H) incorporates by reference, as amended through July 17, 2002, (67 FR 47151) 40 CFR §112.20, Facility Response Plans. 40 CFR §112.20 establishes the requirements of when an owner operator of a non-transportation-related onshore or offshore facility, which due to its location, could be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines, must prepare a facility response plan. This plan may be required to be submitted to the executive director during the facilities certification and will be required to be kept on-site per the recordkeeping requirements.

Adopted subparagraph (I) incorporates by reference, as amended through June 30, 2000, (65 FR 40798) 40 CFR §112.21, Facility Response Training and Drills/Exercises. The

adopted rule language notes that the term "Regional Administrator" used in 40 CFR §112.21 should be replaced with "executive director". If a facility is required to prepare a facility response plan in 40 CFR §112.20, then the owner or operator must develop and implement a facility response training program and develop a drill/exercise program based on the requirements found in 40 CFR §112.21.

The proposed paragraph (3) which incorporated by reference sections of 40 CFR Part 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, has been removed. The agency has reviewed the requirements found in 40 CFR Part 264 and compared it to the definitions listed in this rule, along with the language found in SB 900 and TWC, §26.343 and has determined that there should not be any storage tanks that share applicability with the Chapter 338 rules and 40 CFR Part 264. Therefore, the proposed §338.5(a)(3), including §§338.5(a)(3)(A) through (K) have been removed. Furthermore, a new exemption has been added to §338.3 to address a vessel regulated under 40 CFR Parts 262, 264, or 265 and state regulations contained in 30 TAC Chapter 335.

The adopted paragraph (3) incorporates by reference, specific sections from the American Petroleum Institute (API) Standard 653, Tank Inspection, Repairs, Alteration, and Reconstruction. The version of the API 653 standard being incorporated is the fifth edition, issued in November 2014, with Addendum 1 issued in April 2018 and Addendum 2 issued in May 2020.

Adopted subparagraph (A) incorporates by reference Section 4.3: Tank Shell Evaluation and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, are not exempted under §338.3, and meet the applicability of the standard are required to comply with the requirements listed in Section 4.3 found in API 653. These requirements include general requirements, actual thickness determinations, minimum thickness calculations for welded tank shells, minimum thickness calculations for riveted tank shells, distortions, flaws, wind girders and shell stiffeners, shell welds, shell penetrations, and operation at elevated temperatures.

Adopted subparagraph (B) incorporates by reference, as amended through September 1, 2023, Section 4.4: Tank Bottom Evaluation and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with the requirements listed in Section 4.4 found in API 653. These requirements include general requirements, causes of bottom failures, tank bottom release prevention systems, bottom plate thickness measurements, minimum thickness for tank bottom plates, and minimum thickness for annual plate rings.

Adopted subparagraph (C) incorporates by reference Section 4.5: Tank Foundation Evaluation and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with the requirements listed in Section 4.5 found in API 653. These requirements include general requirements, foundation repair or replacement due to settlement of the soil, and anchor bolts.

Adopted subparagraph (D) incorporates by reference Section 6.2: Inspection Frequency Considerations and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with the requirements listed in Section 6.2 found in API 653. These requirements include several inspection frequency considerations for the storage vessels, along with how the interval between inspections should be determined.

Adopted subparagraph (E) incorporates by reference Section 6.3: Inspections from the Outside of the Tank and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with the requirements listed in Section 6.3 found in API 653. These requirements include routine in-service inspections, external inspections, ultrasonic thickness inspections, and cathodic protection surveys.

Adopted subparagraph (F) incorporates by reference Section 6.4: Internal Inspection and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with the requirements listed in Section 6.4 found in API 653. These requirements include general requirements and inspection interval requirements.

Adopted subparagraph (G) incorporates by reference Section 8: Design Considerations for Reconstructed Tanks and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with all of the applicable requirements found in Section 8 of API 653. These requirements include general requirements, new weld joints, existing weld joints, shell design, shell penetrations, wind girders and shell stability, roofs, and seismic design.

Adopted subparagraph (H) incorporates by reference Section 9: Tank Repair and Alteration and any applicable Annex found in API 653. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with all of the applicable requirements found in Section 9 of API 653. These requirements include general requirements, removal and replacement of shell plate material, weld joint design, door sheet installation, shell repairs using lap-welded patch plates, repairs using nonmetallic materials, repairs of defects in shell plate material, alteration of tank shells to change shell height, repair of defective welds, repair of shell penetrations, addition or replacement of shell penetrations, alteration of existing shell penetrations, repair/replacement of tank bottoms, repair of fixed roofs, repair of floating roofs, repair/replacement of floating roof perimeter seals, and hot taps.

The adopted paragraph (4) incorporates by reference, specific sections from the API Standard 2350; Overfill Prevention for Storage Tanks in Petroleum Facilities, Fifth Edition, September 2020 (Errata 1, April 2021). The standard applies to all aboveground storage vessels as defined in §338.2 with an internal design pressure not more than 0.5 psig and meet the applicability of the standard.

Adopted subparagraph (A) incorporates by reference Section 4: Overfill Prevention System (OPS) and any applicable Annex found in API 2350. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with all of the applicable requirements found in Section 4 of API 2350. The standard states that the prevention of vessel overfills requires the consideration of the following: awareness and calculation of available vessel capacity and inventory, monitoring and control of product movement and vessel level during filling, reliable instrumentation, sensors, human response to manually initiate the termination of flow, use of automatic vessel gauging systems or independent high-level alarms, and use of automated response systems to automatically terminate the flow. Section 4 also establishes the requirements for a management system to fulfill the task required to prevent an overfill of storage vessels. Requirements for risk assessment are also provided in Section 4. Requirements for defining operating parameters in establishing levels of concerns, critical high levels, automated overfill prevention system activation levels, high-high or HH vessel levels, high levels, maximum working levels, response times, and level of concern changes and periodic reviews are also provided. In Section 4, there are also requirements for overfill prevention system (OPS) procedures, which include procedures for operations, procedures for training on overfill prevention systems, procedures for testing, inspection, and maintenance of the equipment of an OPSs, training for testing, inspection, and maintenance of OPSs, proof test documentation, and vessel alarm reports.

Adopted subparagraph (B) incorporates by reference Section 5: Requirements for OPS Procedures and any applicable Annex found in API 2350. All affected storage vessels that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3 are required to comply with all of the applicable requirements found in Section 5 of API 2350. It is stated in the API 2350 standard that there are two types of OPS that are generally used to terminate a receipt of product into a storage vessel; with those types being a manual overfill prevention system (MOPS) and an automated overfill prevention system (AOPS). Section 5 provides requirements for vessel category criteria and instruments/equipment used for overfill prevention.

SB 900 requires that the commission review and adopt rules that require fire suppression systems on storage vessels that are subject to the ASVS program. There were two standards listed in the bill: National Fire Protection Association (NFPA) 30 Chapter 22 and API Recommended Practice 2001. The adopted rule language in paragraphs (5) and (6) incorporate by reference specific sections from these two standards. The adopted paragraph (5) incorporates by reference Section 22.8, Fire Protection for Aboveground Storage Tanks, from NFPA 30 Chapter 22 and any applicable Annex. Section 22.8 requires a fire-extinguishing system to be installed and used in accordance with NFPA standards. Alternatively, an owner or operator may elect to meet API Recommended Practice 2001, 10th Edition, July 2019, Sections 5, 6, 7, 8, 9, 10, 11 and any applicable Annex are subject to the protocol of the applicable standard.

Adopted paragraph (6) requires that for all aboveground storage vessels that have not installed a fire suppression system under paragraph (5) of this section, API Recommended Practice 2001, 10th Edition, July 2019, Sections 5, 6, 7, 8, 9, 10, 11 and any applicable Annex are incorporated by reference and shall apply. Section 5 of API Recommended Practice 2001 con-

cerns the fire considerations design to help prevent potential hazards from resulting, during a fire. Section 6 of API Recommended Practice 2001 concerns the general approach for fire control and extinguishment use by both large and small facilities throughout the petroleum industry. This section provides general requirements for the three types of fire suppressing systems: fixed system, semifixed system, and portable equipment. The section furthermore discusses the requirements for the use of water, foam, dry chemicals, combined (dual) agents, or clean agents to control and extinguish fires. Section 7 of API Recommended Practice 2001 provides the operating practices, including general requirements to establish standard operating procedures and emergency operating procedures and what needs to occur if a loss of containment should happen. Section 8 of Recommended Practice 2001 provides the maintenance procedures for fire prevention during construction, turnaround, repair, demolition, and routine/emergency maintenance activities. Section 9 of Recommended Practice 2001 addresses the basic principles of an emergency response and fire protection organization. While Section 10 of Recommended Practice 2001 provides the requirements for the training needed for firefighting. Finally, Section 11 of Recommended Practice 2001 addresses the need for pre-fire incident planning.

It is the commission's intent that an owner or operator that meets the applicability of either NFPA 30 or API Recommended Practice 2001 is required to only follow one of the standards concerning installation of fire suppression equipment and not both.

Adopted subsection (c) establishes the standards that will apply for new aboveground storage vessels that are placed into service after September 1, 2027. Adopted paragraph (1) states that all the standards that are listed in subsection (b) will apply to new aboveground storage vessels.

Adopted paragraph (2) incorporates by reference all sections of API 650: Welded Tanks for Oil Storage, Thirteenth Edition, March 2020 (Errata 1, January 2021). The API 650 standard establishes minimum requirements for material, design, fabrication, erection, and inspection for vertical, cylindrical, aboveground, closed and open-top, welded storage vessels in various sizes and capacities for internal pressures approximating atmospheric pressure. All affected aboveground storage vessels that are placed into service after September 1, 2027, that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard, and are not exempted under §338.3, are required to comply with all of the applicable requirements found in API 650.

Adopted paragraph (3) incorporates by reference NFPA 30 §22.4: Location of Aboveground Storage Tanks from NFPA 30, Chapter 22 (Edition: 2021). All affected aboveground storage vessels that are placed into service after September 1, 2027, that meet the definition of an aboveground storage vessel in §338.2, meet the applicability of the standard and are not exempted under §338.3 are required to comply with all of the applicable requirements found in NFPA 30, §22.4, which concerns the location of aboveground storage vessels, except for reconstruction standards at an original storage vessel location.

Adopted subsection (d) provides the requirement that an owner or operator, subject to the standard in subsection (b) must make any needed modifications or retrofits that are necessary to obtain compliance with the standards in §338.5 during the first out-of-service maintenance period for the storage vessel after September 1, 2027. An owner or operator may request approval for an exemption from the executive director if the necessary modifi-

cations or retrofits are not technically feasible. The request is not approved until a written response is received from the executive director. This exemption only applies to modifications or retrofits and does not apply to newly constructed storage vessels. It should also be noted as stated in the §338.21, Certification, of the adopted rules that owners or operators of storage vessels brought into service prior to September 1, 2027, must certify compliance with the standards of §338.5 upon completion of the next regularly scheduled out-of-service maintenance, but no later than September 1, 2037. Owners or operators of storage vessels constructed and brought into service after September 1, 2027, must certify compliance with the §338.5 standards no later than 30 days after the start of operation of the storage vessel.

§338.7 Inspections

The commission adopts new §338.7 which establishes the inspection requirements. The executive director will conduct inspections of aboveground storage vessels, that are subject to these regulations to determine current compliance status.

Adopted subsection (a) states that in order to better implement and assess these regulations and enforce the requirements of the ASVS program, at the request of the executive director, the owner or operator must per paragraph (1), furnish information related to the aboveground storage vessel, including aboveground storage vessel equipment and contents, and (2) allow the executive director to have access to and obtain all records relating to the storage vessel.

Adopted subsection (b) establishes when and what actions the executive director may take to develop these regulations further, assess these regulations, or to enforce the requirements of the ASVS program. Adopted paragraph (1) states that the executive director may enter at reasonable times into a facility in which an aboveground storage vessel is located. Adopted paragraph (2) states that the executive director may inspect and obtain samples, which will be collected by the owner or operator at the request of the executive director, of a regulated substance contained in the aboveground storage vessel. Adopted paragraph (3) states that the executive director may conduct monitoring or request that the owner or operator conduct monitoring of the aboveground storage vessel, surrounding soils, air, surface water, or groundwater.

Adopted subsection (c) establishes that the executive director may require an owner or operator to conduct monitoring and testing, if the executive director determines that there is reasonable cause to believe that a release has occurred in an area in which the aboveground storage vessel is located.

§338.9 Recordkeeping

The commission adopts new §338.9(a) to establish the general recordkeeping requirements. Adopted paragraph (1) specifies that the owner or operator of an aboveground storage vessel must develop and maintain all records required by the provisions of this chapter. This includes recordkeeping requirements from the standards incorporated by reference.

Adopted paragraph (2) specifies that except as provided in paragraph (3), an owner or operator must maintain copies of all required records pertaining to an aboveground storage vessel in a secure location on the facility premises. Electronic records may be kept off-premises. The records must be immediately accessible for reference and use by the owner or operator and must be immediately made available for inspection upon request by

executive director personnel or an executive director designated agent.

Adopted paragraph (3) establishes that if an owner or operator cannot maintain copies of the required records on the facility premises, then the records may be maintained at an accessible alternate site, provided that the records are accessible for reference and use by the owner or operator and the records are readily accessible and available for inspection upon request by the executive director. If the records will be maintained at an alternative site, information concerning this alternative site will be required to be reported during the registration/certification process. During an inspection, the owner or operator should have facilities available so that the executive director can view the records electronically at the facility where the storage vessel is located.

Adopted subsection (b) specifies that owners and operators of aboveground storage vessels must meet all recordkeeping requirements in this chapter. Adopted paragraph (1) requires that owners and operators must maintain legible printed copies or readily accessible electronic copies of the records described in subparagraphs (A) and (B) for the operational life of the aboveground storage vessel. The requirement to maintain copies of the records for the operational life of the storage vessel is different from most agency recordkeeping requirements. However, the ASVS program is different in that the main goal is concerning design performance standards for safety. Therefore, how the storage vessel was originally designed, located, and what disaster plans were developed are necessary for the purpose of this program. Adopted subparagraphs (A) and (B) require that copies must be kept of the original and any amended registration and certification documents submitted, in accordance with §338.20 and §338.21 respectively. The executive director will develop the registration and certification program, which is envisioned to be completely electronic. The owner or operator should be able to print a copy of their submission or convert the information into a readable electronic format. Having this information available in either paper format or electronic format at the facility or alternative facility will meet this requirement.

Adopted paragraph (2) specifies that the owner or operator must maintain copies of records and documents demonstrating compliance with all applicable standards found in §338.5. Adopted subparagraphs (A) through (H) identify the standards that require documentation to demonstrate compliance with the safety standard.

The executive director will develop a guidance document to help owners and operators with determining compliance with the ASVS program. This will include, but not be limited to determining if their storage vessels are subject to the ASVS regulations, how to register their storage vessels, what information will be needed to provide certification status, fee requirements, and recordkeeping requirements. The executive director plans to provide a final draft of the guidance document before the start of the program on September 1, 2027, and will make the guidance document available on the agency's website and available for viewing at the agency's headquarters and regional offices.

SUBCHAPTER B: REGISTRATION AND CERTIFICATION REQUIREMENTS

§338.20 Registration

The commission adopts new §338.20(a) to establish the deadline for existing aboveground storage vessels to register as September 1, 2027.

Adopted subsection (b) specifies the registration requirements for new aboveground storage vessels (vessels placed into service on or after September 1, 2027). The owner or operator of new vessels have 30 days after the start of operation to register the aboveground storage vessel with the commission.

Adopted subsection (c) specifies that the owner and operator of an aboveground storage vessel are responsible for complying with the registration requirements. An owner or operator may designate an authorized representative to complete and submit the required registration, but the owner or operator is the responsible party for ensuring the vessel(s) comply with the ASVS program.

Adopted subsection (d) specifies that the owner or operator of vessels that are required to be registered are also required to pay the fee, as described in §338.22. Aboveground storage vessels that are not registered as required, are still subject to the fee. Therefore, if an aboveground storage vessel is registered after the deadline, an owner or operator will be required to pay registration fees from the registration deadline to the date of registration.

Adopted subsection (e) requires the current owner or operator of a storage vessel to notify the executive director of any changes to the registration within 30 days of the change. Changes that require notification include, but aren't limited to, the decommissioning of an aboveground storage vessel, adding to the list of potentially stored substances to be stored in any aboveground storage vessel, change in the ownership of any aboveground storage vessel, update of the compliance status of any aboveground storage vessel, and the location of records for aboveground storage vessels.

Adopted subsection (f) requires the owner or operator of an aboveground storage vessel to provide all the registration information requested by the executive director for each aboveground storage vessel. All registration information must be filled out completely and accurately. Owners or operators must complete a registration form for each facility, with all aboveground storage vessels located within a facility on the same registration form.

Adopted subsection (g) specifies that the executive director may require the owner or operator to submit additional information if the information submitted was inaccurate, unclear, illegible, incomplete, or otherwise inadequate. If the executive director requests additional information, the owner or operator has 30 days to provide the information requested.

Adopted subsection (h) specifies the requirements to remove an aboveground storage vessel from the program. To remove an aboveground storage vessel from the program, the vessel must be decommissioned and no longer be subject to the definition of an aboveground storage vessel as defined in §338.2 of this title. Any decommissioned ASV brought back into the ASVS program will be considered a new ASV and the owner or operator would be required to certify the vessel as a new ASV, pay new fees, and follow the standards for a new ASV placed into service. Additional information will be provided in the guidance document. The owner or operator must notify the executive director, using the method authorized by the executive director, and certify that it no longer is subject to the program. An aboveground storage vessel registered with the executive director is considered an aboveground storage vessel as long as the vessel has the potential to contain a regulated substance. An aboveground storage vessel that is decommissioned and permanently removed

from service will no longer require registration with the executive director under this program. The owner or operator must pay all outstanding fees owed to the agency before the executive director may remove the aboveground storage vessel from the program.

§338.21 Certification

The commission adopts new §338.21 to establish the requirements for certification.

Adopted subsection (a) specifies that for aboveground storage vessels brought into service on or before September 1, 2027, the owner or operator of an aboveground storage vessel must report its compliance status to the executive director by September 1, 2027. The aboveground storage vessel does not need to comply with the safety standards at this time, but the owner or operator shall indicate by this date whether the aboveground storage vessel meets the safety standards.

Adopted subsection (b) establishes the deadline for aboveground storage vessels brought into service before September 1, 2027. The owner or operator of these vessels must certify compliance during the next regularly scheduled out-of-service maintenance of the vessel, but no later than September 1, 2037.

Adopted subsection (c) establishes that the owner or operator of new vessels - those constructed and brought into service after September 1, 2027 - must certify compliance with the safety standards no later than 30 days after the start of operation.

Adopted subsection (d) specifies that the owner or operator must re-certify compliance with the safety standards every 10 years.

§338.22 Fees for Aboveground Storage Vessels.

The commission adopts new §338.22 to establish the fees for the ASVS program.

Adopted subsection (a) includes the costs that the fee will need to cover, as provided in SB 900, including implementing a registration program, reviewing certifications, inspecting sites/facilities, and enforcing compliance with applicable standards.

Adopted subsection (b) establishes the fee assessment. Adopted paragraph (1) establishes that the maximum fee for an aboveground storage vessel is \$2,000. The agency will publish a fee schedule based on a combination of a flat fee per vessel and a per barrel fee based on vessel capacity for vessels over 20,000 barrels, not to exceed the maximum of \$2,000 per vessel established in this section.

Based on the preliminary estimate of the number and capacity of the regulated vessels, the adopted initial fee schedule consists of a flat fee of \$200 per vessel and an additional \$0.0024 per barrel of capacity for vessels over 20,000 barrels. Table 1 below shows what the total fee will be for various vessel capacities based on this initial adopted fee schedule. The adopted fee schedule is subject to change based on variations in the number of regulated entities, the capacity of the regulated vessels, and the cost of administering the program. Fee changes will be published through the *Texas Register* notification process.

Figure: 30 TAC Chapter 338 - Preamble

Larger capacity storage vessels are more complex, will require additional time and resources to inspect and review, and present a greater risk to public health and the environment; therefore, larger vessels will be assessed a larger fee. The estimated number of vessels and associated size distribution the executive director used for the preliminary fee calculations have an unknown

degree of uncertainty. Due to this uncertainty, it is highly probable that the fees will need adjustment in the future. Publishing the fee schedule outside of the rulemaking will allow the executive director to adjust the fees more easily to remain revenue neutral.

Adopted paragraph (2) specifies that the owner or operator must pay the fee upon initial registration and annually thereafter.

Adopted paragraph (3) establishes that the owner or operator shall pay fees by check, money order, electronic funds transfer, or through the executive director's payment portal. This subsection also authorizes the executive director to assess penalties and interest for late payments, in accordance with 30 TAC Chapter 12 (relating to Payment of Fees).

Adopted paragraph (4) establishes that the executive director may adjust the fees for aboveground storage vessels registered in this program up to the maximum fee, on an annual basis. The executive director will notify the fee payers of the fee changes through an appropriate notification process, such as through publication in the *Texas Register*. The fees may be adjusted to cover the reasonable costs to implement a registration program for affected facilities, review initial certifications, ten-year certifications, and amended certifications, inspect certified facilities, and enforce compliance with applicable standards of TWC, §26.3442, and rules and orders adopted under those subsections.

Adopted paragraph (5) establishes that the executive director will bill the owner or operator based on the aboveground storage vessels registered on the first of September. If a facility's registration anniversary falls in December, the billing for that year will be determined by the number and capacity of aboveground storage vessels that were registered on September 1. For this example, if an aboveground storage vessel is decommissioned in October, it will still be billed for that fiscal year.

Adopted paragraph (6) establishes that the cancellation of a registration does not constitute grounds for a refund.

Adopted paragraph (7) specifies that the transfer of ownership of a facility is not grounds for a refund, in whole or in part, for fees paid. The new owner or operator will be responsible for paying any outstanding fees and penalties associated with the facility that are owed to the commission.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking adoption does not meet the definition of a "Major environmental rule" as defined in that statute, and in addition, if it did meet the definition, will not be subject to the requirement to prepare a regulatory impact analysis.

A "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, 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. The specific intent of these adopted rules is to implement Senate Bill 900 (87th Legislative Session), the purpose of which was to promote the safety of certain storage vessels, by adopting requirements for the design, construction, operation, and maintenance of storage vessels, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters.

Next, this rule adoption 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, for the reason that this rule adoption implements safety standards detailed in existing industry guidance and other applicable laws such that any additional compliance costs for the regulated community are not expected to be excessive and not expected to negatively affect the economy in general. In addition, the adopted compliance dates provide an adequate amount of time for the owners and operators to make all necessary installation and adjustments for compliance purposes.

Additionally, the rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a "Major environmental rule", which are listed in Texas Government Code, §2001.0225(a). Texas Government Code §2001.0225, applies only to a major environmental rule, 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. Regarding the first of these factors, this rule is specifically required by state law. Regarding the second, this rulemaking adoption is narrowly tailored to implement the new statutory sections added by SB 900. Regarding the third factor, it does not exceed a requirement of a delegation agreement or contract between state or federal government. Regarding the fourth factor, this rulemaking adoption is intended to implement SB 900 and is not adopted solely under the powers of the agency. Accordingly, the commission has determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet any of the four requirements listed in Texas Government Code, §2001.0225(a).

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission reviewed the adopted rulemaking in light of the takings impact requirements of Texas Government Code, §2007.043. Under Texas Government Code, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The primary purpose of this adopted rulemaking action, as discussed elsewhere in this preamble, is to adopt rules to promote

the safety of certain aboveground storage vessels as required by Senate Bill 900 (87th Legislative Session). The commission's analysis indicates that Texas Government Code, Chapter 2007 does not apply to these adopted rules because this is an action that is taken in response to a real and substantial threat to public health and safety; that is designed to significantly advance the health and safety purpose; and that does not impose a greater burden than is necessary to achieve the health and safety purpose. Thus, this action is exempt under Texas Government Code, §2007.003(b)(13). The adopted rulemaking is in response to a real and substantial threat because it requires the commission to create and enforce safety requirements to protect ground and surface water and mitigate potential safety hazards and minimize catastrophic incidents in the event of an accident or natural disaster. The program incorporates all critical safety elements from federal statutes, regulations and national consensus standards that are applicable and necessary to provide protection in the event of an incident. Many of the storage vessels that will be regulated by this program already meet these safety standards, or if they don't, then additional costs could reasonably be foreseeable and justifiable business costs, so the adopted regulations do not impose a greater burden than is necessary to achieve the health and safety purpose. Therefore, Texas Government Code, Chapter 2007 does not apply to these adopted rules. Nevertheless, the commission further evaluated these adopted rules and performed an assessment of whether these adopted rules constitute a taking under Texas Government Code, Chapter 2007. The specific purpose of these adopted rules is to establish the new ASVS program in the state. Promulgation and enforcement of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, the adopted rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The adoption also will not affect private real property in a manner that restricts or limits an owner's right to the property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, the adopted rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are 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 CMP.

Public Comment

The commission held five in-person public hearings: March 23, 2023, in Fort Worth; March 28, 2023, in Beaumont; March 29, 2023, in Houston; April 3, 2023, in Corpus Christi; April 6, 2023, in Midland; and a hybrid in-person/virtual public hearing on April 10, 2023, in Austin. The comment period closed on April 10, 2023. The commission received comments from: the Caring for Pasadena Communities (CPC), the City of Portland (CP), the Fenceline Watch (FW), the Harris County Attorney's Office (HCA), the Texas Chemical Council/Texas Oil and Gas Association (TCC/TXOGA), the Texas Industry Project (TIP), the Texas

Pipeline Association (TPA), Stolthaven Houston Inc. (SHI), the Super Neighborhood Council 65 & 82 (SNC), and seven individuals. While all of the comments were in general support of the implementation of SB 900 and the proposed rulemaking, all of the commenters had suggestions on how the rules could be changed or improved depending on their specific concerns, be it from industry or the public that works and lives around the storage vessels.

Response to Comments

General Comments

Comment

CP and HCA generally supported the proposed rulemaking to establish the ASVS Program and that the intent of rulemaking is to implement SB 900.

Response

The commission appreciates the support.

Comment

CP, FW, and HCA commented that the incorporation by reference of the national consensus standards into this rulemaking places an undue financial burden/hardship on the public and regulated community since the standards must be purchased from a third party. The public/regulated community should not have to purchase national consensus standards to determine compliance with TCEQ regulations. It was commented that the commission should make the referenced standards available to the public either at the commission's regional offices or at libraries proximal to affected facilities.

Response

Due to copyright law restrictions, TCEQ cannot incorporate the national consensus standards verbatim into Chapter 338 or make them publicly available. However, the commission will be working to have copies of the applicable standards that the public can view available at the agency's headquarters and regional offices. TCEQ will also develop a guidance document to help the public and the regulated community understand which standards apply to which types of aboveground storage vessels. The final version of the guidance document will then be made available to the public on the agency's website.

Comment

CPC commented that they were interested in ensuring that the full intent of SB 900 is actualized in this rulemaking to prevent additional accidents in Harris County and across the Gulf Coast of Texas. CPC commented that the ASVS Program doesn't add any new regulations on the safety of the affected ASVs.

Response

It is the commissions intent to fully implement SB 900, with the purpose of promoting the safety of affected aboveground storage vessels through requirements that address the design, construction, operation, and maintenance of ASVs, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters. Therefore, no changes were made in response to this comment.

Comment

SNC and several individuals commented that the Chapter 338 rules should require weatherization.

Response

The commission appreciates the comment; however, this is outside the scope of this rulemaking. The purpose of new Chapter 338 is to implement TWC, §26.3442, which does not include weatherization. Therefore, no changes were made in response to this comment.

Comment

SNC and several individuals commented that the ASVS Program should provide public access to information regarding what chemicals are being stored in the applicable ASVs. It was also commented that the emergency response plans should be made available to the public.

Furthermore, it was commented that there needs to be an immediate notification system when an emergency situation has occurred at a site with subject ASVs.

Response

The commission will be following established agency policy on what information can be made available to the public via the agency's website. The commission has not determined which of the information collected as part of this rule, will be made publicly available as some of this information could have homeland security implications or be deemed confidential. Between the effective date of this rulemaking and the September 1, 2027, implementation date, the commission will be developing the registration/certification program and will be drafting a guidance document for the regulated community. The commission will be using this time to also determine what information may be made publicly available. Senate Bill 900 does require that the commission must keep confidential any information reported to, obtained by, or otherwise submitted to the commission that: is subject to restrictions on dissemination under federal law, including off-site consequence analysis information subject to Title 40, CFR Part 1400, or may otherwise present a security risk, if disclosed publicly. Therefore, this statutory requirement must be taken into consideration when determining what information may be provided publicly.

Concerning the comment about the need to have an immediate notification system in the event of an emergency at a site with ASVs subject to this rule, SB 900 does not provide the commission the authority to establish a notification system, therefore this comment is outside the scope of the rulemaking.

Comment

SNC and several individuals commented that the commission should provide access to the violation history and compliance records for the ASV owners and operators.

Response

Senate Bill 900 did not provide the commission with the authority by the Texas Legislature to set up a system specific to this program to post on its online system the violation history or compliance records for all regulated ASV owners or operators. However, that information can be requested through a public information request (PIR). There is information available on the agency's webpage on how to request a PIR. Information on enforcement orders can be found on the agency's webpage at: <https://www.tceq.texas.gov/compliance/enforcement/enforcement-reports>. Information is also available concerning compliance history at the following link: <https://www.tceq.texas.gov/compliance/enforcement/compliance-history>. Therefore, no changes were made in response to this comment.

Comment

An individual commented that cumulative health impacts continue to not be addressed by the commission. Furthermore, the individual commented that the rules need to address air quality around the ASV sites.

Response

The purpose of this rulemaking is to establish an ASVS Program in accordance with SB 900. The commission has not been provided authority by the Texas Legislature to go beyond the requirements found in SB 900, therefore these comments are beyond the scope of this rulemaking. It should be noted that there are other environmental regulations that would apply to these ASVS. Numerous other state and federal regulations are also in place to protect the public.

§338.1 Purpose and Applicability

Comment

SNC and several individuals noted that the rules should not only protect groundwater and surface water from contamination during disasters and natural events, but the rules should also protect the environmental justice communities near the ASVs.

Response

The commission appreciates the comment; however, this comment is outside the scope of the rulemaking. The purpose of the new Chapter 338 is specified in TWC, §26.341(b). It should be noted that there are other environmental regulations that would apply to these ASVS. Numerous other state and federal regulations are also in place to protect the public.

Comment

An individual commented that the ASVS rules do not address subsidence of vessels.

Response

The rules do not address areawide subsidence, however soil bearing strength and settlement is addressed in API 653, Section 4.3: Tank Shell Evaluation, specifically in Sections 4.3.1.2 and 4.3.5, and settlement is also addressed in Section 4.4: Tank Bottom Evaluation. Therefore, no changes were made in response to this comment.

Comment

TPA and TCC/TXOGA commented that there appears to be an error in Table 1: Proposed Preliminary Fee Schedule found in the proposed preamble. The preamble language discusses a flat fee of \$200 per vessel and an additional \$0.0024 per barrel of capacity for vessels over 20,000 barrels. However, Table 1 lists the barrel fee as \$0.0027 per barrel.

Response

The commission appreciates the comment; the correct barrel fee is \$0.0024 per barrel. Table 1 in the preamble has been updated to correct this error.

Comment

FW requested that the commission adopt, as part of the purpose of the ASVS Program, the establishment of a protective standard for those communities co-located within three miles of aboveground storage vessels.

Response

The commission appreciates the comment; however, this is outside the scope of this rulemaking. The purpose of new Chapter 338 is specified in TWC, §26.341(b). Furthermore, the ASVS Program is intended to be a statewide regulation concerning the design, construction, operation, and maintenance of above-ground storage vessels, with the objective of protecting ground-water and surface water resources in the event of accidents and natural disasters. Therefore, all subject ASVs will be regulated under the same set of rules, no matter the location of the ASVs. Therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA and TIP commented that §338.1(b) describes the applicability of the new rules by referring to definitions in §338.2. For clarity, it was commented that incorporating the definitions would help with the understanding of the rule's applicability.

Response

The commission has updated §338.1(b) by adding the term "aboveground" before the term "storage vessel" and has included language that is contained in the definition of an aboveground storage vessel into §338.1(b). The commission agrees that this change should help to clarify the applicability of the rules. Furthermore, the commission has added the definition for "aboveground storage vessel" and deleted the definition of "storage vessel" in §338.2 and renumbered the section as needed. The definition of aboveground storage vessel is the same as the proposed definition of "storage vessel", simply the term "aboveground" has been added. The term "aboveground" has also been added throughout the rule to be consistent in the use of the term "aboveground storage vessel."

§338.2 Definitions

Comment

TPA commented that the proposed definition of "bulk storage terminal" in §338.2 is unnecessarily vague and there is potential confusion with the proposed language of "A site in the state, including" TPA commented that a strict reading of the definition would be that any site in the state would be considered a bulk storage terminal.

Response

The definition was taken from the definition provided in SB 900, in that it refers to a site in the state, including end-of-line pipeline storage terminals (excluding breakout vessels), refinery storage terminals, for-hire storage terminals, rail storage terminals, and barge storage terminals. The term "site" would simply mean to apply to a "Bulk Storage terminal." However, in an effort to remove any potential confusion, the phrase "A site in the state, including" has been removed.

Comment

TIP and TCC/TXOGA commented that the definition of "bulk storage terminal" should be revised to refer to "breakout tank" rather than "breakout vessels" and to specify that "breakout tanks" are as defined by Pipeline and Hazardous Materials Safety Administration (PHMSA) regulation at 49 CFR §195.2. TCC/TXOGA requested that the commission clarify that Texas Railroad Commission (RRC) regulated breakout tanks are also excluded from the definition of a "bulk storage terminal."

Response

The term "breakout tanks" has been added to replace the term "breakout vessels" in the definition of a bulk storage terminal.

The definition of a breakout tank, as is cited in 49 CFR §195.2, has not been adopted in full. Under the definition of bulk storage terminal, the term "breakout tanks" is defined as tanks that are used to relieve surges in a pipeline system and receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline.

RRC regulated breakout tanks would be exempted based on §338.3(a)(1), which exempts a vessel used in or associated with the production or gathering of crude oil or natural gas. Furthermore, if the tank is used to relieve surges in a pipeline system and receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline, as is listed in the definition of a bulk storage terminal, then it would not be subject to the regulations.

Comment

FW commented that the definition of petrochemical plant should not exclude "allied chemical products."

Response

The definition for a petrochemical plant was taken from Title 34 Texas Administrative Code (TAC) Chapter 3 of the Comptroller of Public Accounts, Tax Administration, §3.362, Labor Relating to Increasing Capacity in a Production Unit in a Petrochemical Refinery or Chemical Plant. Title 34 TAC §3.362 also defines "allied chemical product" as "a consumer or end-user product manufacture from basic or intermediate chemicals. Examples include drugs, soaps, detergents, paints, and agricultural chemical formulations."

Based on these two definitions, it is not the intent of the commission to subject these regulations to ASVs located at these facilities, that are producing end-user product. However, if a general site or complex has multiple facilities within its property line, producing a combination of basic, intermediate, or allied chemicals, then each facility would be considered individually and separately for the purpose of determining applicability of these rules. The Comptroller of Public Accounts definition of a chemical plant could be seen as somewhat confusing, so to help clarify, the commission has revised the definition of a petrochemical plant in §338.2 to remove the sentence "A chemical plant complex may include any combination of distinct facilities that manufacture basic chemicals, intermediate chemicals, or allied chemical products."

Comment

TCC/TXOGA and TIP commented SB 900 and the Chapter 338 rules do not specify whether the requirements apply to ASVs holding a mixture. It was commented that the commission should consider defining a mixture similarly to the Risk Management Plan (RMP) regulation or alternatively provide a de minimis concentration for regulated substances that are components of stored mixtures.

Response

The commission appreciates the comment and agrees that the rule requirements do apply to ASVs designed to hold a mixture of at least one percent or greater by weight of a regulated substance. The definition of regulated substance found in §338.2 has been updated to incorporate this change.

Comment

TIP and TCC/TXOGA commented that clarification is needed as to why the definitions of "bulk storage terminal", "petrochemi-

cal plant" and "petroleum refinery" as proposed in §338.2 are not consistent with the SIC/NAICS definitions for these facilities. TCC/TXOGA requested clarification of the definition of petrochemical plant and the terms "basic", "intermediate", and "allied" that are used in the definition.

Response

The definition for the term bulk storage terminal in §338.2 was provided in SB 900: "A site in the state, including end-of-line pipeline storage terminals (excluding breakout tanks), refinery storage terminals, for-hire storage terminals, rail storage terminals, and barge storage terminals." The term "breakout tanks" is defined as tanks that are used to relieve surges in a pipeline system and/or receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline. Typically, SIC 5171, along with NAICS 424710 would be the codes associated with a bulk storage terminal, however, other codes could apply.

The terms petrochemical plant and petroleum refinery were not defined in SB 900 language. Therefore, the commission used other commonly found definitions for the two terms. The SIC/NAICS codes were reviewed but no specific definitions could be found in the codes or there were multiple codes that could apply. Therefore, the commission used the definitions for a petrochemical plant and petroleum refinery found in Title 34 TAC Chapter 3 of the Comptroller of Public Accounts, Tax Administration, § 3.362, Labor Relating to Increasing Capacity in a Production Unit in a Petrochemical Refinery or Chemical Plant. The commission does agree that, in general, the petrochemical plant industry comprises of sites primarily engaged in (1) manufacturing acyclic (i.e., aliphatic) hydrocarbons such as ethylene, propylene, and butylene made from refined petroleum or liquid hydrocarbons and/or (2) manufacturing cyclic aromatic hydrocarbons such as benzene, toluene, styrene, xylene, ethyl benzene, and cumene made from refined petroleum or liquid hydrocarbons. Typically, SIC 2865 and 2869, along with NAICS 325110, would be the codes associated with a petrochemical plant, however other codes could apply. As previously stated, it is not the intent of the commission that ASVs at facilities that are producing end-user product, also called allied chemicals, be subject to these regulations. However, if a general site or complex has multiple facilities within its property line, producing a combination of basic, intermediate, or allied chemicals, then each facility would be considered individually and separately for the purpose of determining applicability of these rules. The Comptroller of Public Accounts definition of a chemical plant could be seen as somewhat confusing, to help resolve this confusion, the commission has revised the definition of a petrochemical plant in §338.2 to remove the sentence "A chemical plant complex may include any combination of distinct facilities that manufacture basic chemicals, intermediate chemicals, or allied chemical products."

As stated above, the commission used the Comptroller of Public Accounts definition of petroleum refinery, found in Title 34 TAC §3.362. The term means a facility that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates. Products of these refineries include gasoline, diesel, kerosene, distillate fuel oils, liquefied petroleum gas (LPG), residual fuel oils, lubricants, and other products refined through alkylation, coking, cracking, dewaxing, desulphurization, distillation, hydrotreating, isomerization, polymerization, or other chemical processes. These facilities also produce petrochemical feedstock for use by chemical

plants. The term does not include facilities at an oil or gas lease site that removes water or other impurities and merely makes the product more marketable. Typically, SIC 2911, along with NAICS 324110, would be the codes associated with a petroleum refinery. The NAICS code states that petroleum refineries are primarily engaged in refining crude petroleum into refined petroleum. Petroleum refining involves one or more of the following activities: fractionation, straight distillation of crude oil and cracking. The SIC code states that petroleum refining is primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes. All of these general definitions would appear to be in line with the definition provided in this rulemaking. Therefore, no changes are made specifically in response to this comment. However, the commission plans to provide additional guidance/information on which specific SIC/NAICS would be covered by these rules and definitions in the guidance document.

§338.3 Exemptions

Comment

FW and several individuals commented that there should be no exemptions or "loopholes" for the ASVS Program. FW furthermore commented that the commission should make publicly available any documentation provided by the owner or operator seeking an exemption for the new regulations.

Response

The exemptions mentioned by the commenter were all part of the statutory language of SB 900, which the commission is required to implement. Therefore, no changes are made in response to these comments.

As to the comment concerning public availability of any documents provided by the owner or operator seeking an exemption, TCEQ intends to follow the Texas Public Information Act, and make documents public as allowed by state law and TCEQ's general policy on posting of information.

Comment

SHI commented that the exemption concerning a vessel that is part of a stormwater or wastewater collection system found in §338.3(a)(2) should be clarified to also include vessels that are associated with wastewater treatment systems, instead of only exempting wastewater collection systems.

Response

The exemption provided in §338.3(a)(2) was taken directly from the statutory language in SB 900. However, if there is an ASV that is part of a wastewater treatment system, the exemption provided in §338.3(a)(3) for flow-through process vessel would apply. Therefore, no changes were made in response to this comment.

Comment

FW commented that ASVs that operate above 0.5 pounds per square inch gage (psig), heated vessels, intermediate bulk containers or similar vessels should not be exempted from these regulations as is provided in §338.3(a)(4), (5), and (6) respectively.

Response

The exemptions that were discussed in the comment were all part of the statutory language of SB 900, which the commission is required to implement. Therefore, no changes were made in response to this comment.

Comment

SHI commented that the commission should clarify the §338.3(a)(4) exemption concerning vessels operating above 0.5 psig but will not be able to maintain a working pressure that is above 0.5 psig at all times. Specifically, SHI commented that the exemption should apply when the tank is designed to operate above 0.5 psig, instead of the proposed language.

Response

The commission appreciates the comment. The intent of the rule is to exempt pressurized storage vessels that do not typically have vented emissions during routine operations and have static regulated vessels that do not have variable rule applicability based on the vapor pressure of the liquid stored. Storage vessels exempted from the rule include those vessels that are designed or intended to not normally emit vapor emissions to the atmosphere, with the criterion in the proposed rule being those vessels that operate above 0.5 psig. To remove any ambiguity, the final rule is being revised from the proposed rule version to exempt storage vessels that are designed or intended to operate above 0.5 psig in the vapor space.

Comment

TPA and TCC/TXOGA commented that the commission should clarify the §338.3(a)(4) exemption concerning vessels operating above 0.5 psig. Specifically, the commission should clarify what is considered to be the vapor space of the vessel. For floating roof vessels is the vapor space considered to be the space above the floating roof or the space between the liquid surface and the floating roof. TPA commented that the vapor space would be the space above the floating roof.

Response

The commission appreciates the comment and provides the following clarification on what should be considered the vapor space of an ASV. The vapor space in a storage vessel is the void space between the liquid level and the vessel roof. In the case of floating roof vessels, the void space between the liquid level and roof is typically small or practically nonexistent because the roof uses seals to minimize the vapor space, with the floating roof nearly sitting on the liquid. The rule includes a provision in §338.3(a)(4) to calculate the total mixture vapor pressure at the storage temperature, which may be a preferred option for storage vessels with minimal vapor spaces such as vessels equipped with a floating roof.

Comment

SHI commented that the heated tank exemption found in §338.3(a)(5) would provide a complete exemption from the regulations for vessels that are heated using external heat. It was commented that third-party terminals store a wide variety of compounds and are often equipped with external heating capabilities, but all such vessels are not actively heated unless the cargo in storage requires heating. SHI suggested that the rules allow for an ASV to be routinely added and removed from the program's applicability based on the current external heating status of the vessel. Sites with frequent stored compounds and heating changes need flexibility and clarity of the requirements to ensure compliance and consistency.

Response

The registration and certification requirements under this chapter are intended to be permanent until the ASV is decommissioned. Any ASV that is continuously heated, as specified in §338.3(a)(5), is exempt from the program. However, if the tank is intermittently heated, it would be subject to the requirements of the rule and this exemption would not apply. Therefore, no changes were made in response to this comment.

Comment

TIP commented that while §338.3(6) provides an exemption for "an intermediate bulk container or similar vessel that may be moved within a facility as defined in §338.2 of this title," §338.2 does not define "intermediate bulk container" and suggests that a definition should be adopted.

Response

Most intermediate bulk containers, which are designed for mechanical handling, are likely below the capacity threshold of 21,000 gallons and therefore not subject to Chapter 338. For example, in general, intermediate bulk containers are defined as a pallet mounted, industrial grade reusable container that is used for storing and transporting bulk liquids and powders, also known as a tote, capable of stacking and be moved by a pallet jack or forklift. However, a 'frac' tank could potentially meet the capacity threshold to be regulated under Chapter 338 but would qualify for an exemption as an intermediate bulk container, as long as they are not being used as permanent storage. The agency has determined it is unnecessary to include a definition for "intermediate bulk containers" and therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA commented that the rule does not provide a definition for methane condensate gathering found in §338.3(9) and is requesting that the commission provide a definition. Additional clarification is needed with regard to application to central gathering points downstream of exploration and production activities.

Response

The exemption found in §338.3(a)(9) concerns methane emissions from landfills. That exemption is not intended to apply to oil and natural gas production or gathering storage tanks. The exemption found in §338.3(a)(1) would apply to these types of production or gathering storage tanks. Furthermore, if the tank is used to relieve surges in a pipeline system and receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline, as is listed in the definition of a bulk storage terminal then it would not be subject to the regulations. Therefore, no changes to the rules were made in response to this comment.

Comment

CPC, SNC, FW, HCA and several individuals commented that the commission should not exempt ASVs from the requirements of the program to ensure public safety with the intent of SB 900. Furthermore, it was commented there should be very limited circumstances in which an exemption would be needed. The criteria stated in §338.3(b) are overly broad and inadequate to assess a "significantly low risk" for a proposed exemption to ensure that the public is adequately notified or allowed to provide input that the exemption is warranted. Specifically, the commenters requested that the commission remove accidents, fires, and explosions from the exemption language. The commenters pro-

vided suggested language which would exclude ASVs located in the Gulf Coast of Texas from being able to obtain an exemption under §338.3(b). Furthermore, any ASV located in any area in the state receiving an average rain fall in excess of 80 inches per year or experiencing multiple flash flooding events in a year should not be able to obtain an exemption under §338.3(b). HCA commented that facilities with previous ASV failures be excluded from applying for this exemption.

HCA commented that if the §338.3(b) exemption remains in the rules, there should be specific criteria added for what type of demonstration, documentation or "other information" will be needed to support a claim that an ASV is "sufficiently low risk." The commission should consider regional and geographically specific standards, with a higher burden for locations that are disaster-prone or in a flood plain. Finally, HCA is concerned the §338.3(b) exemption creates too much discretion in the program implementation.

CPC furthermore commented that based on past external floating roof failures due to high rainfall events, any ASV with a floating roof should not be entitled to an exemption under §338.3(b).

Response

Section 26.3443 of the TWC specifically states that the commission, in implementing this program, may approve the exemption of specific storage vessels if the owner or operator demonstrates that the ASV presents a sufficiently low risk of floods, storm surges, hurricanes, accidents, fires, explosions, or other hazards such that it does not warrant regulation under this program. The agency does not agree with the commenters that the language in §338.3(b) is overly broad; however, the agency will provide additional clarification on what information would be needed to justify this exemption request in the guidance document that will be developed before the implementation date for this program. All exemption requests under §338.3(b) will be subject to a case-by-case review.

The commission did not make the suggested rule change to exclude ASVs located along the Gulf Coast of Texas, in areas receiving extreme rainfall, or in areas experiencing multiple flash floods from being able to obtain an exemption under §338.3(b). All of this information will be considered when the commission reviews an exemption request and will provide additional clarification in the guidance document. Furthermore, for ASVs that have experienced failures in the past, the commission does not see the need for a specific exclusion, information concerning the ASV's service history will be reviewed as part of the exemption request.

Regarding floating roof storage vessels' eligibility for an exemption under §338.3(b), the language in SB 900 was not specific to what type of vessels could request or receive an exemption under §338.3(b). Instead, as with all parts of this exemption request, it is the executive director's role to determine if the owner or operator has provided an adequate demonstration that the ASV presents a sufficiently low risk from floods, storm surges, hurricanes, accidents, fires, explosions, or other hazards so that it does not warrant regulation under this chapter. The agency does not foresee this type of exemption being widely requested or approved.

Comment

CPC commented that if an ASV is located less than two miles from a region's source of potable water it should not be granted an exemption under §338.3(b). Such an exemption would in-

crease the risk of contaminating water supplies for local communities.

Response

The commission did not make the suggested rule change to not grant an exemption under §338.3(b) for ASVs located less than two miles from a region's source of potable water. The distance to a region's source of potable water may be a consideration in the executive director's review of an exemption request. Additional clarification will be provided in the guidance document. Therefore, no changes were made in response to this comment.

Comment

CPC and FW commented that there should be public notice or an opportunity for the public to comment before an exemption is approved. The commission should allow an opportunity for comment on the requested exemption after publication in the *Texas Register* to provide opportunity for the public to comment. The public comment period should be at least 30 days after publication with supporting information provided. CPA furthermore commented that the only way to ensure public oversight and that the rules are complying with the original intent of the legislature is to ensure transparency in implementation. HCA commented that local governments should be provided an opportunity to comment on exemption applications from facilities in their county or municipality.

Response

The commission appreciates the comment and acknowledges the significance of these comments, however, while the commission encourages public participation in the rulemaking, there are certain concerns of entities that the commission cannot address in this rulemaking, as the scope of the commission's jurisdiction in the rulemaking process is limited to the issues as set forth in statute. Therefore, no changes to the rules were made in response to this comment.

Comment

CPC commented that the rulemaking is silent to an exemption approval being reversed by the commission if subsequent events occur that warrant a reconsideration of the relative risk. For example, what if an accident, fire, or explosion occurs at an exempted ASV, is there a process to revoke the exemption. Overall, CPC is concerned that by not providing a procedure to reverse an exemption that there is a risk of "grandfathering" a facility from having to comply with the ASVS Program, which could increase the risk to the public.

Response

The commission appreciates the comment but has not made a change to the rule based on the comment. As previously stated, the commission believes this exemption will only be allowed under limited circumstances. However, if a facility were to qualify for an exemption for an ASV, based on a low risk of either an accident, fire, or explosion, and the conditions that led to that exemption no longer applied (e.g., a change in the regulated substance being stored), the owner or operator would then be required to register and certify the ASV, as per the ASVS rules, and the exemption would no longer be applicable.

Comment

FW and SNC commented that §338.3(c) should not be included in the adopted rule language as the exemptions outlined in §§338.3(a) and (b) do not assure safety of groundwater or

surface water in the event of an accident or natural disaster. FW also commented that the commission should make available online, all exemptions provided by §338.3(c).

Response

The exemptions outlined in §§338.3(a) and (b) are part of the statutory language of SB 900, which the commission is required to implement. Section 338.3(c) states that, upon request by the agency, the owner or operator of a vessel claiming to be exempted under any of the exemptions found in §338.3, must provide documentation to support the exemption claim. For example, when agency investigators conduct inspections, this information will be needed to ensure that the correct ASVs are following the regulations, as required. Therefore, no changes were made in response to this comment.

As to the comment that the commission should make available online, all exemptions provided by §338.3(c), the agency intends to follow the Texas Public Information Act and make documents publicly available to the extent allowed by state law and TCEQ's general policy on posting of information.

§338.5 Standards

Comment

TCC/TXOGA commented that §338.5 references several industry consensus standards by reference to a specific edition, however TCC/TXOGA recommended that the rules should be revised to allow an owner or operator to use either the specific edition noted in the rule or at the owner's or operator's option a more recent edition of the same standard. TCC/TXOGA furthermore expressed concern that EPA may update the federal regulations that are incorporated by reference in the ASVS rule, and an owner or operator would have to manage a dual RMP program to be in compliance.

Response

The rule incorporates by reference specific standards in place at the time of this rulemaking. Inclusion of revisions to those standards would necessitate additional rulemaking. Furthermore, SB 900 requires that the commission must establish, through rulemaking, the effective date of the standards and that the commission must amend through rulemaking changes if a standard is amended in a way that materially conflicts with the current rules. Therefore, no changes were made in response to these comments.

Comment

TCC/TXOGA requested clarification that a tank will not be subject to API 653 if it doesn't store a regulated substance and is not subject to API 653 currently.

Response

The API standards applicability has not changed due to this rulemaking. If an ASV is not subject to an incorporated standard based on the applicability of the standard, then the ASV will not be required to comply with that standard. Therefore, no changes were made in response to this comment.

Comment

TIP and TCC/TXOGA commented that clarification is needed in §338.5(a) to make it clear that the standards listed in §§338.5(b) and (c) only apply when two criteria are met: the vessel is a storage vessel under Texas law and the vessel meets the applicability requirements of the listed standard in §§338.5(b) and (c). TIP

provided suggested revised language for §338.5(a). TIP commented that the suggested revision would clarify that it is not the commission's intent to expand the scope of the listed standards beyond the statutory phrasing "as delineated in the applicability section" of the standards. TCC/TXOGA commented that the commission should clarify in the rule that the intent of the rule is for standards to be required as they are applicable in each underlying standard, and not to expand applicability of any referenced standard or to alter the protocol provided in the standard.

TCC/TXOGA and TIP furthermore commented that the general applicability statement in §338.1(b) eliminates the need for §338.5(b)(1)(B)(i) - (ii), which TIP believes is in conflict with the statutory direction in TWC, §26.3442(d) to apply the regulation to storage vessels "as delineated in the applicability section" of the cited standard.

Response

The commission appreciates the comment and clarifies that an ASV is subject to an incorporated standard in the Chapter 338 rules based on that standard's applicability criteria. In response to these comments, §338.5(a) has been revised to read:

(a) The standards identified in subsections (b) and (c) are applicable when both of the following criteria are met:

- (1) the vessel meets the definition of aboveground storage vessel as defined in §338.2; and
- (2) the aboveground storage vessel satisfies the applicability criteria of the listed standard.

This text will also address any concern about conflicts with §338.1(b) regarding general applicability. Therefore, no changes were made to §338.1(b) in response to this comment. However, the commission does agree with the comment that the revised language in §338.5(a) eliminates the need for §338.5(b)(1)(B)(i) - (ii). Therefore, the proposed rule language has been revised to remove §338.5(b)(1)(B)(i) - (ii). The proposed language of §338.5(b)(1)(B)(iii) was moved into §338.5(b)(1)(B) and §338.5(b)(1)(B)(iii) was also removed.

Comment

TCC/TXOGA commented that the commission needs to make a clear statement that the listed rules (incorporated by reference standards), and only the listed rules, are applicable. TCC/TXOGA provided 40 CFR §68.69 referenced in 40 CFR §68.75(e) as an example of a standard that is referenced by incorporation but does not appear to be directly incorporated in the Chapter 338 rules.

Response

While the commission appreciates the comment, the commission disagrees. For any national consensus standard or federal statute/regulation incorporated by reference in this rule, owners or operators must comply with any separate applicable standards and regulations included in the incorporations by reference. The guidance document will provide additional clarification on which potential separate applicable standards and regulations are included in the standards incorporated by reference. Therefore, no changes were made in response to this comment.

Comment

TIP commented that the commission needs to clarify in the rule text or the preamble that any Annexes, which are incorporated by reference are for informational purposes only and are non-enforceable.

Response

The commission appreciates the comment, the Annexes, which are incorporated by reference, are for information purposes only and are non-enforceable, unless the Annexes that are listed in the applicable standard is listed as being normative, which would be considered enforceable. For example, in API 2350, Annex A, Automated Overfill Prevention Systems (AOPS), if the owner or operator chooses an AOPS then the Annex A becomes normative and would be enforceable.

Comment

TPA and TCC/TXOGA commented that §338.5(a) only references subsections (c) and (d) of §338.5, while the federal rules are incorporated by reference in §338.5(b).

Response

The commission appreciates the commenter noting the error. The correct citation should have been §338.5(b) and (c). The rules have been updated.

Comment

TCC/TXOGA expressed concern about the omission of MACT standards from the proposed rule. TCC/TXOGA is concerned that facilities will not be able to utilize MACT Subpart WW, which allow for "in-service" inspection of internal floating storage tanks. Therefore TCC/TXOGA recommended including a reference to the 40 CFR Subpart WW in the rule.

Response

The commission appreciates the comment; however, the MACT or other safety standards cannot be added without the ability of the public/industry to comment on the revised, proposed safety standard. Therefore, no changes were made in response to this comment.

Comment

STI commented that the commission should add additional recognized standards that apply to ASVs to better facilitate implementation of the new requirements and to make the program more consistent with other requirements already in place in the industry. STI requested that the commission add Steel Tank Institute Standard Practice SP001 (6th Edition, 2018) to the standards required for compliance to cover tanks not subject to API 653. Failure to adopt this standard could mean that vessels that currently comply with SP001 will have to change to comply with API 653 against best industry practices.

STI also commented that SP031, Standard for Repair of Shop-Fabricated Aboveground Tanks for Storage of Flammable and Combustible Liquids is a standard to address the repair of tanks covered under SP001.

Response

The commission appreciates the comments; however, the comments involve standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the American Concrete Institute standard 350.2R-04 except for Section 6.3, which is titled Concrete Structures for Containment of Hazardous Materials, to the standards listed in the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following American Petroleum Institute (API) Standards to the rules: API 570 (4th edition, 2016) Piping Inspection Code: In-service Inspection, Rating, Repair, Alteration, and Rerating of In-service Piping System; RP 575-14 (3rd edition, 2014) Guidelines and Methods for Inspection of Existing Atmospheric and Low-pressure Storage Tanks; Std 650- with addenda 1 and 2 Welded Steel Tanks for Oil Storage; RP 651 (4th edition, 2014) Cathodic Protection of Aboveground Petroleum Storage Tanks; RP 652 (4th edition, 2014) Lining of Aboveground Petroleum Storage Tank Bottoms; Std 653 (5th edition, 2014) Tank Inspection, Repair, Alteration, and Reconstruction; RP 1621 (5th edition, 1993) Bulk Liquid Stock Control at Retail Outlets; RP 1626 Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations; Std 2000 (7th edition, 2014) Venting Atmospheric and Low-Pressure Storage Tanks; Std 2015 (8th edition, 2018) Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks; Std 2350 (4th edition, 2012) Overfill Protection for Storage Tanks in Petroleum Facilities; and Std 2610 (2nd edition, 2005) Design, Construction, Operation, Maintenance, and Inspection of Terminal and Tank Facilities.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following American Society of Mechanical Engineers Standards B16.5 Pipe Flanges and Flanged Fittings, B31.1 Power Piping, B31.3 Process Piping, and B31.4 Pipeline Transportation Systems for Liquids and Slurries to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add H.I.R. Technical Services Standard HIR FTV RP 2007 titled In-service Inspection of Aboveground Atmospheric Fiberglass Reinforced Plastic Tanks and Vessels to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following National Association of Corrosion Engineers Standards to the rules: SP0169-2013 Control of External Corrosion on Underground or Submerged Metallic Piping Systems, SP0193-2016

Application of Cathodic Protection to Control External Cathodic Protection of Carbon Steel On-Grade Storage Tank Bottoms, and TM0497-2012 Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems, to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following National Fire Protection Association Standards (NFPA): 30 (2021) Flammable and Combustible Liquids Code, 37 (2018) Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 68 (2018) Standard on Explosion Protection by Deflagration Venting, 110 (2016) Standard for Emergency and Standby Power Systems, 326 (2015) Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair, 407 (2017) Standard for Aircraft Fuel Servicing, and 704 (2017) Standard System for the Identification of the Hazards of Materials for Emergency Response, to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following Petroleum Equipment Institute Standards: RP800-20 Recommended Practices for Installation of Bulk Storage Plants, RP1200-19 Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment, RP1300-20 Recommended Practices for the Design, Installation, Service, Repair and Maintenance of Aviation Fueling Systems, and RP1400-21 Recommended Practices for the Design and Installation of Fueling Systems for Emergency Generators, Stationary Diesel Engines and Oil Burner Systems to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following Steel Tank Institute Standard R912 2022 Installation Instructions for ASTs to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following Underwriters Laboratories Inc. Standards: UL 142 (2019)

Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids, UL 971 (1995) Nonmetallic Underground Piping for Flammable Liquids, UL 2080 (2000) Standards for Fire Resistant Tanks for Flammable and Combustible Liquids, and UL 2085 (1997) Standard for Protected Aboveground Tanks for Flammable and Combustible Liquids to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

STI commented that the commission should add the following U.S. Department of Energy Standards: DOE/GO 102016-4854 (February 2016) Handbook for Handling, Storing, and Dispensing E85 and Other Ethanol-Gasoline Blends and DOE/GO 102016-4875 (Fifth Edition, Revised, November 2016) Biodiesel Handling and Use Guide, to the rules.

Response

The commission appreciates the comment; however, the comment involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language, as provided in statute.

Comment

TCC/TXOGA commented that it is not clear that the commission intends the RMP to only apply to vessels already governed by the RMP rules. Furthermore TCC/TXOGA commented it was unclear how the commission will limit their investigations in the future to just the tanks portion of the RMP.

Response

The commission appreciates the comments; to provide clarification, the applicability of the federal RMP rules do not change because of this rule. As previously stated, it is not the commission's intent to expand the applicability of either the national consensus standards, or the federal statutes/regulations beyond the applicability provided in those specific standards. Only parts of the RMP that address ASVs are covered by this rule, not the complete site. This will be the information that the agency will be reviewing for this program. The guidance document will provide clarification on what information will need to be maintained. Therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA and TPA commented that while SB 900 directs the commission to include safety elements for inter alia the EPA Risk Management Plan (RMP) rules, the statute requires the commission to only include those critical safety elements that are applicable to a storage vessel, and that the commission determines to be critical in this state to protect water resources. TPA commented that the commission should review the RMP rules that would be incorporated into §338.5(b)(1)(B) to ensure that the final rules do not go beyond the intent of SB 900. TPA does not understand the intent of SB 900 to have been to require implementation of RMP requirements generally on ASVs, but rather to incorporate only those particular rule provisions that are most relevant to improving the safety of the ASVs covered by the statute. Specifically, the commission should reconsider the incorporation of 40 CFR Section 68.10 in its entirety into the ASVS Program. TCC/TXOGA expressed concern that the commission is

drastically expanding the RMP requirements by ignoring TWC, §26.3442(d) and proposed §338.5(a), which limits applicability to the applicability section in each regulation.

TIP requested clarity as to the requirements of RMP Program 2 and 3 and how each program's requirements may apply to a given vessel. Under EPA's RMP, a facility is subject to either Program 2 or Program 3 requirements based on certain eligibility requirements outlined in 40 CFR §68.10(g) - (i). TIP suggested rule language to clarify that the facility's storage vessels will be subject to the requirements of the program level the facility is currently subject to.

Response

The commission appreciates the comments, and the commission agrees that SB 900 directed the commission to adopt requirements for the design, construction, operation, and maintenance of storage vessels, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters. Furthermore, SB 900 directed the commission to include all and only those critical safety elements that are applicable to ASVs and that the commission determines to be critical for the protection of groundwater and surface water resources. The commission does not believe that the incorporated standards in the Chapter 338 rules expand the statutory authority of SB 900. The commission reviewed the RMP requirements and incorporated specific requirements it deems critical for the protection of groundwater and surface water resources. Concerning the incorporation of 40 CFR §68.10 in its entirety into the ASVS program, 40 CFR §68.10 provides the applicability requirements and will inform an owner or operator if they are required to comply with the incorporated portions of the 40 CFR Part 68 standards.

As additional clarification, the RMP is a federal requirement under Section 112(r) of the Clean Air Act. The applicability of the regulation is not changed from the federal requirement. These plans are considered to be critical safety elements, and so are a reasonable requirement under this regulation. An RMP includes: a hazard assessment that details potential effects of an accidental release, accident history for the last 5 years, and an evaluation of the worst-case and alternative accidental releases. Also included is a prevention program that includes safety precautions along with maintenance, monitoring, employee training procedures, and an emergency response program that spells out the emergency health care, employee training measures, and procedures for informing the public and response agencies. With the adoption of these specific sections concerning the Risk Management Plan requirements (RPM) found in Part 68, it should be noted that it is not the agency's intent to create a separate State RMP program. Therefore, no changes were made in response to these comments.

Comment

TIP commented that §338.5(b)(1)(C) incorporates by reference all of the general requirements for RMP Programs 1, 2, and 3 in 40 CFR §68.12. TIP recommended that because the proposed rule already incorporates the applicable individual RMP provisions, §338.5(b)(1)(C) should be removed to avoid being overbroad.

Response

The commission appreciates the comment and agrees that the incorporated language from 40 CFR §68.12 provides the information needed for an owner or operator to determine if their ASV

will be subject to the Program 1, 2, or 3 requirements. The requirement referenced in §338.5(b)(1)(C) is set in federal rule and is only as broad as the federal rules allow, the commission is not expanding the applicability of the standard. Therefore, no change is made in response to this comment.

Comment

TPA and TCC/TXOGA commented that incorporation of 40 CFR §68.12, which is referenced in §338.5(b)(1)(C) runs the risk of causing confusion and increasing the burden on the owner or operator without commensurate safety improvements. Additionally, TPA commented that the incorporation of 40 CFR §68.12, itself contains numerous instances of incorporation by reference of other federal provisions, resulting in layers of incorporation by reference that would be difficult to follow. TCC/TXOGA commented that the incorporation by reference goes against the intent behind SB 900 to improve the safety of tank operations regardless of what RMP Program level the tank might fall into.

Response

The requirement of §338(b)(1)(C) applies as set forth in the current federal rule. The burden for the federal requirement does not change due to its incorporation into this rule. For any national consensus standard or federal statute/regulation incorporated by reference in this rule, owners or operators must comply with any separate applicable standards and regulations included in the incorporations by reference. The guidance document will provide additional clarification on which potential separate applicable standards and regulations are included in the incorporations by reference standards. Therefore, no change is made in response to this comment.

Comment

TIP commented that §338.5(b)(1)(D), (M), (N), and (O) all incorporate by reference RMP provisions that do not contain safety requirements aimed at protecting groundwater and surface water resources from an accident or natural disaster. Since these provisions go beyond the rule's purpose provided in §338.1(a), TIP recommended §338.5(b)(1)(D), (M), (N), and (O) be removed.

TCC/TXOGA request verification that this only applies to RMP Programs 2 and 3, and whether the commission intended this section to apply to Program 1 also. TCC commented that it does not believe that this section tangibly improves the safety of tank operations.

TCC/TXOGA commented that the incorporated language would eliminate the purpose of the proposed rule and require facilities to comply with RMP.

TCC/TXOGA commented that no parts of the incorporated language tangibly improve the safe operation of tanks. Furthermore, the audit section in the subpart is already covered by other portions of the proposed rule. TCC/TXOGA also expressed concerns regarding potential security concerns by increasing the amount of information made publicly available.

Response

The applicability for determining appropriate Program type under the federal RMP requirement is set forth by federal rule. Furthermore, SB 900 directed the commission to adopt requirements for the design, construction, operation, and maintenance of storage vessels, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters. SB 900 further directed the commission to include all and only those critical safety elements that are applicable to ASVs

that the commission determines to be critical for the protection of groundwater and surface water resources. The commission determined that §338.5(b)(1)(D), (M), (N), and (O) are either part of the design, construction, operation, or maintenance of ASVs and are critical for the protection of groundwater and surface water resources. Therefore, no changes were made in response to these comments.

Comment

TPA commented that the standards found in 40 CFR §68.48, which is incorporated by reference in §338.5(b)(1)(E) are more applicable to process equipment than to storage vessels and reference recognized and generally accepted good engineering practices which are found in more detail in other sections of the rules being incorporated by the commission. TCC/TXOGA commented that 40 CFR §68.48 does not tangibly improve safety. Therefore, TPA and TCC/TXOGA commented that the commission should reconsider whether it is appropriate to incorporate 40 CFR §68.48 into the rules.

Response

The requirements of 40 CFR §68.48 apply to regulated substances, processes, and equipment, and ASVs are not excluded from this federal rule. Only ASVs are subject to the requirements incorporated into §338.5(b)(1)(E). The applicability of 40 CFR §68.48 is limited by the applicability statement in §338.1 as revised. The commission determined that 40 CFR §68.48, which is incorporated by reference in §338.5(b)(1)(E), is either part of the design, construction, operation, or maintenance of ASVs and are critical for the protection of groundwater and surface water resources. Therefore, no changes were made in response to these comments.

Comment

TCC/TXOGA commented that 40 CFR §68.50, incorporated into §338.5(b)(1)(F) and 40 CFR §68.67, incorporated into §338.5(b)(1)(I), are not needed if the Recognized and Generally Accepted Good Engineering Practices (RAGAGEP) is followed. It was commented that the RAGAGEP was developed as a result of incidents that happened and addresses the hazards of tank operations.

Response

The commission appreciates the comment; however, inclusion or reference to RAGAGEP involves standards not specified in SB 900 and therefore, are outside the scope of this rulemaking. The commission must implement the authority or language as provided in statute. However, 40 CFR §68.50 and 40 CFR §68.67 are within the scope of the rulemaking and subject to the applicability statement of §338.1. Therefore, no changes were made in response to these comments.

Comment

TPA and TCC/TXOGA commented that with respect to 40 CFR §68.56, which is incorporated by reference in §338.5(b)(1)(G), that the maintenance specific to storage vessels is adequately covered by API 653, which is also incorporated by reference into these rules. Therefore, TPA commented that, to reduce inconsistency and undue burden, the rules should focus on the API standard rather than the more general provisions of 40 CFR §68.56.

Response

The commission appreciates the comment but disagrees. It is possible for an ASV to be subject to 40 CFR §68.56 but not be required to follow the requirements of API standard 653, therefore both standards are listed. For ASVs that are subject to both standards, the commission's guidance document will provide guidance on how to comply with both standards without being duplicative and overly burdensome. Therefore, no changes were made in response to this comment.

Comment

TPA commented that with respect to 40 CFR §68.65, which is incorporated by reference into §338.5(b)(1)(H), it is only applicable to Program 3 facilities and making 40 CFR applicable to other facilities in the ASVS rules is a potential point of confusion. TPA commented that most of the other process safety information requirements found in 40 CFR §68.65 would be captured by API 650 and API 653 standards, which are also incorporated into the ASVS rules. It was also commented that adherence to API 653 would also result in compliance with the majority of 40 CFR §68.73 mechanical integrity standards, resulting in potential redundancy and possible confusion and conflict between the EPA standards and the API standards. TPA commented that the commission should only incorporate those parts of 40 CFR §68.73 that pertain to storage vessel safety and that are not addressed by API standards being incorporated.

Response

The commission appreciates the comment but disagrees. It is possible for an ASV to be subject to 40 CFR §68.65 but not be required to follow the requirements of API standards 650 or 653, therefore both standards are listed. For ASVs that are subject to both standards, the commission's guidance document will provide guidance on how to comply with both standards without being duplicative and overly burdensome. Therefore, no changes were made in response to this comment. Related to 40 CFR §68.65, which is incorporated by reference into §338.5(b)(1)(H), the applicability for the RMP rules, including 40 CFR §68.65, does not change because of this rulemaking. Therefore, no changes were made in response to this comment.

Comment

TPA commented/questioned that if a site qualifies as a Program 1 facility under 40 CFR §68.10 does it still have to comply with 40 CFR §68.65, which is incorporated by reference in §338.5(b)(1)(H). Furthermore, TPA commented that in general the incorporation by reference is potentially confusing and will be hard to navigate.

TCC/TXOGA commented that 40 CFR §68.65 contains a large amount of material that is not relevant to improvement of safety tank operation such as block flow diagrams. Furthermore, the majority of the Process Safety Information requirements that apply to safety tank operations are captured through API 650 and 653.

Response

The commission appreciates the comment. The applicability criteria for determining appropriate Program type under the federal RMP requirement is as set forth by federal rule and is limited in the same way by the applicability statement in §338.1 as revised. If a site qualifies as a Program 1 facility under 40 CFR §68.10 and 40 CFR §68.65 does not affect Program 1 facilities, then the facility would not be required to comply with §338.5(b)(1)(H). The commission's guidance document should help to clarify this requirement.

Comment

TCC/TXOGA commented that the incorporation of 40 CFR §68.73 into §338.5(b)(1)(J) is not necessary, as all of the requirements therein are covered under API 653. TCC/TXOGA suggested that the commission only incorporate those parts of 40 CFR §68.73 that pertain to storage vessel safety and that are not addressed by API standards being incorporated.

Response

The commission appreciates the comment but disagrees. It is possible for an ASV to be subject to 40 CFR §68.73 but not be required to follow the requirements of API standard 653, therefore both standards are listed. For ASVs that are subject to both standards, the commission's guidance document will provide guidance on how to comply with both standards without being duplicative and overly burdensome. Therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA commented that 40 CFR Part 112, which is incorporated by reference in §338.5(b)(2), is already being complied with and is redundant and unnecessary in the rules.

TCC/TXOGA and TIP commented that the reference to the Facility Response Plan which is incorporated in §338.5(b)(2)(H) and the Facility Response Training and Drills/Exercises that are incorporated in §338.5(b)(2)(I) are an expansion of the list of the prescribed standards in SB 900. TIP commented that neither regulation contain safety requirements aimed at protecting groundwater and surface water resources from an accident or natural disaster and therefore TIP recommended the removal of §§338.5(b)(2)(H) and (I).

Response

The commission appreciates the comment but disagrees. It is possible for an ASV to be subject to 40 CFR Part 112 but not be required to follow the requirements of other standards incorporated into this program, therefore potential duplicate standards are listed. For ASVs that are subject to multiple standards, the commission's guidance document will provide guidance on how to comply with both standards without being duplicative and overly burdensome.

The regulations at 40 CFR Part 112 were set out in SB 900, which stated that the commission must adopt requirements for the design, construction, operation, and maintenance of storage vessels, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters. Senate Bill 900 furthermore stated that the commission must include all and only those critical safety elements that are applicable to ASVs and that the commission determines to be critical for the protection of groundwater and surface water resources. The commission has determined that the incorporated sections of 40 CFR Part 112, are either part of the design, construction, operation or maintenance of ASVs and are critical for the protection of groundwater and surface water resources. Specifically, it is noted the purpose for an Emergency Response Plan and associated training is to address a release from a facility in order to protect human health and the environment. This purpose includes preventing impacts to the soil, surface water and groundwater to the extent possible. Therefore, no changes were made in response to this comment.

Comment

TPA commented that 40 CFR Part 264, that is incorporated by reference in §338.5(b)(3) contains numerous requirements appropriately tailored to facilities dealing with hazardous waste. TPA commented that it is presumed that the ASVS rules would not apply to a ASV that is not handling hazardous waste as defined by the rules and therefore the 40 CFR Part 264 rules would not apply. TPA commented that the rules need to be clear.

TCC/TXOGA commented that the definition of "regulated substance" does not include a substance regulated as a hazardous waste, therefore there will be no storage tanks that share applicability with these rules and 40 CFR Part 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. TCC/TXOGA requested that the incorporation of 40 CFR Part 264 be removed.

Response

The agency has reviewed the requirements found in 40 CFR Part 264 and compared it to the definitions listed in the Chapter 338 rules, along with the language found in SB 900 and agrees with the comments that there should not be any storage tanks that share applicability of the Chapter 338 rules and 40 CFR Part 264. Therefore, the proposed §338.5(a)(3), including §§338.5(a)(3)(A) through (K) have been removed and the paragraphs will be renumbered as needed.

Comment

TPA commented that the 40 CFR §264.15, which is incorporated by reference in §338.5(b)(3)(C), concerning general inspection requirements, are broad and contain provision that would go beyond storage vessels in their applicability. TPA suggested that the commission should reconsider the incorporation of 40 CFR into §338.5(b)(3)(C) and that incorporated API 653 standards would be sufficient.

Response

The agency has reviewed the requirements found in 40 CFR Part 264 and compared it to the definitions listed in the Chapter 338 rules, along with the language found in SB 900 and agrees with the comments that there should not be any storage tanks that share applicability of the Chapter 338 rules and 40 CFR Part 264. Therefore, the proposed §338.5(a)(3), including §§338.5(a)(3)(A) through (K) have been removed.

Comment

TIP and TCC/TXOGA commented that the commission needs to clarify that automatic overfill protections (AOPs) will only be required per API 2350 applicability and not on all tanks. TIP requested clarification regarding the basis for the reference to storage vessels with an internal design pressure not more than 2.5 psig that contain a Class I liquid or a Class II liquid. TIP noted that TWC, §26.3442(g) provides that the API 2350 overfill provisions only apply to atmospheric storage vessels as defined in API 650. TIP requested that the commission address how TWC, §26.3442(g) is addressed in the proposed §338.5(b)(5).

Response

The commission appreciates these comments. The applicability of a given standard, as set out in §338.1(b), is based on the applicability established by that standard. Based on the revisions/clarifications to §338.5(a) concerning applicability and the statutory language found in TWC, §26.3442(g), stating "The applicable standard in Subsection (e)(2)(B) only applies to atmospheric storage vessels as defined in API 650", the commission has revised §338.5(b)(5) to indicate that the standards only ap-

ply to atmospheric storage vessels as defined in API 650, which is designed or intended to operate at or below 0.5 psig.

Comment

TIP requested clarification on TWC, §26.3442(f), which limits the standard chosen by the commission under National Fire Protection Association (NFPA) 30 Chapter 22 or API Recommended Practice 2001 "material stored at atmospheric pressure with a flashpoint less than or equal to 100 Fahrenheit as defined by Process Safety Management" is addressed in proposed §338.5(b)(6) and (7). TIP furthermore recommended based on TWC, §26.3442(e)(1)(B), the general applicability statement in §338.1(b), and the protocols for national consensus standards, to strike "Applicability of the Standard is based on NFPA 30 §22.8(1) - (4)" in §338.5(b)(6).

TCC/TXOGA commented that the commission needs to clarify that fixed and semi-fixed fire suppression is only required when specified per the protocol in the applicable standard. TCC/TXOGA also noted that the NFPA 30 Chapter 22 and API 2001 standards may have different requirements based on the date of construction and that amendments to a specific standard are not applied retroactively except where specified in the standard. TCC/TXOGA furthermore commented that the commission should clarify that it is not the intent to expand the applicability of any referenced standard.

Response

The commission appreciates the comment. Based on the revisions/clarifications to §338.5(a) concerning applicability and the statutory language found in TWC, §26.3442(e)(1)(C), stating "from either National Fire Protection Association (NFPA) 30 Ch. 22 or API Recommended Practice 2001, the commission shall require fire suppression systems on storage vessels subject to the protocol in the applicable standard," the rule language found in renumbered §338.5(b)(5) and renumbered (6) have been revised to require that a ASV meet the requirements of either NFPA 30 Chapter 22, which is incorporated into renumbered §338.5(b)(5) or API 2001, which is incorporated into renumbered §338.5(b)(6), as appropriate.

Comment

TIP recommended revising §338.5(b)(7) to address owners or operators that have voluntarily chosen to install an NFPA 30 compliant fire protection system.

Response

The commission appreciates the comment. TCEQ has updated renumbered 338.5(b)(6) to address owners or operators that have voluntarily chosen to install an NFPA 30 compliant fire protection system. The rule language has been revised to clarify that an owner or operator that meets the applicability of either NFPA 30 or API Recommended Practice 2001 is required to only follow one of the requirements concerning installation of fire suppression equipment and not both. The revised language in the renumbered §338.5(b)(6) now reads:

For all aboveground storage vessels that have not installed a fire suppression system under paragraph (5) of this section, API Recommended Practice 2001, 10th Edition, July 2019, Sections 5, 6, 7, 8, 9, 10, 11 and any applicable Annex are incorporated by reference and shall apply.

Comment

TIP and TCC/TXOGA recommended revising §§338.5(b) and (c) to apply to storage vessels, but not ancillary equipment at the site.

Response

The commission appreciates this comment. An ASV is defined in §338.2(1). The definition does not include ancillary equipment (such as piping, pumps, etc.). The applicability as set forth in §338.1 includes ASVs as defined in §338.2. Therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA and TIP commented that the incorporation by reference of API 650 into §338.5(c)(2) could be misinterpreted to prohibit the use of a small tank (up to 750 barrels) manufactured to API 12F. Therefore, clarification on the use of API 12F is being requested for ASVs between 500 barrels and 750 barrels.

Response

The commission appreciates the comment; however, API Standard 12F was not specified in SB 900 and therefore, is outside the scope of this rulemaking. The purpose of new Chapter 338 is specified in TWC, §26.341(b). The commission must implement the authority or language provided in statute. It is not the commission's intent to prohibit the use of small tanks, between the capacity of 500 and 750 bbl, but if the small tank meets the definition of an ASV and also meets the applicability of a given standard, then that tank would be subject to the requirements of the program.

Comment

TIP commented that TWC, §26.3442(e)(2)(C) provides that NFPA 30, Chapter 22 location standards shall apply to in-service storage vessels constructed after September 1, 2027, except for reconstruction standards at an original storage vessel location. Therefore, TIP is requesting confirmation that §338.5(c)(3) would not apply to a tank built upon the same location as a preexisting tank and is seeking clarification as to whether replacement of a tank floor and walls, constitutes a new vessel for purposes of proposed §338.5(c).

Response

If an existing tank is removed and a new tank is built on the same tank pad, the new tank must meet all other applicable requirements, but the NFPA 30, Chapter 22 §22.4 would not be applicable. To help clarify this, the commission is revising §338.5(c)(3) to include the language found in TWC, §26.3442(e)(2)(C) that address NFPA 30, Chapter 22 location standards, in that the standard applies except for reconstruction standards at an original storage vessel location. The agency's guidance document will provide additional information on what constitutes the reconstruction standards at an original storage vessel location.

Comment

TIP requested confirmation that owners or operators can demonstrate compliance for the ASVS rules by using equivalency measures when managing risk as is allowed in NFPA 30.

Response

Chapter 338 specifically only incorporates Section 22.8, Fire Protection for Aboveground Storage Tanks from NFPA 30. Because the reference to NPFA 30 is specific, the equivalency measures described in NFPA 30 Section 1.5 do not apply.

Therefore, no changes have been made in response to this comment.

Comment

TIP requested clarification on whether the commission intends to update the incorporated by reference standards as they are updated, as long as there is not a material conflict with the implementation of the revised standard as provided in TWC, §26.3443(b). Additionally, TIP requested clarification on whether owners or operators may opt to follow an updated API or NFPA standard that is not adopted by the commission in subsequent amendments to Chapter 338.

Response

The rule incorporates by reference specific standards in place at the time of this rulemaking. Inclusion of revisions to those standards would necessitate additional rulemaking. SB 900 requires that the commission must establish through rulemaking, the effective date of the standards, and must amend through rulemaking changes if a standard is amended in a way that materially conflicts with the current rules. An owner or operator must follow the regulations as incorporated in this chapter and may not opt to follow other versions of the standard that have not been incorporated into the chapter. Therefore, no changes were made in response to these comments.

Comment

FW commented that the commission should not allow owners/operators to seek an exemption for retrofitting or modifications to ASVs if the retrofitting or modifications are not technically feasible as is provided in §338.5(d).

Response

The exemptions discussed by FW in its comment are part of the statutory language of SB 900, which the commission is required to implement. Therefore, no changes were made in response to this comment.

Comment

FW commented that the documentation required by 40 CFR Part 68 and Part 112 should be publicly available online and in writing at local libraries or by request. In incorporating these plans into Chapter 338, the commission has the opportunity to greatly increase transparency for communities that are co-located with regulated ASVs by providing access to the required information.

Response

The commission will be working to provide copies of the applicable Federal standards that the public can view at the agency's headquarters and regional offices. TCEQ will also develop a guidance document to help the public and regulated community understand which standards apply to which types of above-ground storage vessels. The final version of the guidance document will be made available to the public on the agency's website. Because the federal standards are not copyrighted the commission will include the exact wording of the applicable federal standards.

As to providing the documentation provided by the owner or operators via the agency's website, the commission will be following state law and established agency policy on what information can be made available to the public. The commission has not determined what information, that will be collected as part of this rule, will be publicly available as some of this information could have homeland security implications or be deemed confidential.

Between the effective date of this rulemaking and the September 1, 2027, implementation date, the commission will be developing the registration/certification program and will be drafting a guidance document for the regulated community. The commission will be using this time to also determine what information can be made publicly available. SB 900 requires that the commission keep confidential any information reported to, obtained by, or otherwise submitted to the commission that is subject to restrictions on dissemination under federal law, including off-site consequence analysis information subject to Title 40, CFR Part 1400, or may otherwise present a security risk, if disclosed publicly. Therefore, this statutory requirement must be taken into consideration when determining what information can be provided publicly.

§338.7 Inspections

Comment

FW commented that the commission should conduct on-site inspections of registered vessels at least once every three years and annually for those owners/operators that have experienced a failure or have a history of non-compliance.

Response

The language of SB 900 requires that the agency conduct on-site inspections of the registered/certified facilities at least once every five years to determine compliance with the standards. The statute did not limit the agency for conducting inspections at a more frequent time period at specific ASVs. However, lowering the inspection frequency from five to three years for all facilities and annually for those that have experienced a failure would require additional workforce and funding, which would require legislative approval. Therefore, no changes were made in response to this comment.

Comment

TCC/TXOGA commented that §338.7(b)(1) states that agency staff may enter at reasonable times to a facility in which an ASV is located. TCC/TXOGA requested clarification as to whether agency staff can come onto any site with a storage vessel/tank or only those with registered ASVs. Furthermore, TCC/TXOGA commented that the rules do not provide any basis for what samples will be used for, what type of analysis will be done, how confidential business information will be respected for these samples, or how sites are supposed to grant sufficient access to obtain the sample.

Response

The agency is the delegated authority for many different state and federal rules that allow the agency to enter a site, and the ASVS program is no different than those other delegated programs. There could be times when an agency investigator would need to discuss with an owner or operator on the status of an ASV that might be claiming an exemption. The agency will work with the owner or operator to establish a reasonable time to review the information concerning the ASV.

Concerning TCEQ obtaining samples from an ASV, the rule language has been revised to make it clear that TCEQ can require that an owner or operator conduct the requested sampling, but the agency will not be directly conducting the sampling.

Comment

TCC/TXOGA commented that §338.7(b)(3) states that agency staff can come on site to test the ASV. TCC/TXOGA expressed

concerns with agency staff performing tests on equipment located at the site. TCC/TXOGA recommended that the rule language be revised to provide the commission the authority to require the owner or operator to do testing and certify compliance.

Response

The commission appreciates the comment and has revised §338.7(b)(3) to make it clear that depending on the monitoring that needs to be conducted, TCEQ will conduct the monitoring or require that an owner or operator conduct the requested monitoring. The terms "associated equipment" and "contents" have been removed, since the ASVS rules only apply to ASVs and if the contents of an ASV need to be tested, that will be requested under §338.7(b)(2).

Comment

TCC/TXOGA commented that §338.7(e) does not state what constitutes "reasonable cause to believe that a release has occurred." TCC/TXOGA requested clarity on what constitutes "reasonable cause."

Response

As with all TCEQ programs, agency staff are authorized to enter a site at any reasonable time for the purpose of investigating compliance with any rule, regulation, permit, or other order of the commission. The term reasonable cause would be a standard of proof that is applied to a set of facts or actions to prove whether a reasonable person would have come to the same conclusion or acted in the same way given the totality of the circumstances. Therefore, no changes were made in response to this comment.

§338.9 Recordkeeping

Comment

TCC/TXOGA commented that §338.9(a)(2) and (3) should allow as an alternative to keeping records onsite, an owner or operator may maintain records electronically or at a readily accessible alternate site, provided the records are readily accessible for use by the owner or operator and are readily accessible and available for inspection upon request by agency staff.

Response

The commission appreciates the comment and agrees with the commenter. The rule language has been revised with the addition of the following sentence, "Electronic records may be kept off-premises."

Comment

TCC/TXOGA commented that §338.9(b)(1) removes the five-year record retention requirement in RMP and what is usually standard for most environmental records and replaces it with a requirement to keep records "for the operational life of the above-ground storage vessel." TCC/TXOGA is concerned that the requirement is excessive and recommends retaining the five-year retention period.

Response

The commission does not consider this requirement to be excessive. TCEQ agrees that the requirement to maintain copies of the records for the storage vessel's operational life is different from other TCEQ recordkeeping requirements. However, the ASVS program is different because its main goal concerns design performance standards for safety. How the storage vessel was originally designed, located, and what disaster plans were

developed is necessary for this program's purpose. Therefore, no changes were made in response to this comment.

Comment

TPA commented that §338.9(b)(2)(H) should reference §338.5(b)(7) instead of just referencing only §338.5(b).

Response

The commission appreciates the comment and agrees with the commenter. Section 338.9(b)(2)(H) has been revised to cite to §338.5(b)(6) instead of §338.5(b).

§338.20 Registratio

Comment

TCC/TXOGA recommended that commission work with industry to allow for data uploads to the agency directly from existing facility equipment databases.

Response

The commission will be developing an electronic application and database for the registration of ASVs. Because this database has yet to be developed, TCEQ cannot comment on the future integration with other databases. However, once developed, initial registrations and updates will be through the State of Texas Environmental Electronic Reporting System (STEERS).

Comment

SHI, TIP, and TCC/TXOGA commented that §338.20(e) requires an owner or operator to provide notice of changes to the registration of an ASV within 30-days of the change, including operation status and the substance stored. SHI requested that the commission provide a mechanism that provides quick and efficient reporting, such as reporting in the STEERS system, email, or some other method.

TCC/TXOGA commented that the phrase "operational status" is not defined and needs to be clarified and state if the phrase applies to swing tanks. TIP recommended that §338.20(e) be revised to allow owners or operators to register an ASV for multiple potential products by adding the following language, "provided, however, that a vessel may be registered to store multiple substances, in which case notice is not required for a switching between registered products."

TCC/TXOGA commented that the 30-day notification requirement in §338.20(e) is not realistic and recommended a longer time of six months or an initial notification with details provided later. Reasoning being that some of the information is temporary and/or conditional during these changes and all data might not be available within the 30-day time period and the RMP and SPCC standards allow for up to six months for making the required updates.

Response

Section 338.20(e)(1) has been revised to clarify that an owner or operator of an ASV is required to notify TCEQ if the ASV has been decommissioned. The term "operational status" is no longer included in Chapter 338. Any decommissioned ASV brought back into the ASVS program will be considered a new ASV and the owner or operator would be required to certify the vessel as a new ASV, pay new fees, and follow the standards for a new ASV placed into service. Additional information will be provided in the guidance document.

Once developed, initial registrations and updates will be through the State of Texas Environmental Electronic Reporting System (STEERS). TCEQ intends to allow an owner or operator to indicate on the initial registration a list of potential products to be stored. Switching between any of the substances included in the registration does not require notification to TCEQ. TCEQ has revised §338.20(e)(2) to reflect this. An owner or operator of an ASV would be required to notify TCEQ of additional substances that are not currently included on the registration. However, the 30-day notification requirement remains the same.

Comment

TIP and TCC/TXOGAS commented that §338.20(h) provides that an owner or operator is required to provide notice and certify that an ASV is decommissioned and no longer subject to the definition of an ASV. However, the rules do not address the circumstance in which a vessel is not subject to the standards based on delineated applicability of the respective standard. TIP commented that it does not read SB 900 to establish a program in which a defined universe of vessels is subject to regulation unless and until the program ceases to exist. TIP recommended that §338.20(h) be revised to establish that an ASV that does not meet the applicability of a standard may cancel a registration under §338.20(h). TCC/TXOGA recommended that §338.20(h) be revised to address ASVs that should be deregistered and newly meets an exemption in §338.3.

Response

It is the intent of SB 900 and this rulemaking for all vessels meeting the definition of an aboveground storage vessel, except those that meet the exemptions in §338.3, to register with TCEQ and undergo inspections. The exemptions in §338.3 are the only exemptions from the requirement to register. Therefore, no changes were made in response to this comment.

§338.21 Certification

Comment

TIP and TCC/TXOGA commented that some ASVs may not be scheduled for out-of-service maintenance prior to September 1, 2037, under applicable industry consensus standards. TIP and TCC/TXOGA recommended that §338.3(c) be revised to allow an owner or operator of an ASV that is not scheduled for out-of-service maintenance until after September 1, 2037, to obtain a temporary exemption from proposed certification requirement until the end of the next scheduled out-of-service interval. Furthermore, TCC/TXOGA suggested that ASVs that are out-of-service on September 1, 2037, be allowed to defer the compliance certification until immediately prior to the ASV reentering service after September 1, 2037.

TCC/TXOGA has similar concerns that §338.21(b) indicates that every existing ASV subject to these rules must be taken out of service before September 1, 2037, and then each tank will be required to be taken out of service every 10 years after that. TCC/TXOGA have concerns that this is excessive for fixed roof storage tanks, which typically operate with a 20-year inspection cycle as allowed by API 650/653.

Response

The commission appreciates the comments; however, the language of SB 900 is clear that all facilities must certify their compliance status by no later than September 1, 2037. Unless an owner or operator provides to the commission and receives approval from the commission on a demonstration of technical im-

practicability, SB 900 requires that any modifications or retrofits necessary for compliance with the ASVS program must be made during the out-of-service maintenance period before September 1, 2037. The commission will evaluate any impracticability requests with the information provided to TCEQ, however, simply delaying the out-of-service maintenance is not considered a demonstration of technical impracticability. Therefore, no changes were made in response to this comment.

§338.22 Fees for Aboveground Storage Vessels

Comment

FW requested that up to 15% of the collected fees required by §338.22(b) be allocated to municipal, county, or city emergency response and first responders. SB 900 requires the new program to be self-sustaining, as the proposed rules require emergency coordination with local emergency teams and first responders, money allocated to these agencies would be going directly to satisfying the requirements of the law.

Response

The purpose of this rulemaking is to establish the ASVS Program, while implementing SB 900. The commission has not been provided authority by the Texas Legislature to go beyond the requirements found in SB 900. The statute language of SB 900 was very prescriptive on what the collected fee could be used for. Specifically, the fees are to be used to recover the cost to implement a registration program, review initial and ten-year certifications, amend certifications, inspect certified facilities, and enforce compliance applicable standards of statute, rules and orders adopted by the commission. Therefore, these comments are beyond the scope of this rulemaking and no changes were made in response to this comment.

Comment

TCC/TXOGA requested that the commission provide clarity on how the fee schedule is structured.

Response

The estimated number of vessels subject to the new regulation is 36,000. This estimate is based on the review of Tier II and Air Quality Division emissions data.

TCEQ developed a survey for trade associations to gain a better understanding of the vessel size distribution and number of potentially regulated entities by facility type (refineries, petrochemical plants, and bulk storage terminals). TCEQ used the information gathered through this survey to get a better understanding of the size distribution of ASVs.

TCEQ estimates the program to cost approximately \$9 million annually. Using the estimated universe and size distribution, TCEQ established a revenue neutral tier-based fee structure to fund the administration of the program. TCEQ included a flat fee for all ASVs since all ASVs will require registration and inspection regardless of their size. The majority of the fees will be collected through the flat per vessel fee. The number of inspectors and investigators, and thus the overall cost of the program, will depend more on the number of vessels than the overall capacity. However, TCEQ also included a per barrel fee to account for the fact that larger vessels are more complex, have additional controls, and will require more time to inspect.

The adopted fee schedule is subject to change based on information as it is available and will be finalized through the Texas Register notification process. TCEQ will encourage ASVs to reg-

ister as soon as possible so that TCEQ has accurate information on the number and size of the ASVs, to be able to adjust the fee as needed to remain fee neutral.

Comment

SHI commented that since the proposed fee structure is variable for vessels over 20,000 barrels in capacity, the commission should define how a vessel's capacity is determined for purposes of these fee payments. Would the capacity be determined on maximum shell capacity (nominal capacity) or the maximum working fill capacity (overfill level height) or the preferred working fill capacity, which could be less than the nominal capacity and the maximum working fill capacity?

Response

The design capacity will be used to determine the per barrel fee for the ASV. The maximum working fill capacity or overfill level height would be considered the design capacity for this fee calculation. The definition for an ASV found in §338.2(1) has been updated for clarity.

SUBCHAPTER A. GENERAL APPLICABILITY, STANDARDS, AND RECORDKEEPING

30 TAC §§338.1 - 338.3, 338.5, 338.7, 338.9

Statutory Authority

The new sections are adopted under the Texas Water Code (TWC). TWC, §5.013, establishes the general jurisdiction of the Texas Commission on Environmental Quality (TCEQ), while TWC, §5.102, provides TCEQ with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103. TWC, §5.103, requires the commission to adopt any rule necessary to carry out its powers and duties under the code and other laws of the state. TWC, §5.105, requires the commission, by rule, to establish and approve all general policies of the commission. TWC, §5.120, requires TCEQ to administer the law for the maximum conservation and protection of the environment and natural resources of the state. TWC, §26.041, gives TCEQ the authority to use any means provided by Chapter 26 to prevent a discharge of waste that is injurious to public health. The new sections are also adopted under Texas Health and Safety Code (THSC). THSC, §382.017, concerning Rules, authorizes the agency to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The new sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the agency's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the agency to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the agency to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the agency to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants, as well as require recordkeeping. The new sections are also adopted under the TWC, §7.002, Enforcement Authority, which authorizes the agency to institute legal proceedings to compel compliance; TWC, §7.032, Injunctive Relief, which provides that injunctive relief may be sought by the executive director; and TWC, §7.303

Grounds for Revocation or Suspension of License, Certificate, or Registration, which authorizes the agency to suspend or revoke a license, certificate, or registration the commission has issued.

The adopted new sections implement Senate Bill 900 (87th Legislative Session, 2021), TWC, §§26.341, 26.3442, 26.3443, and 26.3444.

§338.1. Purpose and Applicability.

(a) Purpose. The goal of the Aboveground Storage Vessel Safety (ASVS) Program is to promote the safety of affected aboveground storage vessels, as defined in §338.2 of this title (relating to Definitions) through the requirements of this chapter concerning the design, construction, operation, and maintenance of aboveground storage vessels, with the objective of protecting groundwater and surface water resources in the event of accidents and natural disasters.

(b) Applicability. Except as specified in §338.3 of this title (relating to Exemptions) the requirements of this chapter apply to all existing and future installed aboveground storage vessels, as defined in §338.2 of this title (relating to Definitions) which includes aboveground storage vessels that are made of non-earthen materials, have a storage capacity of 21,000 gallons (based on overfill level height) or more, store a regulated substance, and are located at or part of a petrochemical plant, a petroleum refinery, or a bulk storage terminal (relating to Definitions).

(c) Relationship to other regulations. Compliance with the provisions of this chapter by an owner or operator of an aboveground storage vessel shall not relieve the owner or operator from the responsibility of compliance with any other laws and regulations directly and/or indirectly affecting these aboveground storage vessels, including, but not necessarily limited to, all applicable regulations legally promulgated by the commission and any other federal, state, and local governmental agencies or entities having appropriate jurisdiction.

(d) Responsibilities of owners and operators. The owners and operators of an aboveground storage vessel subject to the provisions of this chapter are responsible for ensuring compliance with all applicable provisions of this chapter. Owners and operators are responsible for any violations or noncompliant activities resulting from the actions or inactions by any person who is employed or otherwise engaged by the owner or operator.

§338.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. The words and terms used in the specific standards found in §338.5 of this title (relating to Standards) shall have the meaning of that standard, if defined. However, the words and terms as defined in this section shall supersede a definition if provided in a specific standard found in §338.5 of this title.

(1) Aboveground storage vessel -- A vessel made of non-earthen materials (e.g., concrete, steel, or plastic) located on or above the surface of the ground and that:

(A) has a capacity (based on overfill height) of 21,000 gallons or more;

(B) stores a regulated substance as defined in paragraph (8) of this subsection;

(C) is located at or is part of a petrochemical plant, a petroleum refinery, or a bulk storage terminal as defined by this subsection;

(D) is not a vessel exempted under §338.3 of this title (relating to Exemptions).

(2) Bulk storage terminal -- means an end-of-line pipeline storage terminals (excluding breakout tanks, which are used to relieve surges in a pipeline system and/or receive/store liquids transported by a pipeline for reinjection and continued transportation by pipeline), refinery storage terminals, for-hire storage terminals, rail storage terminals, and barge storage terminals.

(3) Facility -- A site, tract, or other defined area where one or more aboveground storage vessels are located.

(4) Flow-through process vessel -- A vessel through which regulated substances as defined by Texas Water Code §26.343 flows as an integral part of a production process such as petroleum refining or petrochemical production. These vessels collect material discharged from a feedstock storage vessel, or equipment within the process before the material is transferred to other equipment or storage vessel(s) within the process or to product or by-product storage vessel(s). This term excludes any vessel:

(A) Used for the static storage of regulated substances prior to their introduction into the production process; or

(B) Used for the static storage of regulated substances that are products or by-products of the production process.

(5) National consensus standard -- Any performance standard for storage tanks, or a modification thereof, that:

(A) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures where it can be determined by the executive director that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption; and

(B) was formulated in a manner that afforded an opportunity for diverse views to be considered.

(6) Petrochemical plant --

(A) A facility that in a single continuous operation or using a batch processing method manufactures a petrochemical.

(B) A petrochemical plant may be either a single facility existing by itself or a facility within a chemical plant complex consisting of a number of separate chemical plants each of which produces a single basic or intermediate chemical product. In a chemical plant complex, each facility is considered individually to determine whether it qualifies as a petrochemical plant.

(C) The term does not include:

(i) a facility or chemical plant that manufactures "allied chemical products"; or

(ii) a facility or chemical plant, other than one that produces a basic or an intermediate chemical, that generates any chemical as a waste product or a by-product.

(7) Petroleum refinery -- A facility that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates. Products of these refineries include gasoline, diesel, kerosene, distillate fuel oils, liquefied petroleum gas (LPG), residual fuel oils, lubricants, and other products refined through alkylation, coking, cracking, dewaxing, desulphurization, distillation, hydrotreating, isomerization, polymerization, or other chemical processes. These facilities also produce petrochemical feedstock for use by chemical plants. The term does not include facilities

at an oil or gas lease site that removes water or other impurities and merely makes the product more marketable.

(8) Regulated substance -- as defined by Texas Water Code §26.343 to include:

(A) a substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), but does not include a substance regulated as a hazardous waste under the federal Solid Waste Disposal Act (42 U.S.C. Section 6921 et seq.);

(B) petroleum, including crude oil or a fraction of it, that is liquid at standard conditions of temperature and pressure;

(C) any other substance designated by the executive director, and

(D) a mixture containing one percent or greater by weight of a regulated substance would be considered to meet this definition.

§338.3. Exemptions.

(a) Complete exemption. The following vessels, as defined in §338.2 of this title (relating to Definitions) including any pipe that is connected to the vessel, are not considered to be aboveground storage vessels and are exempt from the regulation of this chapter:

(1) A vessel used in or associated with the production or gathering of crude oil or natural gas;

(2) a vessel that is part of a stormwater or wastewater collection system;

(3) a flow-through process vessel, including a pressure vessel or process vessel and oil and water separators;

(4) an aboveground storage vessel operating above 0.5 pounds per square inch gauge (psig), or designed or intended to operate above 0.5 psig, as measured with a pressure gauge in the vapor space of the vessel or calculated as the total mixture vapor pressure at the storage temperature converted to gauge pressure;

(5) heated vessels that are heated using external heat, including but not limited to steam, an electric heating element, or a heat medium such as hot oil. Heated vessels do not include vessels that contain process fluid that are received above ambient temperatures;

(6) an intermediate bulk container or similar vessel that may be moved within a facility as defined in §338.2 of this title;

(7) a vessel regulated under the federal Surface Mining Control and Reclamation Act (30 U.S.C. Section 1201 et seq.);

(8) a vessel used for the storage of products regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.);

(9) a vessel, including piping and collection and treatment systems, that is used in the management of leachate, methane gas, or methane gas condensate, unless the vessel is used for storage of a regulated substance, as defined in §338.2 of this title;

(10) a vessel or pressure vessel that is used to store liquified petroleum gas;

(11) a vessel regulated under the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (49 U.S.C. 60101 et seq.); or

(12) a vessel regulated under 40 CFR Parts 262, 264 and 265, as incorporated into 30 TAC §§335.55, 335.112(a)(9) and 335.152(a)(8).

(b) The owner or operator of an affected aboveground storage vessel may submit a written request to the executive director for a specific aboveground storage vessel to be exempted from the requirements of this chapter. The request must provide a demonstration that the aboveground storage vessel presents a sufficiently low risk of floods, storm surges, hurricanes, accidents, fires, explosions, or other hazards so that it does not warrant regulation under this chapter. The executive director must provide written approval before the aboveground storage vessel is considered to be exempt from the requirements of this chapter.

(c) Upon request by the executive director, the owner or operator of a vessel claiming to be exempted under this section must provide appropriate documentation or other information in a timely manner to support that claim.

§338.5. Standards.

(a) The standards identified in subsections (b) and (c) of this section are applicable when both of the following criteria are met:

- (1) the vessel meets the definition of an aboveground storage vessel as defined in §338.2 of this title (relating to Definitions); and
- (2) the aboveground storage vessel satisfies the applicability criteria of the listed standard.

(b) Aboveground Storage Vessels in service before or on September 1, 2027. For an existing aboveground storage vessel, as defined in §338.2 of this title that is in service before or on September 1, 2027, all of the following performance standards for safety shall apply:

(1) 40 Code of Federal Regulations (CFR) Part 68, Chemical Accident Prevention Provisions are incorporated by reference as stated in the paragraphs below:

(A) 40 CFR §68.3, Definitions, is incorporated by reference as amended through December 19, 2019 (84 FR 69913);

(B) 40 CFR §68.10, Applicability, is incorporated by reference as amended through December 19, 2019 (84 FR 69913). The compliance dates specified in this chapter apply instead of the dates listed in 40 CFR §68.10;

(C) 40 CFR §68.12, General Requirements, is incorporated by reference as amended through December 19, 2019 (84 FR 69913);

(D) 40 CFR §68.15, Management, is incorporated by reference as amended through June 20, 1996 (61 FR 31718);

(E) 40 CFR §68.48, Safety Information, is incorporated by reference as amended through June 20, 1996 (61 FR 31718);

(F) 40 CFR §68.50, Hazard Review, is incorporated by reference as amended through December 19, 2019 (84 FR 69914);

(G) 40 CFR §68.56, Maintenance, is incorporated by reference as amended through January 31, 1994 (59 FR 4493);

(H) 40 CFR §68.65, Process Safety Information, is incorporated by reference as amended through December 19, 2019 (84 FR 69914);

(I) 40 CFR §68.67, Process Hazard Analysis, is incorporated by reference as amended through December 19, 2019 (84 FR 69914);

(J) 40 CFR §68.73, Mechanical Integrity, is incorporated by reference as amended through January 31, 1994 (59 FR 4493);

(K) 40 CFR §68.75, Management of Change, is incorporated by reference as amended through January 31, 1994 (59 FR 4493);

(L) 40 CFR §68.77, Pre-Startup Review, is incorporated by reference as amended through January 31, 1994 (59 FR 4493);

(M) All sections of 40 CFR Part 68, Subpart E, Emergency Response, (40 CFR §§68.90, 68.93, 68.95, 68.96) are incorporated by reference as amended through December 19, 2019 (84 FR 69915);

(N) All sections of 40 CFR Part 68, Subpart G, Risk Management Plan, (40 CFR §§68.150, 68.151, 68.152, 68.155, 68.160, 68.165, 68.168, 68.170, 68.175, 68.180, 68.185, 68.190, 68.195) are incorporated by reference as amended through April 9, 2004 (69 FR 18832); and

(O) All sections of 40 CFR Part 68, Subpart H, Other Requirements, 40 CFR (§§68.200, 68.210, 68.215, 68.220) are incorporated by reference as amended through December 19, 2019 (84 FR 69916).

(2) 40 CFR Part 112, Oil Pollution Prevention standards are incorporated by reference as stated in the paragraphs below:

(A) 40 CFR §112.1, General Applicability, is incorporated by reference as amended through April 18, 2011 (76 FR 21550);

(B) 40 CFR §112.2, Definitions, is incorporated by reference as amended through April 21, 2020 (85 FR 223399);

(C) 40 CFR §112.3, Requirement to Prepare and Implement a Spill Prevention, Control, and Countermeasure Plan, is incorporated by reference as amended through November 22, 2011 (76 FR 72124);

(D) 40 CFR §112.6, Qualified Facilities Plan Requirements, is incorporated by reference as amended through November 13, 2009 (74 FR 58810);

(E) 40 CFR §112.7, General Requirements for Spill Prevention, Control, and Countermeasure Plans, is incorporated by reference as amended through November 13, 2009 (74 FR 58810);

(F) 40 CFR §112.8, Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities) is incorporated by reference as amended through December 5, 2008 (73 FR 74304);

(G) 40 CFR §112.12, Spill Prevention, Control, and Countermeasure Plan Requirements, is incorporated by reference as amended through December 5, 2008 (73 FR 74305);

(H) 40 CFR §112.20, Facility Response Plans, is incorporated by reference as amended through July 17, 2002, (67 FR 47151); and

(I) 40 CFR §112.21, Facility Response Training and Drills/Exercises, is incorporated by reference as amended through June 30, 2000, (65 FR 40798). Note the term "Regional Administrator" should be replaced with "executive director".

(3) The following sections from American Petroleum Institute (API) Standard 653: Tank Inspection, Repairs, Alteration, and Reconstruction, Fifth Edition, November 2014 (Addendum 1, April 2018 and Addendum 2, May 2020) are incorporated by reference, as stated in the paragraphs below for aboveground storage vessels as defined in §338.2 of this title (relating to Definitions):

(A) Section 4.3: Tank Shell Evaluation and any applicable Annex found in API 653;

(B) Section 4.4: Tank Bottom Evaluation and any applicable Annex found in API 653;

(C) Section 4.5: Tank Foundation Evaluation and any applicable Annex found in API 653;

(D) Section 6.2: Inspection Frequency Considerations and any applicable Annex found in API 653;

(E) Section 6.3: Inspections from the Outside of the Tank and any applicable Annex found in API 653;

(F) Section 6.4: Internal Inspection and any applicable Annex found in API 653;

(G) Section 8: Design Considerations for Reconstructed Tanks and any applicable Annex found in API 653; and

(H) Section 9: Tank Repair and Alteration and any applicable Annex found in API 653.

(4) The following Sections from API Standard 2350: Overfill Prevention for Storage Tanks in Petroleum Facilities, Fifth Edition, September 2020 (Errata 1, April 2021), are incorporated by reference, as stated in the paragraphs below for aboveground storage vessels as defined in §338.2 of this title (relating to Definitions) with an internal design pressure not more than 0.5 psig:

(A) Section 4: Overfill Prevention System (OPS) and any applicable Annex found in API 2350, and

(B) Section 5: Overfill Prevention Systems and any applicable Annex found in API 2350.

(5) National Fire Protection Association (NFPA) 30, Chapter 22 (Edition: 2021) Section 22.8: Fire Protection for Aboveground Storage Tanks and any applicable Annex are incorporated by reference, or API Recommended Practice 2001, 10th Edition, July 2019, Sections 5, 6, 7, 8, 9, 10, 11 and any applicable Annex are subject to the protocol of the applicable standard.

(6) For all aboveground storage vessels that have not installed a fire suppression system under paragraph (5) of this subsection, API Recommended Practice 2001, 10th Edition, July 2019, Sections 5, 6, 7, 8, 9, 10, 11 and any applicable Annex are incorporated by reference and shall apply.

(c) Aboveground storage vessels placed into service after September 1, 2027. For a new aboveground storage vessel placed into service after September 1, 2027, all of the following performance standards for safety shall apply:

(1) All of the standards listed in subsection (b) of this section,

(2) API 650: Welded Tanks for Oil Storage, Thirteenth Edition, March 2020 (Errata 1, January 2021), and any applicable Annex are incorporated by reference, and

(3) NFPA 30, Chapter 22 (Edition: 2021) Section 22.4: Location of Aboveground Storage Tanks and any applicable Annex are incorporated by reference, except for reconstruction standards at an original storage vessel location.

(d) The owner or operator shall make any modifications or retrofits necessary for compliance with the standards in subsection (b) of this section during the next out-of-service maintenance periods, unless the owner or operator obtains written approval from the executive director that the necessary modifications or retrofits are not technically feasible.

§338.7 Inspections.

(a) For the purposes of developing or assisting in the development of a regulation, conducting a study, or enforcing this chapter, an

owner or operator of an aboveground storage vessel, on the request of the executive director must:

(1) furnish information related to the aboveground storage vessel, including aboveground storage vessel equipment and contents; and

(2) allow the executive director at all reasonable times to have access to and to obtain all records relating to the aboveground storage vessel.

(b) For the purposes of developing or assisting in the development of a regulation, conducting a study, or enforcing this chapter, the executive director may:

(1) enter at reasonable times a facility in which an aboveground storage vessel is located;

(2) inspect and obtain samples, which will be collected by the owner or operator at the request of the executive director, of a regulated substance contained in the aboveground storage vessel; and

(3) conduct monitoring or request that the owner/operator conduct monitoring of the aboveground storage vessel, surrounding soils, air, surface water, or groundwater.

(c) The executive director may direct an owner or operator of an aboveground storage vessel to conduct monitoring and testing if the executive director finds that there is reasonable cause to believe that a release has occurred in the area in which the aboveground storage vessel is located.

§338.9. Recordkeeping.

(a) General recordkeeping requirements.

(1) Owners and operators of aboveground storage vessels must develop and maintain all records required by the provisions of this chapter.

(2) Except as provided in paragraph (3) of this subsection, owners or operators must maintain legible copies of all required records pertaining to an aboveground storage vessel in a secure location on the facility premises. Electronic records may be kept off-premises. The records must be immediately:

(A) accessible for reference and use by the owner or operator; and

(B) available for inspection upon request by executive director personnel or an executive director designated agent.

(3) If an owner or operator cannot reasonably maintain copies of the required records on the facility's premises, then the owner or operator may maintain the records at a readily accessible alternate site, provided that the records are immediately:

(A) accessible for reference and use by the owner or operator; and

(B) accessible and available for inspection upon request by executive director personnel or an executive director-designated agent.

(b) Required records and documents. Owners and operators of aboveground storage vessels must meet all recordkeeping requirements in this chapter, including the following records and documentation (as applicable).

(1) Owners and operators must maintain legible printed copies or readily accessible electronic copies of the following general records for the operational life of the aboveground storage vessel:

(A) original and amended registration documents, in accordance with §338.20 of this title (relating to Registration);

(B) original and amended certifications, in accordance with §338.21 of this title (relating to Certification).

(2) Owners and operators must maintain legible printed copies or readily accessible electronic copies of records and documents demonstrating compliance with all applicable standards in §338.5 of this title (relating to Standards) in accordance with the following provisions:

(A) records supporting the implementation of the applicable sections of 40 CFR Part 68 listed in §338.5(b)(1);

(B) the Spill Prevention, Control, and Countermeasure (SPCC) Plan, and records supporting implementation of the SPCC Plan, as required by the applicable sections of 40 CFR Part 112 listed in §338.5(b)(2)(A) - (G);

(C) the Facility Response Plan, and records supporting implementation of the plan, including a facility response training program and a drill/exercise program, as required by the applicable sections of 40 CFR Part 112 listed in §338.5(b)(2)(H) and (I);

(D) records supporting the implementation of the applicable sections of API Standard 653 listed in §338.5(b)(3);

(E) records supporting the implementation of the applicable sections of API Standard 2350 listed in §338.5(b)(4);

(F) records supporting the implementation of the applicable sections of NFPA 30, Chapter 22 listed in §338.5(b)(5) and §338.5(c)(3);

(G) records supporting the implementation of the applicable sections of API Recommended Practice 2001 listed in §338.5(b)(6);

(H) records supporting the implementation of the applicable sections of API Standard 650 listed in §338.5(c)(2).

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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For further information, please call: (512) 239-2678



SUBCHAPTER B. REGISTRATION AND CERTIFICATION REQUIREMENTS

30 TAC §§338.20 - 338.22

Statutory Authority

The new sections are adopted under the Texas Water Code (TWC). TWC, §5.013, establishes the general jurisdiction of the Texas Commission on Environmental Quality (TCEQ), while TWC, §5.102, provides TCEQ with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103. TWC, §5.103, requires the commis-

sion to adopt any rule necessary to carry out its powers and duties under the code and other laws of the state. TWC, §5.105, requires the commission, by rule, to establish and approve all general policies of the commission. TWC, §5.120, requires TCEQ to administer the law for the maximum conservation and protection of the environment and natural resources of the state. TWC, §26.041, gives TCEQ the authority to use any means provided by Chapter 26 to prevent a discharge of waste that is injurious to public health. The new sections are also adopted under Texas Health and Safety Code (THSC). THSC, §382.017, concerning Rules, authorizes the agency to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The new sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the agency's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the agency to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the agency to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the agency to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants, as well as require recordkeeping. The new sections are also adopted under the TWC, §7.002, Enforcement Authority, which authorizes the agency to institute legal proceedings to compel compliance; TWC, §7.032, Injunctive Relief, which provides that injunctive relief may be sought by the executive director; and TWC, §7.303 Grounds for Revocation or Suspension of License, Certificate, or Registration, which authorizes the agency to suspend or revoke a license, certificate, or registration the commission has issued.

The adopted new sections implement Senate Bill 900 (87th Legislative Session, 2021), TWC, §§26.341, 26.3442, 26.3443, and 26.3444.

§338.20. Registration.

(a) Existing aboveground storage vessels. Any person who owns or operates an existing aboveground storage vessel, as defined in §338.2 of this title (relating to Definitions) that is in service on or before September 1, 2027, must be registered with the executive director. Facilities must register aboveground storage vessels using the method authorized by the executive director.

(b) New or replacement aboveground storage vessels. Any person who owns or operates a new or replacement aboveground storage vessel placed into service on or after September 1, 2027, must register the vessel using the method authorized by the executive director no later than 30 days after start of operation.

(c) The owner and operator of an aboveground storage vessel are responsible for compliance with the registration requirements of this section. An owner or operator may designate an authorized representative to complete and submit the required registration information. However, the owner and operator remain responsible for compliance with the provisions of this section.

(d) All aboveground storage vessels subject to the registration requirements of this section are also subject to the fee provisions in §338.22 of this title (relating to Fees for Aboveground Storage Vessels). Failure of owner or operator to register an aboveground storage vessel shall not exempt the owner or operator from fee assessment and payment.

(e) Changes or additional information. The owner or operator of an aboveground storage vessel must provide notice to the executive director of any changes to the registration for the facility within 30 days of the occurrence of the change. The owner or operator must provide the notice using the method authorized by the executive director. Changes that require notification include, but are not limited to:

- (1) the decommissioning of an aboveground storage vessel;
 - (2) adding a potential substance stored in an aboveground storage vessel;
 - (3) change in ownership of any aboveground storage vessel;
 - (4) compliance status of any aboveground storage vessel;
 - (5) the location of records for aboveground storage vessels.
- (f) Registration information.

(1) An owner or operator must provide all the registration information requested by the executive director for each regulated aboveground storage vessel owned.

(2) The owner or operator must fill out the registration information completely and accurately.

(3) The owner or operator must provide the registration information for all aboveground storage vessels located at a particular facility on the same registration form.

(4) Owners or operators who own or operate aboveground storage vessels located at multiple facilities must complete and file a separate registration form for each facility.

(g) Inadequate information. If the executive director determines that the registration information submitted is inaccurate, unclear, illegible, incomplete, or otherwise inadequate, the executive director may require the owner or operator to submit additional information. An owner or operator must submit any additional information within 30 days of receipt of a request.

(h) To cancel a registration, the owner or operator must provide notice and certify that the vessel is decommissioned and is no longer subject to the definition of aboveground storage vessel as defined in §338.2 of this title. The owner or operator must provide the notice using the method authorized by the executive director. The executive director shall not approve any request to remove an aboveground storage vessel from the program until all outstanding fees for the facility are paid in full.

§338.21. Certification.

(a) For aboveground storage vessels constructed and brought into service on or before September 1, 2027, an owner or operator must report to the executive director its compliance status with the standards under §338.5 of this title (relating to Standards) no later than September 1, 2027.

(b) For aboveground storage vessels constructed and brought into service on or before September 1, 2027, an owner or operator shall certify compliance under §338.5 of this title upon completion of the next regularly scheduled out-of-service maintenance of the aboveground storage vessel, but no later than September 1, 2037.

(c) For aboveground storage vessels constructed and brought into service after September 1, 2027, an owner or operator of an aboveground storage vessel shall certify compliance under §338.5 of this title no later than 30 days after the start of operation.

(d) The owner or operator shall re-certify compliance with the standards under §338.5 of this title every 10 years.

§338.22. Fees for Aboveground Storage Vessels.

(a) Purpose. This section establishes a fee in amounts sufficient to recover the reasonable costs to:

- (1) implement a registration program for affected facilities;
 - (2) review of any certifications submitted under §338.21 of this title (relating to Certification);
 - (3) inspect sites/facilities regulated under this chapter; and
 - (4) enforce compliance with applicable standards of §338.5 of this title (relating to Standards).
- (b) Fee assessment.

(1) The executive director will assess fees for each aboveground storage vessel subject to §338.20 of this title (relating to Registration) up to a maximum fee of \$2,000.00.

(2) The owner or operator must pay the registration fee upon initial registration and annually.

(3) The executive director will bill the owner or operator for the aboveground storage vessels on their site(s) annually. The owner or operator shall pay all fees by check, money order, electronic funds transfer, or through the executive director's payment portal. The owner or operator shall make any payments payable to the Texas Commission on Environmental Quality. If the executive director does not receive assessment by the invoice due date, the executive director shall assess penalties and interest for the late payment of fees in accordance with Chapter 12 of this title (relating to Payment of Fees).

(4) The executive director may adjust fees up to the maximum in this subsection, on an annual basis, and will notify fee payers through an appropriate notification process, such as but not limited to *Texas Register* publication with public comment. The executive director may adjust fees in this subsection in amounts sufficient to recover the reasonable costs to:

- (A) implement a registration program for affected facilities;
- (B) review initial and ten-year certifications;
- (C) amend certifications;
- (D) inspect certified facilities; and
- (E) enforce compliance with applicable standards of Texas Water Code §26.3442 and rules and orders adopted under those subsections.

(5) Regardless of actual billing date, the executive director will base the billing for registration fees on aboveground storage vessels listed on the registration as of September 1 of each year.

(6) Cancellation of a registration, whether by voluntary action on the part of the owner or as a result of involuntary proceedings initiated by the executive director, will not constitute grounds for refund, in whole or in part, of any fee paid under this section.

(7) Transfer of facility ownership will not entitle the transferring entity to a refund, in whole or in part of any fee already paid under this section. The executive director may not process a transfer request until the owner or operator has paid in full all fees owed to the commission by the owner or operator or for the registered aboveground storage vessels. Any owner or operator to whom a registration is transferred shall be liable for payment of any associated outstanding fees and penalties owed to the commission.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 25. MEMBERSHIP CREDIT

The Teacher Retirement System of Texas (TRS) adopts amendments to §25.162 relating to State Personal or Sick Leave Credit of Chapter 25, Subchapter L, in Title 34, Part 3, of the Texas Administrative Code and §25.302 relating to Calculation of Actuarial Costs of Service Credit, and §25.303 relating to Calculation of Actuarial Cost for Purchase of Compensation Credit of Chapter 25, Subchapter P, in Title 34, Part 3, of the Texas Administrative Code without changes to the proposed text as published in the June 9, 2023, issue of the *Texas Register* (48 TexReg 2927). The rules will not be republished.

REASONED JUSTIFICATION

The adopted amendments update one or more actuarial table used to calculate the cost of a service credit or compensation credit purchase. The adopted amendments incorporate new actuarial tables into each rule that have been updated based on the most recently-approved actuarial assumptions and new investment return assumption adopted by the TRS Board of Trustees (Board). The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Adopted amended §25.162 updates the actuarial table for the purchase of one year of service credit based on accumulated state personal or sick leave. Adopted amended §25.302 updates several actuarial tables relating to the purchase of service credit that must be purchased based on the actuarial present value of the credit, such as service credit for unreported service or out-of-state service. Lastly, adopted amended §25.303 updates several actuarial tables relating to the purchase of compensation credit that statute must be purchased based on the actuarial present value of the compensation. Minor, conforming changes to text have also been made to adopted amended §25.302 and §25.303 to incorporate these tables.

The adopted amended rules and updated tables shall become effective on September 1, 2023 and will be used to calculate the cost of any relevant service or compensation credit purchases initiated beginning in the 2023-2024 school year and going forward.

COMMENTS

No comments on the proposed adoption of the amendments were received.

SUBCHAPTER L. OTHER SPECIAL SERVICE CREDIT

34 TAC §25.162

STATUTORY AUTHORITY

The amendments are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §823.403, which provides that an eligible member is entitled to receive service credit based on the member's accumulated sick and personal leave if the member pays to TRS at the time service credit is granted the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership 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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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6506



SUBCHAPTER P. CALCULATION OF FEES AND COSTS

34 TAC §25.302, §25.303

STATUTORY AUTHORITY

The amendments are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §823.401, which provides that eligible members may establish equivalent member service credit based on certain types of out-of-state service by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.402, which provides that eligible members may establish equivalent membership service credit for certain developmental leave by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the

purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.404, which provides that an eligible member may establish equivalent membership service credit for work experience for which the member is entitled to a salary step under Education Code §21.403(b) if the member deposits with TRS, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.406, which provides that a member may establish membership service credit for service performed during a 90-day waiting period to become a member by depositing with TRS, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the TRS actuary of record and adopted by the Board; and Government Code §825.403, which provides that to establish service or compensation credit for unreported service or compensation, a person must deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service or compensation credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service and Government Code §825.403, concerning the collection of member's contributions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6506



CHAPTER 29. BENEFITS

The Teacher Retirement System of Texas (TRS) adopts amendments to §29.11 relating to Actuarial Tables and §29.21 relating to Beneficiary Tables of Chapter 29, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code and §29.71 relating to Tables of Chapter 29, Subchapter F, in Title 34, Part 3, of the Texas Administrative Code without changes to the text as proposed in the June 9, 2023, issue of the *Texas Register* (48 TexReg 2931). The rules will not be republished.

REASONED JUSTIFICATION

Each rule TRS adopts to amend currently incorporates one or more actuarial table used to calculate the retirement benefits of TRS retirees based on various retirement selections, such as electing for early-age retirement or a partial lump-sum option

payment. The adopted amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Adopted amended §29.11 updates several actuarial tables relating to early-age retirement reduction factors, reduction factors for service and disability retirement options, and reserve transfer factors. Adopted amended §29.21 updates the tables for unisex joint beneficiary life expectancy that are used when calculating life expectancy for the purposes of option beneficiary changes made under §824.1013, Government Code. Lastly, adopted amended §29.71 updates the actuarial table relating to the reduction factors to be applied to the annuity payments of retirees that elect to receive a partial lump-sum payment at the time of retirement. Minor, conforming changes to text have also been made to adopted amended §29.11 to incorporate these tables.

The adopted amended rules and updated tables shall become effective on September 1, 2023, and will generally be used to calculate the benefits for all service or disability retirements or option beneficiary changes that will be effective in the 2023-2024 school year and going forward.

COMMENTS

No comments on the proposed adoption of the amendments were received.

SUBCHAPTER A. RETIREMENT

34 TAC §29.11, §29.21

STATUTORY AUTHORITY

The adopted amendments are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §824.1013, which limits the monthly payments a new option beneficiary may receive after a beneficiary change under that section to the life expectancy of the beneficiary designated at retirement; Government Code §824.202, which provides the early-age retirement reduction factors and authorizes the Board to adopt tables that interpolate the application of each reduction factor by each month of age of retiree between two years of age; Government Code §824.204, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the service retirement option selected; Government Code §824.308, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the disability retirement option selected; and Government Code §825.309, which describes that if TRS transfers funds to a retired reserve account the amount transferred from the state contribution account must be an amount determined under actuarial tables adopted by the Board sufficient for the payments of benefits as they become due.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 824, Subchapter B (concerning Beneficiaries), Subchapter C (concerning Service Retirement Benefits), and Subchapter D (concerning Disability Retirement Benefits), Texas Government Code and Chapter

825, Subchapter D (concerning Management of Assets), Texas Government Code.

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, 2023.

TRD-202302757

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: September 1, 2023

Proposal publication date: June 9, 2023

For further information, please call: (512) 542-6506



SUBCHAPTER F. PARTIAL LUMP-SUM PAYMENT

34 TAC §29.71

STATUTORY AUTHORITY

The adopted amendment are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board, and Government Code §824.2045, which requires the service retirement annuity selected by a retiree to be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age without the partial lump-sum distribution.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 825, Subchapter C (concerning Service Retirement Benefits), Texas Government Code.

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, 2023.

TRD-202302758

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: September 1, 2023

Proposal publication date: June 9, 2023

For further information, please call: (512) 542-6506



CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS

34 TAC §47.17

The Teacher Retirement System of Texas (TRS) adopts amendment to rule §47.17 relating to Calculation for Alternate Payee Benefits Before a Member's Benefit Begins, of Chapter 47, in Title 34, Part 3, of the Texas Administrative Code without changes to the proposed text as published in the June 9, 2023, issue of the *Texas Register* (48 TexReg 2933). The rule will not be republished.

REASONED JUSTIFICATION

The adopted amendment to §47.17 incorporates a new actuarial table to calculate distributions made to an alternate payee under Government Code §804.005. The new actuarial table incorporated into the rule that has been updated based on the TRS Board of Trustees most recently approved actuarial assumptions and new investment return assumption. The new actuarial table was prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

The adopted amended rule and updated table are adopted to become effective on September 1, 2023 and will generally be used to calculate distributions to an alternate payee under Government Code §804.005 that are initiated in the 2023-2024 school year and going forward.

COMMENTS

No comments on the proposed adoption of the amendment were received.

STATUTORY AUTHORITY

The amended rule §47.17 is adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §804.005, which requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election.

CROSS-REFERENCE TO STATUTE

The adopted amendment to rule §47.17 implements Chapter 804, Subchapter A, Texas Government Code, concerning Qualified Domestic Relations Orders.

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, 2023.

TRD-202302759

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: September 1, 2023

Proposal publication date: June 9, 2023

For further information, please call: (512) 542-6506





TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 48, Community Care for Aged and Disabled, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 271, Community Care for Aged and Disabled.

The rules will be transferred in the Texas Administrative Code effective September 15, 2023.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 48

TRD-202302795



Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 48, Community Care for Aged and Disabled, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 271, Community Care for Aged and Disabled.

The rules will be transferred in the Texas Administrative Code effective September 15, 2023.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 48

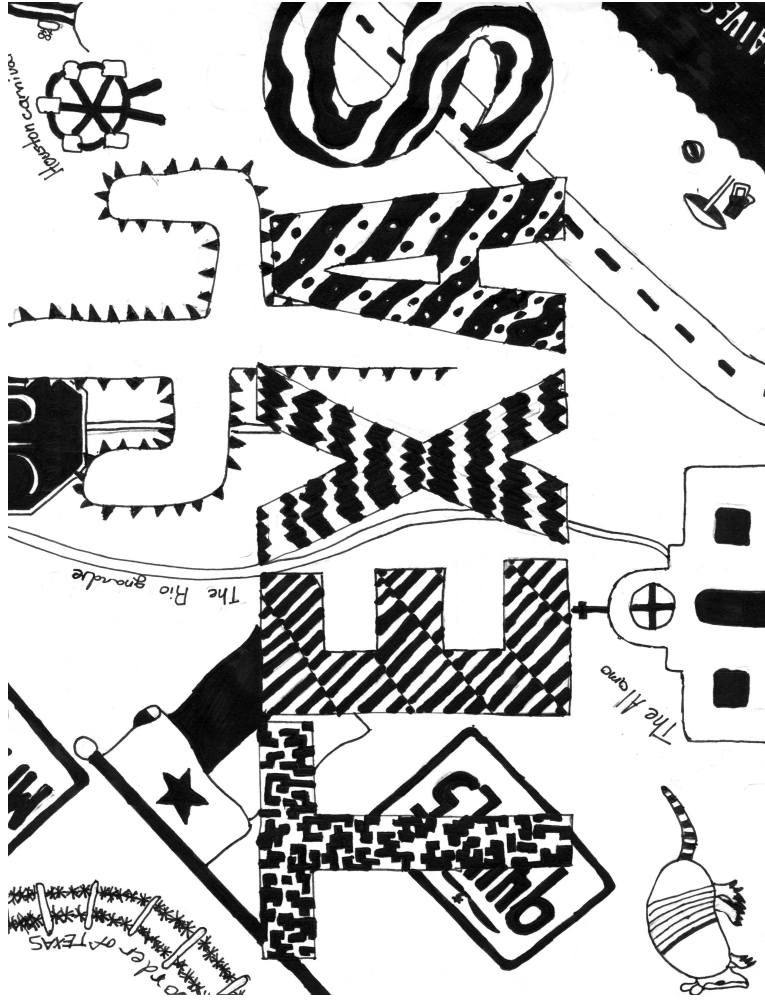
TRD-202302796



Figure: 40 TAC Chapter 48

Current Rules Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 48. Community Care for Aged and Disabled	Move to Title 26. Health and Human Services Part 1. Texas Health and Human Services Commission Chapter 271. Community Care for Aged and Disabled
Subchapter A. Definitions.	Subchapter A. Definitions.
§48.1201. Definitions of Program Terms.	§271.1. Definitions of Program Terms.
Subchapter B. Interest Lists.	Subchapter B. Interest Lists.
§48.1301. Definitions.	§271.3. Definitions.
§48.1302. Community Care Interest List.	§271.5. Community Care Interest List.
§48.1303. Enrollment.	§271.7. Enrollment.
Subchapter H. Eligibility.	Subchapter C. Eligibility.
§48.2901. Eligibility for Services.	§271.51. Eligibility for Services.
§48.2902. Income and Income Eligibles.	§271.53. Income and Income Eligibles.
§48.2903. Determination of Countable Income.	§271.55. Determination of Countable Income.
§48.2904. Income from Excludable Sources.	§271.57. Income from Excludable Sources.
§48.2905. Income from Exempt Sources.	§271.59. Income from Exempt Sources.
§48.2906. Age.	§271.61. Age.
§48.2907. Need.	§271.63. Need.
§48.2908. Indian-related Exemptions.	§271.65. Indian-related Exemptions.
§48.2910. Service Availability.	§271.67. Service Availability.
§48.2911. Family Care.	§271.69. Family Care.
§48.2912. Home-Delivered Meals.	§271.71. Home-Delivered Meals.
§48.2913. Adult Foster Care.	§271.73. Adult Foster Care.
§48.2914. Special Services to Persons with Disabilities.	§271.75. Special Services to Persons with Disabilities.
§48.2915. Day Activity and Health Services.	§271.77. Day Activity and Health Services.
§48.2917. Case Management Services.	§271.79. Case Management Services.
§48.2918. Primary Home Care or Community Attendant Services.	§271.81. Primary Home Care or Community Attendant Services.
§48.2919. Time Allocation for Escort Services.	§271.83. Time Allocation for Escort Services.
§48.2920. Residential Care.	§271.85. Residential Care.
§48.2921. Emergency Care.	§271.87. Emergency Care.
§48.2922. Resource Limits.	§271.89. Resource Limits.
§48.2923. Countable Resources.	§271.91. Countable Resources.
§48.2924. Resource Exclusions.	§271.93. Resource Exclusions.
§48.2928. Emergency Response Services.	§271.95. Emergency Response Services.
§48.2929. Residential Care Services.	§271.97. Residential Care Services.
Subchapter I. Case Management.	Subchapter D. Case Management.
§48.3901. Application for Services.	§271.151. Application for Services.
§48.3902. Recertification.	§271.153. Recertification.

§48.3903. Denial, Reduction, and Termination of Benefits.	§271.155. Denial, Reduction, and Termination of Benefits.
§48.3904. Special Casework Procedures for Adult Foster Care.	§271.157. Special Casework Procedures for Adult Foster Care.
§48.3905. Adult Foster Care Client Rights and Responsibilities.	§271.159. Adult Foster Care Client Rights and Responsibilities.
§48.3906. Adult Foster Care Personal Needs and Medical Expenses Allowance.	§271.161. Adult Foster Care Personal Needs and Medical Expenses Allowance.



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

State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 230, Professional Educator Preparation and Certification, pursuant to the Texas Government Code (TGC), §2001.039.

As required by the TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 230 continue to exist.

The comment period on the review of 19 TAC Chapter 230 begins August 18, 2023, and ends September 18, 2023. A form for submitting public comments on the proposed rule review is available on the Texas Education Agency (TEA) website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 230 at the September 29, 2023 meeting in accordance with the SBEC board operating policies and procedures.

TRD-202302778

Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Filed: August 7, 2023



The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 239, Student Services Certificates, pursuant to the Texas Government Code (TGC), §2001.039.

As required by the TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 239 continue to exist.

The comment period on the review of 19 TAC Chapter 239 begins August 18, 2023, and ends September 18, 2023. A form for submitting public comments on the proposed rule review is available on the Texas Education Agency (TEA) website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 239 at the September 29, 2023 meeting in accordance with the SBEC board operating policies and procedures.

TRD-202302777

Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Filed: August 7, 2023



Health and Human Services Commission

Title 26, Part 1

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

Chapter 566, Texas Home Living (TxHmL) Program and Community First Choice (CFC) Certification Standards

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

Comments on the review of Chapter 566, Texas Home Living (TxHmL) Program and Community First Choice (CFC) Certification Standards, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to: HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 566" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=566&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=566&rl=Y).

TRD-202302764

Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: August 4, 2023



Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code:

Chapter 371, Medicaid and Other Health and Human Services Fraud and Abuse Program

Subchapter B - Office of Inspector General

Subchapter C - Utilization Review

Subchapter E - Provider Disclosure and Screening

Subchapter F - Investigations

Subchapter G - Administrative Actions and Sanctions

Notice of the review of this chapter was published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2863). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 371 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 371. Any appropriate amendments to Chapter 371 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 371 as required by the Government Code, §2001.039.

TRD-202302882

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 8, 2023



State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 244, Certificate of Completion of Training for Appraisers, pursuant to the Texas Government Code, §2001.039. The SBEC proposed the review of 19 TAC Chapter 244 in the June 2, 2023 issue of the *Texas Register* (48 TexReg 2863).

Relating to the review of 19 TAC Chapter 244, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The following provides a summary of a public comment received on the proposal.

Comment. An individual commented that the 80% passing score for the TEXES Certification Exam for Special Education is too high for the stand-alone special education test, which is poorly constructed to begin with, and in no way measures teacher's efficiency and mastery with our special education population. The individual noted that there were two great teachers at their school who failed the special education exam multiple times by a question or two. The individual further commented that having in mind the teacher shortages, particularly in the special education field, it would be prudent to establish a passing range of scores-between 70% and 80%.

Board Response: The SBEC neither agrees nor disagrees. While the SBEC appreciates this comment and perspective, it is outside the scope of Chapter 244 and this proposed rule review.

This concludes the review of 19 TAC Chapter 244.

TRD-202302779

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: August 7, 2023



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS) adopts the review of the chapter below in Title 25, Part 1 of the Texas Administrative Code:

Chapter 229, Food and Drug

Subchapter A, Prescription Drug Price Disclosure

Subchapter B, Donation of Unused Drugs

Subchapter C, Purchase of Domestic Beef

Subchapter D, Regulation of Cosmetics

Subchapter F, Production, Processing, and Distribution of Bottled and Vended Drinking Water

Subchapter G, Manufacture, Storage, and Distribution of Ice Sold for Human Consumption, Including Ice Produced at Point of Use

Subchapter J, Minimum Standards for Narcotic Treatment Programs

Subchapter K, Texas Food Establishments

Subchapter L, Licensure of Food Manufacturers, Food Wholesalers, and Warehouse Operators

Subchapter N, Current Good Manufacturing Practice and Good Warehousing Practice in Manufacturing, Packing, or Holding Human Food

Subchapter O, Licensing of Wholesale Distributors of Nonprescription Drugs--Including Good Manufacturing Practices

Subchapter P, Assessment of Administrative Penalties

Subchapter Q, License/Permit Applications

Subchapter R, Issuance of Certificates of Free Sale and Sanitation and/or Certificates of Origin and Sanitation

Subchapter S, Pesticides in Food

Subchapter T, Licensure of Tanning Facilities

Subchapter U, Permitting Retail Food Establishments

Subchapter V, Minimum Standards for Licensure of Tattoo and Certain Body Piercing Studios

Subchapter W, Licensing of Wholesale Distributors of Prescription Drugs--Including Good Manufacturing Practices

Subchapter X, Licensing of Device Distributors and Manufacturers

Subchapter Y, Regulations to Prohibit the Sale of Dietary Supplements Containing Ephedrine Group Alkaloids; and to Restrict the Sale and Distribution of Certain Products Containing Ephedrine

Subchapter Z, Inspection Fees for Retail Food Establishments

Subchapter AA, Regulation of Food Salvage Establishments and Brokers

Subchapter BB, Regulation of Drug Salvage Establishments and Brokers

Subchapter CC, Regulation of Device Salvage Establishments and Brokers

Subchapter DD, Regulation of Cosmetic Salvage Establishments and Brokers

Subchapter EE, Cottage Food Production Operations

Subchapter FF, Farmers' Markets

Subchapter GG, Sanitary Transportation of Human Foods

Notice of the review of this chapter was published in the August 19, 2022, issue of the *Texas Register* (47 TexReg 5005). HHSC and DSHS received no comments concerning the review of this chapter.

HHSC and DSHS have reviewed Chapter 229 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons continue to exist and readopts these rules. Any appropriate amendments to Chapter 229 identified by the agency during the rule review will be published in the Proposed Rules section of a future issue of the *Texas Register* and will be open for public comment prior to final adoption by the agency.

This concludes the agency's review of 25 TAC Chapter 229, Food and Drug, as required by the Texas Government Code, §2001.039.

TRD-202302811

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: August 8, 2023



Health and Human Services Commission

Title 26, Part 1

The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code:

Chapter 88, State Long-Term Care Ombudsman Program

Notice of the review of this chapter was published in the June 9, 2023, issue of the *Texas Register* (48 TexReg 2971). HHSC received one comment concerning this chapter.

Comment: One commentor recommends updating 26 TAC Chapter 88, including Subchapter E, Requirements of a Host Agency, to come into compliance with the changes made in the 2020 reauthorization of the Older Americans Act, as amended through P.L. 116-131.

Response: HHSC agrees with the comment. Prior to the reauthorization in 2020 of the Older Americans Act of 1965, §306(a)(9)(A) required that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program, expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2000. The 2020 reauthorization revised §306(a)(9)(A) to require that the area agency on aging expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2019.

A revision to 26 TAC §88.406 is needed to reflect this change to §306(a)(9)(A). The Office of the State Long-Term Care Ombudsman plans to make this revision in an upcoming rule project.

HHSC has reviewed Chapter 88 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 88. Any appropriate amendments to Chapter 88 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 88 as required by the Government Code, §2001.039.

TRD-202302877

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: August 8, 2023



The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code:

CHAPTER 711, INVESTIGATIONS OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS

SUBCHAPTER A, INTRODUCTION

SUBCHAPTER C, DUTY TO REPORT

SUBCHAPTER E, CONDUCTING THE INVESTIGATION

SUBCHAPTER F, PROVISION OF SERVICES

SUBCHAPTER G, RELEASE OF REPORT AND FINDINGS

SUBCHAPTER J, APPEALING THE INVESTIGATION FINDING

SUBCHAPTER L, EMPLOYEE MISCONDUCT REGISTRY

Notice of the review of this chapter was published in the June 9, 2023, issue of the *Texas Register* (48 TexReg 2971). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 711 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 711. Any appropriate amendments to Chapter 711 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 711 as required by the Government Code, §2001.039.

TRD-202302874

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: August 8, 2023



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 80, Contested Case Hearings, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, re-adoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the March 24, 2023, issue of the *Texas Register* (48 TexReg 1643).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 80 are required because they provide the procedures for contested case hearings regarding permit applications and enforcement actions, including action by the commission on these items and requirements for challenging final actions of the commission. The commission identified non-substantive changes that may be addressed during future rulemakings.

Public Comment

The public comment period closed on April 24, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review, the commission finds that the reasons for adopting the rules in 30 TAC Chapter 80 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039. Changes to the rules identified as part of this review process may be addressed in a separate rulemaking action, in accordance with the Texas Administrative Procedure Act.

TRD-202302767

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 4, 2023



The Texas Commission on Environmental Quality (commission or TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 122, Federal Operating Permits Program, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the February 24, 2023, issue of the *Texas Register* (48 TexReg 1158) and an extension of the public comment was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 122 are required because the rules implement the Federal Operating Permits Program established under Federal Clean Air Act (FCAA), Title V. Under Texas Health and Safety Code, §382.051 and §§382.054 - 382.0564, the Texas Legislature provided the commission with the authority to regulate federal sources through the issuance and enforcement of a federal operating permit. A federal operating permit is required for: an affected source as defined by FCAA, §402; a major source as defined by FCAA, Title III; a major source as defined by FCAA, Title V; a source subject to the standards or regulations under FCAA, §111 or §112; a source required to have a permit under FCAA, Title I, Part C or Part D; a major stationary source or major emitting facility under FCAA, §302; and any other stationary source in a category designated by the United States Environmental Protection Agency (EPA) through rulemaking as subject to the requirements of FCAA, Title V.

Texas received final interim approval from the EPA in 1996 to implement the Federal Operating Permits Program. In 2001, Texas was granted final full approval by EPA to implement the Federal Operating Permits Program. Maintaining Chapter 122 provides TCEQ the authority to implement, regulate, and enforce regulations for applicable sources. Without the rules codified in Chapter 122, the EPA could make a determination that TCEQ is not adequately administering and enforcing the operating permits program. After such a determination, if not corrected by TCEQ, authority to administer this program would be

remitted to the EPA and Region 6 would have to take over the program and issue the permits. Ultimately, the result would be an increased burden on the regulated community, and the state would be subject to federal sanctions as specified in FCAA, §502(i) for failure to implement and enforce the required permitting program, which include loss of federal highway funds and the application of emission offset requirements for new or modified sources of emissions.

Public Comment

The public comment period closed on April 14, 2023. Comments were received on this review from the United States Environmental Protection Agency Region 6 (EPA).

Comments

EPA provided a variety of comments and concerns about the Title V program. A summary of EPA's comments is provided below:

A. TCEQ should evaluate whether any of the Chapter 122 rules should be revised or amended to reflect changes made to the Part 70 regulations to the petition provisions made final on February 5, 2020 (85 Federal Register 6431). EPA states 30 TAC §122.360(a) does not currently comply with the additional language added to 40 CFR §70.12(a)(1).

B. EPA stated there are recurring programmatic issues with the TCEQ Title V program that EPA has objected to in a number of Title V permits, and TCEQ should revise Chapter 122 rules to address those issues.

C. EPA stated there is inadequate incorporation of permits by rule (PBRs) into Title V permits and suggests revising the definition of "applicable requirement" in 30 TAC §122.10(2)(H) to clarify that all emission units permitted under Chapter 106 or Chapter 116 must be included in Title V permits.

D. TCEQ should make necessary corrections to their rules or forms to ensure that documentation of insignificant activities which are exempted due to size or production rate are included in a Title V permit application.

E. EPA stated that they support TCEQ's efforts to incorporate PBRs into the Title V permit in a manner clearly identifying each registration and the emission unit(s) to which it applies and noted that the PBR Supplemental Tables are accomplishing the task. EPA stated they regularly find the PBR Supplemental Tables do not always identify all registered PBRs and lack detailed information. EPA stated TCEQ should evaluate whether Chapter 122 rules should be revised to ensure that PBRs will be cited to the lowest level of citation necessary to identify what applicable requirements apply.

F. EPA suggested that Title V permits issued by TCEQ should include a reference table identifying all emission units with the emission point number (EPN), or other identifier from the New Source Review (NSR) permit, and the Unit/Group/Process ID number from the Title V permit.

G. TCEQ should consider whether changes to Chapter 122 rules are necessary to clarify that emission limitations and operational limits cannot not be claimed as confidential under the Title V program, and to clarify that Title V applications are not entitled to confidential treatment.

H. EPA stated that while certain emission limitations and standards can be incorporated by reference into Title V permits, they object to TCEQ's use of incorporation by reference for requirements contained in Plant-Wide Applicability Limit (PAL), Prevention of Significant Deterioration (PSD), and Nonattainment NSR permits. EPA stated TCEQ should confirm that the program is being implemented properly to ensure Title V permits satisfy the FCAA.

I. TCEQ should consider revising 30 TAC §122.222 to require that off-permit changes and operational flexibility actions are consolidated into Title V permits on renewal.

J. EPA stated a concern that TCEQ routinely issues Title V permits that contain high level citations for New Source Performance Standard (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) applicable requirements. EPA stated TCEQ should consider revising Chapter 122 rules to require NSPS and NESHAP applicable requirements are identified to a sufficient detail within Title V permits.

K. EPA stated a concern that TCEQ's OP-REQ1 application form does not include all the emissions related information required by 40 CFR §70.5(c)(3) and stated that TCEQ should ensure all of its forms comply with the federal standard.

Response to all comments

The commission recognizes that the EPA has expressed concern about a number of aspects of the Chapter 122 rules implementing the Federal Operating Permit Program. As stated in the February 24, 2023, *Texas Register* notice of this rules review, the commission is not considering any rule amendments to the Chapter 122 rules as part of this review action. The Federal Operating Permits Program authorization mechanism implemented by Chapter 122 is an essential component of the agency's air permitting program, and the commission finds that the reasons that the Chapter 122 rules were initially adopted continue to exist. The commission is re-adopting Chapter 122 without change. The commission will consider these comments as ongoing stakeholder input for possible future policy or rulemaking action.

As a result of the review, the commission finds that the reasons for adopting the rules in 30 TAC Chapter 122 continue to exist and re-opts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202302768
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 4, 2023



The Texas Commission on Environmental Quality (TCEQ or commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 218, Brine Evaporation Pits, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the February 24, 2023, issue of the *Texas Register* (48 TexReg 1158) and an extension of the public comment was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 218 are required to implement Texas Water Code, §26.132 by regulating brine evaporation pit operations that are operated for the commercial production of brine product by solar evaporation and that were in operation on or after October 16, 2008. Chapter 218 prohibits discharge from the facility into or adjacent to water in the state; requires owners or operators to obtain an individual permit to operate the facility; establishes standards for design, construction, lo-

cation, operation, and maintenance to prevent contamination of surface and groundwater resources; requires the owner or operator to provide financial assurance for proper closure of the evaporation pit; and requires the owner or operator to obtain pollution liability insurance for bodily injury and property damage to third parties.

Public Comment

The public comment period closed on April 14, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 218 continue to exist and re-opts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202302769
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 4, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas administrative Code (TAC) Chapter 305, Consolidated Permits, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the February 24, 2023, issue of the *Texas Register* (48 TexReg 1158) and an extension of the public comment was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

The review assessed whether the initial reasons for adopting the rules in Chapter 305 continue to exist and the commission has determined that those reasons exist. The rules in Chapter 305 are required because the rules set out the standards and requirements for applications, permits, executive director authorizations, and actions by the commission to carry out the responsibilities for the management of waste disposal activities and administration of the National Pollutant Discharge Elimination System Program through the Texas Pollutant Discharge Elimination System Program. In addition, there are references to air emissions interspersed in the chapter. The rules in Chapter 305 generally set out requirements for signatories to the original or amendment applications and describe what activities trigger amendments. The rules also contain application contents for permits, licenses, and waste post-closure orders.

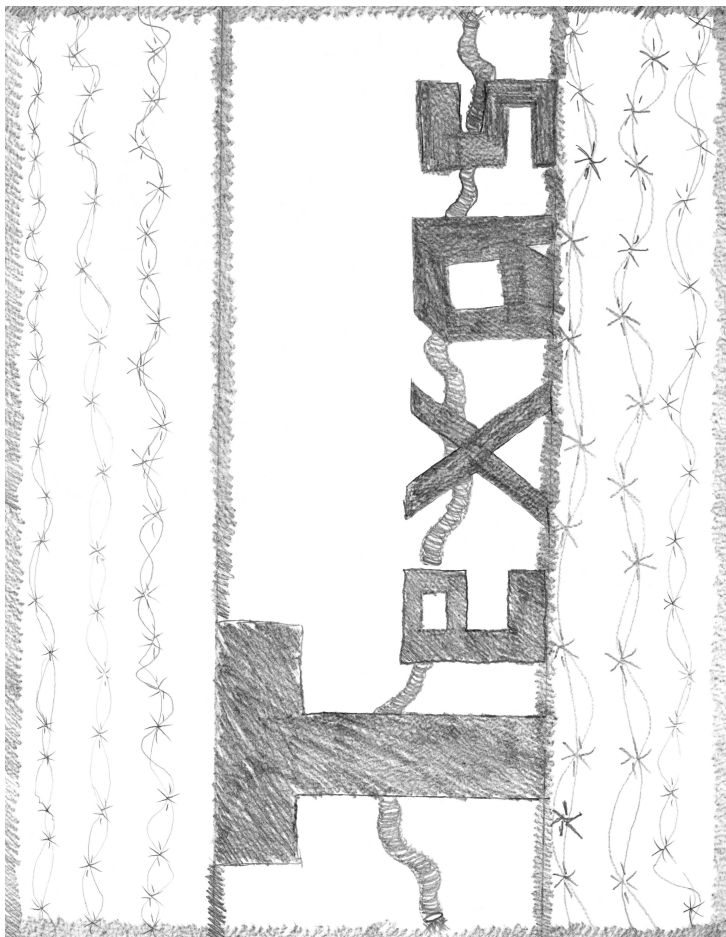
Public Comment

The public comment period closed on April 14, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 305 continue to exist and re-opts the rules in Chapter 305 in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202302770
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 4, 2023





TABLES & GRAPHICS

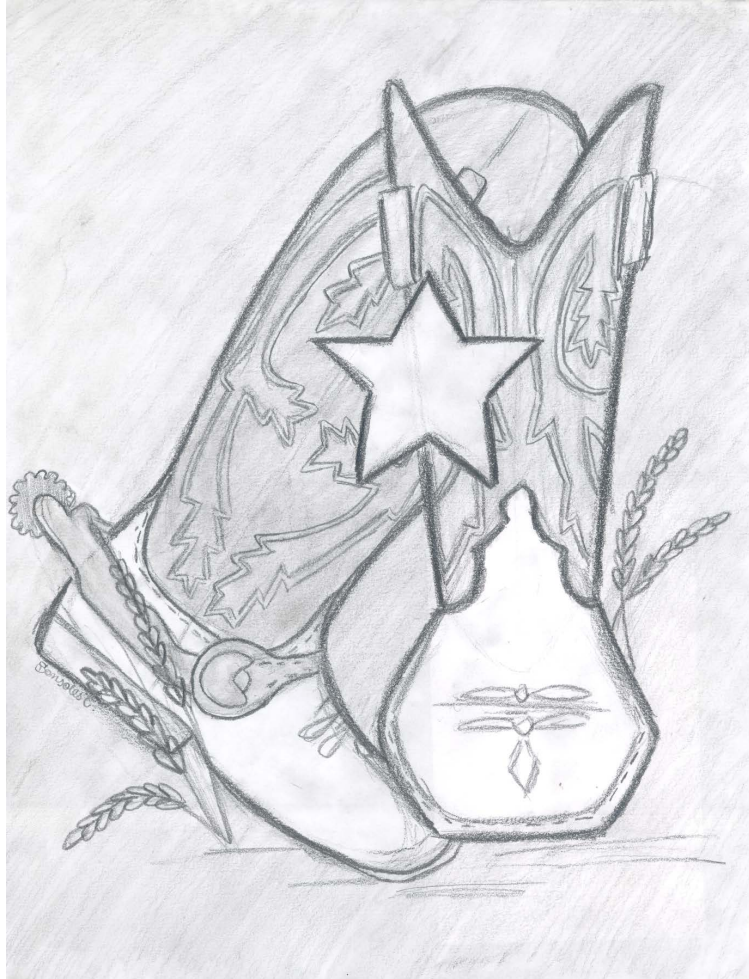
Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

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 Chapter 338 - Preamble

Table 1: Adopted Preliminary Fee Schedule

Capacity in barrels (bbls)	500	10,000	20,000	50,000	100,000	200,000	300,000
Per ASV Flat Fee	\$200	\$200	\$200	\$200	\$200	\$200	\$200
Per barrel Fee (\$0.0024/ bbl)	-	-	-	\$120	\$240	\$480	\$720
Total per ASV Fee	\$200	\$200	\$200	\$320	\$440	\$680	\$920



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/14/23 - 08/20/23 is 18% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/14/23 - 08/20/23 is 18% for commercial² credit.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202302901

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: August 9, 2023

Texas Education Agency

Request for Applications (RFA) Concerning Subchapter G Adult Education Charter Application (RFA #701-24-108)

Filing Authority. Texas Education Code, §12.255

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-24-108 from eligible entities to operate adult education charter schools. Possible eligible entities include nonprofit entities; school districts; an entity granted a charter under Texas Education Code (TEC), Chapter 12, Subchapter D; general academic teaching institutions; public junior colleges; or public technical institutes, as defined by TEC, §61.003. The entity, or a member of the entity's executive leadership, must have a successful history of providing education services, including industry certifications and job placement services, to adults 18 years of age and older whose educational and training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar marginalizing circumstances. For any of the previously listed entities to be eligible, the criteria named must be met in full, describing a history serving the identified adult learner populations as well as demonstrable success serving those populations. At least one member of the applicant team must attend one required applicant information session webinar. In addition, the board president of the entity, if identified, must attend. A webinar will be held on Friday, August 25, 2023. The public may participate in the webinar by registering in advance at https://zoom.us/webinar/register/WN_sd965zRjS6yYtv-TAMKorkw. Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend the mandatory live webinar in its entirety will disqualify an applicant from further consideration.

Description. The purpose of an adult education charter is to meet industry needs for a sufficiently trained workforce within the state and strengthen the economic and educational prosperity of the state. The adult education charters must be designed to offer a high school program that can lead to a diploma and career and technology education courses that can lead to industry certification. The entity must demonstrate through the application process that the proposed school model complies with allowable provisions under state law and the specific provisions for adult education under TEC, §12.1259. Those provisions include using an instructional model in which a significant portion of instruction, as approved by the commissioner of education, is delivered in a teacher-led, interactive classroom environment; providing access to career and technical education courses that lead to an industry certification, career readiness training, postsecondary counseling, and job-placement services; and providing support services to students, including child care at no cost to students, life coaching services, at a ratio not to exceed one life coach for every 100 students, that use strategic and holistic interventions designed to facilitate graduation planning and assist students in overcoming life obstacles to achieve academic and career goals, mental health counseling, instructional support services for students with identified disabilities or impairments, and transportation assistance. An adult high school charter program is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, health and safety, requirements to report an educator's misconduct, and the right of an employee to report a crime. The commissioner will evaluate each adult education charter school annually according to the performance framework adopted specifically for these schools. The commissioner may revoke the charter if the charter's adult education program fails to meet the minimum performance standards established by commissioner rule on the applicable accountability framework for three consecutive school years after the second year of operation.

Dates of Project. An electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Tuesday, October 31, 2023, to be eligible for review.

Project Amount. TEC, §12.263, specifies the following.

(a) Except as otherwise provided by this section, funding for an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, is an amount per participant through the Foundation School Program equal to the amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program for the student's attendance at an open-enrollment charter school in accordance with TEC, §12.106.

(b) For purposes of determining the average daily attendance of an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, a student is considered to be in average daily attendance, with a 100% attendance rate, for (1) all of the instructional days of the school year, if the student is enrolled for at least 75% of the school year; (2) half of the instructional days of the school year, if the student is enrolled for at least 50% but less than 75% of the school year; (3) a quarter of the instructional days of the school year, if the student

is enrolled for at least 25% but less than 50% of the school year; or (4) one-tenth of the instructional days of the school year, if the student is enrolled for at least 10% but less than 25% of the school year.

(c) A student enrolled in an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, for less than 10% of a school year may not be counted toward the adult education program's average daily attendance for that school year.

(d) For purposes of the compensatory education allotment under TEC, §48.104, the commissioner shall (1) permit an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, to give a final report at the end of each school year of students who were enrolled in the adult education program at any time during that school year and who qualify for that allotment; and (2) provide the allotment for each student reported under subsection (d)(1) in an amount proportional to the duration of the student's enrollment in the adult education program.

(e) For purposes of the college, career, or military readiness outcomes bonus under TEC, §48.110, notwithstanding subsection (f) of that section, an annual graduate of an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, demonstrates career readiness by earning an industry-accepted certificate not later than six months after completing the program.

(f) In addition to funding provided under subsection (a), an eligible entity granted a charter under TEC, Chapter 12, Subchapter G, is entitled to receive for the adult education program an annual allotment, provided in accordance with a schedule established by commissioner rule, equal to the maximum basic allotment under TEC, §48.051(a) or (b), multiplied by (1) for each credit earned by a student enrolled in the adult education program during the preceding school year (A) 0.01 for a course other than a career and technology education course; and (B) 0.02 for a career and technology education course; and (2) 0.1 for each student who successfully completed the adult education program and earned a high school diploma during the preceding school year.

(g) TEC, §12.107 and §12.128, apply as though funds under this section were funds under TEC, Subchapter D.

(h) Notwithstanding any other law, for purposes of any budget reductions requested by the Legislative Budget Board or the governor, any money received by a nonprofit entity granted a charter under TEC, Chapter 12, Subchapter G, or appropriated to the agency for purposes of operating an adult education program under TEC, Chapter 12, Subchapter G, is considered to be part of the foundation school program and is not subject to those budget reductions. TEC, §12.258, specifies for admission that (a) a person who is at least 18 years of age and not more than 50 years of age is eligible to enroll in an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, if the person (1) has failed to complete the curriculum requirements for high school graduation; or (2) has failed to perform satisfactorily on an assessment instrument required for high school graduation.

(b) In admitting students to an adult education program operated under a charter granted under TEC, Chapter 12, Subchapter G, an eligible entity shall give priority to a person who has not earned a high school equivalency certificate.

Selection Criteria. A complete description of selection criteria is included in the RFA. The commissioner may approve adult high school charter schools as provided in TEC, §12.255. There is currently one adult education charter approved under TEC, §12.255. There is a cap of 10 adult education charters approved under TEC, §12.255.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Subchapter G Adult Education Charter Application (RFA

#701-24-108), which includes an application and guidance, may be obtained on the TEA website at <https://tea.texas.gov/texas-schools/texas-schools-charter-schools/charter-school-applicants>.

Further Information. For clarifying information about the adult high school charter school application, contact the Division of Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

Issued in Austin, Texas, on August 9, 2023.

TRD-202302895

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: August 9, 2023

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 19, 2023**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **September 19, 2023**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: BUCKEYE KNOLL, INCORPORATED; DOCKET NUMBER: 2023-0257-UTL-E; IDENTIFIER: RN101439289; LOCATION: George West, Live Oak County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$510; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(2) COMPANY: City of Athens; DOCKET NUMBER: 2021-1168-MWD-E; IDENTIFIER: RN101702041; LOCATION: Athens, Henderson County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010143001, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with permitted effluent limitations; PENALTY: \$18,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$15,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: CITY OF HILLSBORO; DOCKET NUMBER: 2023-0905-WQ-E; IDENTIFIER: RN102844180; LOCATION: Hillsboro, Hill County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit for stormwater discharges; PENALTY: \$875; ENFORCEMENT COORDINATOR: Heather Lancour, (806) 468-0507; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: CLIFTON FOOD MART, L.L.C.; DOCKET NUMBER: 2022-0342-PST-E; IDENTIFIER: RN101662724; LOCATION: Clifton, Bosque County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; and 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form; PENALTY: \$6,469; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: Denali Water Solutions LLC and Fralise Farm and Ranch, LLC; DOCKET NUMBER: 2022-0890-SLG-E; IDENTIFIER: RN111471389; LOCATION: Sour Lake, Hardin County; TYPE OF FACILITY: water treatment plant (WTP) residuals land application site; RULES VIOLATED: 30 TAC §312.4(a) and §312.122, by failing to obtain authorization to dispose of WTP residuals in a land application unit; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Heather Lancour, (806) 468-0507; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: Klippenstein Trailers, LLC; DOCKET NUMBER: 2023-0615-AIR-E; IDENTIFIER: RN111355475; LOCATION: Petty, Lamar County; TYPE OF FACILITY: trailer manufacturing facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$2,675; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: M A MORTENSON COMPANY; DOCKET NUMBER: 2023-0880-WQ-E; IDENTIFIER: RN111417531; LOCATION: Haskell, Haskell County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$875; ENFORCEMENT COORDINATOR:

Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(8) COMPANY: Pool Brothers, LLC; DOCKET NUMBER: 2023-0551-MWD-E; IDENTIFIER: RN109927756; LOCATION: Alvarado, Johnson County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0015611001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$25,866; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Shell USA, Incorporated f/k/a Shell Oil Company; DOCKET NUMBER: 2021-0555-AIR-E; IDENTIFIER: RN100211879; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), 116.715(a), and 122.143(4), New Source Review Permit Numbers 21262 and PSDTX928, Special Conditions Number 1, Federal Operating Permit Number O1669, General Terms and Conditions and Special Terms and Conditions Number 26, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,250; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: SHIELDCOAT TECHNOLOGIES INCORPORATED; DOCKET NUMBER: 2023-0921-WQ-E; IDENTIFIER: RN100212679; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit for stormwater discharges; PENALTY: \$875; ENFORCEMENT COORDINATOR: Mistie Gonzales, (254) 761-3056; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202302799

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: August 8, 2023



Enforcement Orders

An agreed order was adopted regarding YOE GROUP, LTD., Docket No. 2020-1133-PST-E on August 8, 2023 assessing \$5,351 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RCH WATER SUPPLY CORPORATION, Docket No. 2021-0601-PWS-E on August 8, 2023 assessing \$3,150 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Megan L. Grace, 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 Juan Francisco Rodriguez, Docket No. 2022-0147-AIR-E on August 8, 2023 assessing \$5,000 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.

TRD-202302903
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 9, 2023

◆ ◆ ◆
Notice of an Application for a Temporary Water Use Permit
Application No. 13884

Notices Issued August 03, 2023

Chesapeake Operating, L.L.C., Applicant, P.O. Box 18496, Oklahoma City, Oklahoma 73154, seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County. More information on the application and how to participate in the permitting process is given below.

The application was received on October 28, 2022. Additional information and fees were received on December 1 and 8, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 20, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, stream-flow restrictions and installing a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by August 21, 2023. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 21, 2023. The Executive Director may approve the application unless a written request for a contested case hearing is filed by August 21, 2023.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 13884 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>

TRD-202302906
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 9, 2023

◆ ◆ ◆
Notice of District Petition

Notice issued August 7, 2023

TCEQ Internal Control No. D-06282023-060; Hays Commons Land Investments, LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Hays Commons Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Horizon Bank, SSB, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 290.388 acres located within Hays County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of Hays. The petition further states that the proposed District will: (1) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to provide a water supply for municipal uses, domestic uses, and commercial purposes; (2) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to gather, conduct, divert and control local storm water or other local harmful excesses of water in the proposed District and the payment of organization expenses, operational expenses during construction and interest during construction; (4) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to provide such other facilities, systems, plants and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner

tioners that the cost of said project will be approximately \$30,000,000 (\$24,500,000 for water, wastewater, and drainage and \$5,500,000 for roads). The Property is located within the extraterritorial jurisdiction of the City of Hays, Hays County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land within the proposed District.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

TRD-202302907

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 9, 2023



Notice of District Petition

Notice issued August 7, 2023

TCEQ Internal Control No. D-06162023-032; Bailey Land Investments, LP, a Texas limited partnership and Armbruster Land Investments, LP, a Texas limited partnership, (Petitioners) filed a petition for creation of Persimmon Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are two lienholders, International Bank of Commerce and Labenski Branch, LP, a Texas limited partnership, on the property to be included in the proposed District and information provided indicates that the lienholders consent to the creation of the proposed District; (3) the proposed District will contain approximately 459 acres located within Hays County, Texas; and (4) the land within the proposed District is within the extraterritorial jurisdiction of the City of Buda. In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioners submitted a petition to the City of Buda, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioners submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioners to initiate proceedings to include the land within the proposed District. The petition further states that the proposed District will purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to: (1) provide a water supply for municipal uses and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert, and control local stormwater or other local harmful excesses of water in the proposed District and the payment of organization expenses, operational expenses during construction and interest during construction; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) provide such other facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$110,840,000 (\$91,320,000 for water, wastewater, and drainage plus \$19,520,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries.

You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

TRD-202302908

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 9, 2023



Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is 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 19, 2023**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO 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 DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 19, 2023**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, pro-

vides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: John Bednarik; DOCKET NUMBER: 2022-0154-MSW-E; TCEQ ID NUMBER: RN109856955; LOCATION: 263 County Road 4071, Woodville, Tyler County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$3,750; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202302808

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: August 8, 2023



Notice of Water Quality Application

The following notice was issued on August 02, 2023:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *Texas Register*.

INFORMATION SECTION

Campbell Soup Supply Company L.L.C., which operates Campbell Soup Paris Plant, a canning facility that produces various soups and other specialty foods, and manufactures steel containers, has applied for a minor amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001012000 to move the monitoring requirements and effluent limitations for oil and grease from internal Outfall 101 to Outfall 001 and to remove Other Requirement No. 13 (self-imposed operator certification requirements). The draft permit authorizes the discharge of treated process wastewater, utility wastewater, and stormwater via Outfall 001 at a daily average flow rate not to exceed 10,000,000 gallons per day. The facility is located at 500 North Loop 286, which is approximately 1/4 mile west of the intersection of United States Loop Highway 286 and United States Highway 271, in the northern portion of the City of Paris, Lamar County, Texas 75460.

TRD-202302904

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 9, 2023



Notice Public Meeting New Permit No. WQ0016202001

APPLICATION. The Psalm 25:10 Foundation, 3000 Altamesa Boulevard, Suite 300, Fort Worth, Texas 76133, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016202001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. TCEQ received this application on August 12, 2022.

The facility will be located approximately 0.5 miles northwest of the intersection of West Farm-to-Market Road 4 and Farm-to-Market Road 2331, in Johnson County, Texas 76044. The treated effluent will be

discharged to an unnamed tributary, thence to West Fork Nolan River, thence to Nolan River, thence to Lake Pat Cleburne in Segment No. 1228 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and West Fork Nolan River. The designated uses for Segment No. 1228 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.554722%2C32.400555&level=12>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, September 19, 2023 at 7:00 p.m.

Cleburne Conference Center

1501 W. Henderson Street

Cleburne, Texas 76033

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our web site at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at City of Godley Municipal Complex, City Secretary's Office, 200 West Railroad Street, Godley, Texas. Further information may also be obtained from The Psalm 25:10 Foundation at the address stated above or by calling Mr. Richard Alberque, Director of Land Development, TCCI Land Development Inc., at (214) 734-0360/(469) 688-8224.

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: August 04, 2023

TRD-202302905

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 9, 2023

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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 28, 2023 to August 4, 2023. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, August 11, 2023. The public comment period for this project will close at 5:00 p.m. on Sunday, September 10, 2023.

Federal License and Permit Activities:

Applicant: Bobby Hall

Location: The project site is located in wetlands adjacent to the Gulf of Mexico, at 242 County Road 230, in Sargent, Matagorda County, Texas.

Latitude and Longitude: 28.772331, -95.611846

Project Description: The applicant proposes to discharge 555.55 cubic yards of fill material into 0.17 acre of wetlands adjacent to the Gulf of Mexico for the purposes of a residential home construction with required amenities.

The applicant has stated that they have avoided and minimized the environmental impacts by using the minimal amount of fill material necessary to meet their residential infrastructure needs. The applicant has not proposed mitigation.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2021-00779. This application will be reviewed pursuant to Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 23-1344-F1

Applicant: Alys Capital Credit Fund, LLC

Location: The 11.5-acre project site is located in palustrine wetlands on North Padre Island immediately adjacent to, and southwest of, the intersection of South Padre Island Drive/Park Road 22 and Whitecap Boulevard, in Corpus Christi, Nueces County, Texas.

Latitude and Longitude:

Project Site: Latitude: 27.60059, -97.22332

Proposed Mitigation Site: Latitude: 27.51216, -97.26941

Project Description: The applicant proposes to place approximately 21,500 cubic yards of clean earthen fill into 8.8 acres of palustrine wetland in order to construct a hotel and condominium residences on North Padre Island, Texas. The project would consist of a five-story development, including one-, two-, three-, and four-bedroom units with ground floor retail and office components, and a rooftop pool, restaurant, bar, and amenity desk. Site development would also include additional commercial pad sites within the property boundary to support the overall project. In total, the project includes 245 residential units, 27,802-square-foot of commercial space, 15,645-square-foot of office space, 2,635-square-foot of storage, two restaurant pad sites totaling 11,148-square-foot, parking facilities for 690 vehicles, and various other common areas and amenities.

Unavoidable impacts to approximately 8.8 acres of palustrine wetland would be compensated for by the implementation of an approximate 21.4-acre offsite permittee-responsible mitigation project on Nueces County-owned land in Kleberg County property, located approximately 6.5 miles south-southwest of the impact site. The proposed mitigation property includes a historical access road and disturbed area, and historically excavated drainage features that act to drain natural wetland habitat. Proposed mitigation components total approximately 21.4 acres and include wetland creation, enhancement, and restoration. As proposed, the applicant states that the mitigation project would result in no-net-loss of aquatic habitat value and function and would provide enhanced value to the watershed and to numerous avian and mammalian species at a 2.4:1 mitigation-to-impact ratio.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2007-01509. This application will be reviewed pursuant to Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 23-1342-F1

Applicant: Carlo Cantu

Location: The project site is located in the Laguna Madre, adjacent to 116 Bay Harbor, South Padre Island, in Cameron County, Texas.

Latitude and Longitude: 26.1317, -97.1743

Project Description: The applicant proposes to build a three story, single-family residence with a driveway. The residence would consist of a driveway and sidewalk leading to the entry, the footprint of the house, and seven driven piles. The driveway and sidewalk would impact 0.001 acre of transitional palustrine emergent marsh (PEM). The house footprint would impact 0.031 acre of transitional PEM and estuarine and marine wetland habitat. Seven piles would be driven to support the upper stories of the residence and impact 0.0006 acre of estuarine and marine wetland habitat. The estuarine and marine wetland habitats are tidally influenced and piles may be within open water during certain times of the day.

The applicant has stated that they have avoided and minimized the environmental impacts by using seven driven piles to support the upper stories of the residence. The slope of the base of the residence has also been increased so that impacts are reduced. No mitigation is proposed.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2023-00151. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 23-1282-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-202302809

Mark Havens

Chief Clerk

General Land Office

Filed: August 8, 2023

Texas Health and Human Services Commission

Public Notice: Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act.

The purpose of the amendment is to update the payment rate for the Pediatric Care Facility Special Reimbursement Class of Nursing Facilities. HHSC is making this change in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 35), which provides appropriations for a reimbursement rate increase for this facility type. The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$159,117 for federal fiscal year 2023, consisting of \$99,241 in federal funds and \$59,876 in state general revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$1,909,401, consisting of \$1,148,505 in federal funds and \$760,896 in state general revenue. For federal fiscal

year 2025, the estimated annual aggregate fee-for-service expenditure is \$1,909,401, consisting of \$1,155,188 in federal funds and \$754,213 in state general revenue.

Further detail on specific reimbursement rate changes is available on the HHSC Provider Finance Department (PFD) website under the proposed effective date at <http://pfd.hhs.texas.gov/rate-packets>.

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearing can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment(s). To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; by facsimile at (512) 730-7472; or by email at medicaid_chip_spa_inquiries@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of HHSC.

Written Comments. Written comments and requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail Texas Health and Human Services Commission Attention: Provider Finance, Mail Code H-400 P.O. Box 149030 Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery Texas Health and Human Services Commission Attention: Provider Finance, Mail Code H-400 North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751 Phone number for package delivery: (512) 730-7401

Fax Attention: Provider Finance at (512) 730-7475

Email PFD-LTSS@hhs.texas.gov

Preferred Communication.

For quickest response, please use e-mail or phone, if possible, for communication with HHSC related to this state plan amendment.

TRD-202302761

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 3, 2023



Public Notice: YES Amendment Effective 1-1-2024

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Youth Empowerment Services (YES) Program. HHSC administers the YES Program under the authority of Section 1915(c) of the Social Security Act. CMS has approved the YES waiver application through March 31, 2028. The proposed effective date for the amendment is January 1, 2024 and does not affect the cost neutrality of the waiver.

The YES Program is designed to provide home and community-based services to children and youth with serious emotional disturbances and their families, with a goal of reducing or preventing children's inpatient

psychiatric treatment and the consequent removal from their families. The program currently serves eligible children who are at least three years of age and under 19 years of age.

The request proposes to amend Appendix I to change existing language regarding Electronic Visit Verification (EVV) requirements. HHSC will require program providers to use EVV for certain services. This requirement is to address the expansion of EVV in home health care services as required by §1903(l) of the Social Security Act (U.S.C. Title 42, §1396b, subsection l) as amended by the 21st Century Cures Act. The service impacted by this change in the YES waiver is in-home respite.

HHSC is also replacing the term "Child and Family Team Meeting" with "Wraparound Planning Meeting" throughout the waiver application to reflect the recommended name change from the National Wrap-around Implementation Center (NWIC) and align with NWIC trainings and program materials.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Jayasree Sankaran by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by September 18, 2023.

The HHSC local offices of social services 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: Jayasree Sankaran, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4331

Fax

Attention: Jayasree Sankaran, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202302810

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 8, 2023



Texas Department of Licensing and Regulation

Notice of Vacancies on the Auctioneer Advisory Board

The Texas Department of Licensing and Regulation (Department) announces five vacancies on the Auctioneer Advisory Board (Board) established by Texas Occupations Code, Chapter 1802. The pertinent rules may be found in 16 Texas Administrative Code §67.65. The pur-

pose of the Auctioneer Advisory Board is to advise the Texas Commission of Licensing and Regulation (Commission) on educational matters, operational matters, and common practices within the auction industry. **This announcement is for:**

- **four licensed auctioneers;**
- **one public member.**

The Board is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The auctioneer members appointed under Section 1802.102(a)(1) serve six-year terms that expire on September 1 and may not serve more than two consecutive terms. The composition of the board shall include:

- four members who are licensed auctioneers;
- one member who is the administrative head, or the administrative head's designee, of any state agency or office that is selected by the Commission; and
- two public members.

Interested persons should apply on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

Issued in Austin, Texas on August 18, 2023.

TRD-202302884

Mike Arismendez

Executive Director

Texas Department of Licensing and Regulation

Filed: August 9, 2023



Texas Lottery Commission

Scratch Ticket Game Number 2513 "\$1,000,000 CROSSWORD"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2513 is "\$1,000,000 CROSSWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2513 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2513.

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, BLACKENED SQUARE SYMBOL, \$20.00, \$40.00, \$50.00, \$100, \$150, \$200, \$500 and \$1,000.

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. 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. 2513 - 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	

\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$150	ONFF
\$200	TOHN
\$500	FVHN
\$1,000	ONTH

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 (2513), 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: 2513-0000001-001.

H. Pack - A Pack of the "\$1,000,000 CROSSWORD" Scratch Ticket Game contains 025 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 025 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$1,000,000 CROSSWORD" Scratch Ticket Game No. 2513.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. Each Scratch Ticket contains exactly four hundred eighty-four (484) Play Symbols. A prize winner in the "\$1,000,000 CROSSWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose Play Symbols as follows: \$1,000,000 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 \$1,000,000 CROSS-

WORD puzzle that exactly match the YOUR 20 LETTERS Play Symbols. If the player has scratched at least 2 complete WORDS, the player wins the prize found in the PRIZE LEGEND on the back of the Scratch Ticket. Only 1 prize paid in the \$1,000,000 CROSSWORD puzzle. Only letters within the \$1,000,000 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 WORDS PLAY INSTRUCTIONS: The player scratches all the letters in BONUS WORD 1 and BONUS WORD 2 that exactly match the YOUR 20 LETTERS Play Symbols. If the player scratches a complete BONUS WORD, the player wins the PRIZE for that BONUS WORD. A completed BONUS WORD cannot be used to win in the \$1,000,000 CROSSWORD puzzle. The \$1,000,000 CROSSWORD puzzle and each BONUS WORD are played separately. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly four hundred eighty-four (484) 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 four hundred eighty-four (484) 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 four hundred eighty-four (484) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the four hundred eighty-four (484) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: Each Ticket in a Pack will be different (i.e., the \$1,000,000 CROSSWORD puzzle grid will have different words and configuration of words and each BONUS WORD will have different words).

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 \$1,000,000 CROSSWORD puzzle grid, a YOUR 20 LETTERS play area, two (2) BONUS WORD play areas and a BONUS WORDS PRIZE play area.

F. GENERAL: A Ticket can win one (1) time in the \$1,000,000 CROSSWORD puzzle grid and one (1) time per BONUS WORD for a total of up to three (3) times per Ticket, as dictated by the prize structure.

G. GENERAL: The BONUS WORDS Prize Symbols will only appear in the BONUS WORDS PRIZE play area and will never appear in either of the BONUS WORDS play areas, the \$1,000,000 CROSSWORD puzzle grid or the YOUR 20 LETTERS play area.

H. \$1,000,000 CROSSWORD: The \$1,000,000 CROSSWORD puzzle grid will be formatted with at least one thousand (1,000) configurations (i.e., puzzle layouts not including words).

I. \$1,000,000 CROSSWORD: All \$1,000,000 CROSSWORD puzzle grid configurations will be formatted within a grid that contains thirty (30) spaces (height) by fifteen (15) spaces (width).

J. \$1,000,000 CROSSWORD: No matching words on a Ticket.

K. \$1,000,000 CROSSWORD: No matching Play Symbols in the YOUR 20 LETTERS play area.

L. \$1,000,000 CROSSWORD: Each grid will contain the following: a) Twelve (12) 3 - letter words, b) Thirteen (13) 4 - letter words, c) Ten (10) 5 - letter words, d) Ten (10) 6 - letter words, e) Five (5) 7 - letter words, f) Five (5) 8 - letter words, g) Five (5) 9 - letter words.

M. \$1,000,000 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.

N. \$1,000,000 CROSSWORD: All words will contain a minimum of three (3) letters.

O. \$1,000,000 CROSSWORD: Words will contain a maximum of nine (9) letters.

P. \$1,000,000 CROSSWORD: All words used will be from TX_Aproved_Words_Vers.2.042321.doc.

Q. \$1,000,000 CROSSWORD: Words from TX_Prohibited_Words_Vers.2.042321.docx will not appear horizontally in the YOUR 20 LETTERS play area when read from left to right or right to left.

R. \$1,000,000 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 grid.

S. \$1,000,000 CROSSWORD: Each 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).

T. \$1,000,000 CROSSWORD: No consonant will appear more than thirty (30) times in the grid.

U. \$1,000,000 CROSSWORD: On Non-Winning Tickets, there will be one (1) completed word in the grid.

V. \$1,000,000 CROSSWORD: At least fifteen (15) of the YOUR 20 LETTERS Play Symbols will open at least one (1) letter in the grid.

W. \$1,000,000 CROSSWORD: The presence or absence of any letter in the YOUR 20 LETTERS play area will not be indicative of a winning or Non-Winning Ticket.

X. \$1,000,000 CROSSWORD: The \$1,000,000 CROSSWORD puzzle grid will not have more than ten (10) words completed.

Y. BONUS WORDS: Each of the two (2) BONUS WORDS will contain exactly six (6) letters and will not match any word in the \$1,000,000 CROSSWORD puzzle grid.

Z. BONUS WORDS: Each BONUS WORD will have at least two (2) letter play spots opened by the YOUR 20 LETTERS.

AA. BONUS WORDS: Non-winning BONUS WORDS Prize Symbols will be different and will not match a winning Prize Symbol.

BB. BONUS WORDS: The BONUS WORDS can be completed and won, as indicated by the prize structure.

CC. BONUS WORDS: The two (2) BONUS WORDS on a Ticket will be different.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1,000,000 CROSSWORD" Scratch Ticket Game prize of \$20.00, \$40.00, \$50.00, \$100, \$150, \$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, \$50.00, \$100, \$150, \$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 CROSSWORD" Scratch Ticket Game prize of \$2,000, \$20,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$1,000,000 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 Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
 2. in default on a loan made under Chapter 52, Education Code;
 3. in default on a loan guaranteed under Chapter 57, Education Code; or
 4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$1,000,000 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 "\$1,000,000 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 10,080,000 Scratch Tickets in Scratch Ticket Game No. 2513. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2513 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	1,344,000	7.50
\$40.00	470,400	21.43
\$50.00	537,600	18.75
\$100	470,400	21.43
\$150	42,504	237.15
\$200	84,000	120.00
\$500	7,056	1,428.57
\$2,000	250	40,320.00
\$20,000	20	504,000.00
\$1,000,000	4	2,520,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.41. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2513 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2513, the State Lottery Act (Texas Government Code, Chap-

ter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202302797
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: August 8, 2023



Scratch Ticket Game Number 2514 "\$1,000,000 CASH BLAST"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2514 is "\$1,000,000 CASH BLAST". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2514 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2514.

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, STACK OF CASH SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$2,000, \$25,000, \$100,000 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. 2514 - 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	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH
30	TRTY

31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
STACK OF CASH SYMBOL	WIN\$
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20

\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$2,000	TOTH
\$25,000	25TH
\$100,000	100TH
\$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 (2514), 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: 2514-0000001-001.

H. Pack - A Pack of the "\$1,000,000 CASH BLAST" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The front of Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$1,000,000 CASH BLAST" Scratch Ticket Game No. 2514.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$1,000,000 CASH BLAST"

Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "STACK OF CASH" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly sixty-six (66) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-six (66) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. A non-winning Prize Symbol will never match a winning Prize Symbol.

E. On winning and Non-Winning Tickets, the top cash prizes of \$2,000, \$25,000, \$100,000 and \$1,000,000 will each appear at least once, ex-

cept on Tickets winning thirty (30) times and with respect to other parameters, play action or prize structure.

F. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

G. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

I. All YOUR NUMBERS Play Symbols, excluding the "20X" (WINX20) Play Symbol, will never equal the corresponding Prize Symbol (i.e., \$30 and 30 and \$50 and 50).

J. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

K. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

L. The "STACK OF CASH" (WINS) Play Symbol will win the prize for that Play Symbol.

M. The "STACK OF CASH" (WINS) Play Symbol will never appear more than once on a Ticket.

N. The "STACK OF CASH" (WINS) Play Symbol will never appear on a Non-Winning Ticket.

O. The "STACK OF CASH" (WINS) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "STACK OF CASH" (WINS) Play Symbol will never appear on the same Ticket as the "5X" (WINX5), "10X" (WINX10) or "20X" (WINX20) Play Symbols.

Q. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

R. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

S. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

T. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

U. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

V. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

W. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

X. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Y. The "20X" (WINX20) Play Symbol will never appear more than once on a Ticket.

Z. The "20X" (WINX20) Play Symbol will win 20 TIMES the prize for that Play Symbol and will win as per the prize structure.

AA. The "20X" (WINX20) Play Symbol will never appear on a Non-Winning Ticket.

BB. The "20X" (WINX20) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

CC. Different multiplier Play Symbols can appear on the same Ticket in a winning combination, as per the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1,000,000 CASH BLAST" Scratch Ticket Game prize of \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$1,000,000 CASH BLAST" Scratch Ticket Game prize of \$2,000, \$25,000, \$100,000 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 CASH BLAST" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt

to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$1,000,000 CASH BLAST" 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 CASH BLAST" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "\$1,000,000 CASH BLAST" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2514. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2514 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	964,800	8.33
\$30.00	578,880	13.89
\$50.00	450,240	17.86
\$100	257,280	31.25
\$200	103,850	77.42
\$500	4,154	1,935.48
\$2,000	1,800	4,466.67
\$25,000	32	251,250.00
\$100,000	5	1,608,000.00
\$1,000,000	4	2,010,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.41. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2514 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2514, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202302909

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: August 9, 2023



Scratch Ticket Game Number 2523 "20X"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2523 is "20X". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2523 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2523.

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, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 5X SYMBOL, 20X SYMBOL, \$2.00, \$5.00, \$10.00, \$20.00, \$40.00, \$50.00, \$100, \$1,000 and \$30,000.

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. 2523 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH

30	TRTY
5X SYMBOL	WINX5
20X SYMBOL	WINX20
\$2.00	TWO\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$1,000	ONTH
\$30,000	30TH

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 (2523), 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: 2523-0000001-001.

H. Pack - A Pack of the "20X" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "20X" Scratch Ticket Game No. 2523.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "20X" Scratch Ticket Game is de-

termined once the latex on the Scratch Ticket is scratched off to expose twenty-three (23) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "5X" Play Symbol, the player wins 5 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 twenty-three (23) 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 twenty-three (23) 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 twenty-three (23) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the twenty-three (23) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. 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., 02 and \$2). 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 two (2)

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 "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 "20X" Scratch Ticket Game prize of \$2.00, \$5.00, \$10.00, \$20.00, \$40.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00 or \$100 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "20X" Scratch Ticket Game prize of \$1,000 or \$30,000, 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 "20X" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
 2. in default on a loan made under Chapter 52, Education Code;
 3. in default on a loan guaranteed under Chapter 57, Education Code; or
 4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "20X" 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 "20X" 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 9,000,000 Scratch Tickets in Scratch Ticket Game No. 2523. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2523 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	936,000	9.62
\$5.00	576,000	15.63
\$10.00	144,000	62.50
\$20.00	72,000	125.00
\$40.00	72,000	125.00
\$50.00	18,000	500.00
\$100	1,575	5,714.29
\$1,000	15	600,000.00
\$30,000	5	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 4.95. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2523 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2523, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202302798
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: August 8, 2023

◆ ◆ ◆
North Central Texas Council of Governments

Request for Information - Crash Reconstruction Technology

The North Central Texas Council of Governments (NCTCOG) is seeking information on developing a regional Crash Reconstruction Technology and Training Program for the NCTCOG area. NCTCOG is investigating current available technology.

Fifty percent of traffic delays in major metropolitan areas are due to incidents and crashes on the roadway, according to the Federal Highway Administration (FHWA). The time spent dealing with roadway incidents not only ties up traffic; it puts first responders in harm's way. Technology is available that can alleviate congestion and reduce secondary collisions caused by traffic crashes. Crash Reconstruction Technology assists with clearing roadway incidents more quickly after traffic crashes, by allowing police responders to capture crash scene information while on the roadway via crash reconstruction technology; however, gives them the ability to analyze the crash and conduct their investigation from the safety of their office.

Responses must be received in-hand no later than **5:00 p.m., Central Time, on September 15, 2023, to Camille Fountain**, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to TransRFPs@nctcog.org. The Request for Information will be available at www.nctcog.org/rfp by the close of business on **Friday, August 18, 2023**.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202302794

R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: August 7, 2023

◆ ◆ ◆
Public Utility Commission of Texas

Chapter 21 Rule Review Preliminary Notice and Request for Comments

The Public Utility Commission of Texas (commission) publishes this preliminary notice of intention to review Chapter 21, Interconnection Agreements for Telecommunications Service Providers, in accordance with Texas Government Code §2001.039, Agency Review of Existing Rules. The text of the rules may be found in the Texas Administrative Code, Title 16, Economic Regulation, Part 2, or through the commission's website at www.puc.texas.gov.

The commission seeks comments on whether any rule in Chapter 21 should be repealed or amended. Interested persons may file comments electronically through the interchange on the commission's website or may submit comments to the filing clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Friday, September 1, 2023. When filing comments, interested persons are requested to comment on the sections in the same order they are found in the chapter and to clearly designate which section is being commented upon. All comments should refer to Project Number 55293.

If it is determined that any section of Chapter 21 needs to be repealed or amended, and that the repeal or amendment can be completed as a part of this rule review, the commission will include the proposed repeal or amendment into its formal notice of intention to review Chapter 21. Interested persons will have an opportunity to comment on these proposed rule repeals and amendments at that time.

If it is determined that any section of Chapter 21 may need to be repealed or amended, but the repeal or amendment requires further investigation or is inappropriate for consideration as a part of a rule review, the commission may consider the repeal or amendment in a future rule-making proceeding.

TRD-202302762
Adriana Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: August 4, 2023

◆ ◆ ◆
Chapter 27 Rule Review Preliminary Notice and Request for Comments

The Public Utility Commission of Texas (commission) publishes this preliminary notice of intention to review Chapter 27, Rules for Administrative Services, in accordance with Texas Government Code §2001.039, Agency Review of Existing Rules. The text of the rules may be found in the Texas Administrative Code, Title 16, Economic Regulation, Part 2, or through the commission's website at www.puc.texas.gov.

The commission seeks comments on whether any rule in Chapter 27 should be repealed or amended. Interested persons may file comments electronically through the interchange on the commission's website or may submit comments to the filing clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas

78711-3326, by Friday, September 1, 2023. When filing comments, interested persons are requested to comment on the sections in the same order they are found in the chapter and to clearly designate which section is being commented upon. All comments should refer to Project Number 55307.

If it is determined that any section of Chapter 27 needs to be repealed or amended, and that the repeal or amendment can be completed as a part of this rule review, the commission will include the proposed repeal or amendment into its formal notice of intention to review Chapter 27. Interested persons will have an opportunity to comment on these proposed rule repeals and amendments at that time.

If it is determined that any section of Chapter 27 may need to be repealed or amended, but the repeal or amendment requires further investigation or is inappropriate for consideration as a part of a rule review, the commission may consider the repeal or amendment in a future rule-making proceeding.

TRD-202302763
Adriana Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: August 4, 2023

◆ ◆ ◆
Notice of Application for True-Up of 2020 Federal Universal Service Fund Impacts to the Texas Universal Service Fund

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on August 1, 2023, for true-up of 2020 Federal Universal Service Fund (FUSF) Impacts to the Texas Universal Service Fund (TUSF).

Docket Style and Number: Application of Blossom Telephone Company for True-Up of 2020 Federal Universal Service Fund Impacts to Texas Universal Service Fund, Docket Number 55313.

The Application: Blossom Telephone Company filed a true-up in accordance with findings of fact 18 and 19 and ordering paragraphs 2, 3, and 4 of the Notice of Approval issued in Docket No. 52888, *Application of Blossom Telephone Company to Recover Funds from the TUSF Under PURA § 56.025 and 16 TAC §26.406 for 2020*. In that docket, the Commission determined that the Federal Communications Commission's actions were reasonably projected to reduce the amount that Blossom received in Federal Universal Service Fund (FUSF) revenue by \$287,847.90 for calendar year 2020. It was also estimated that Blossom would recover \$61,401.12 of the projected FUSF revenue impact from rate increases implemented for the time period. Blossom's request to recover the remaining \$226,446.78 from the Texas Universal Service Fund (TUSF) for 2020 was approved. Ordering paragraphs 2, 3 and 4 detail how Blossom was required to file its final and actual FUSF impacts for 2020 by August 1, 2023, with detailed supporting documentation, and deal with potential over or under recovery from the TUSF. Blossom states that the realized FUSF losses for 2020 were \$207,304. Therefore, Blossom states that it is due to refund to the TUSF the amount of \$19,143 in this true-up proceeding.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 55313.

TRD-202302749

Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: August 2, 2023



Notice of Application for True-Up of 2020 Federal Universal Service Fund Impacts to the Texas Universal Service Fund

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on August 1, 2023, for true-up of 2020 Federal Universal Service Fund (FUSF) Impacts to the Texas Universal Service Fund (TUSF).

Docket Style and Number: Application of Community Telephone Company, Inc. for True-Up of 2020 Federal Universal Service Fund Impacts to Texas Universal Service Fund, Docket Number 55312.

The Application: Community Telephone Company, Inc. filed a true-up in accordance with findings of fact 18 and 19 and ordering paragraphs 2, 3, and 4 of the Notice of Approval issued in Docket No. 52768, *Application of Community Telephone Company, Inc. to Recover Funds from the Texas Universal Service Fund Under PURA § 56.025 and 16 TAC § 26.406 for 2020*, Docket No. 52768, Notice of Approval (Mar. 9, 2022). In that docket, the Commission determined that the Federal Communications Commission's actions were reasonably projected to reduce the amount that Community received in Federal Universal Service Fund (FUSF) revenue by \$2,378,465.75 for calendar year 2020. It was also estimated that Community would recover \$80,858.38 of the projected FUSF revenue impact from rate increases implemented for the time period. Community's request to recover the remaining \$2,297,607.37 from the Texas Universal Service Fund (TUSF) for 2020 was approved. Based on the data, calculations, supporting documentation and affidavits included with the application, Community stated that the realized FUSF losses for 2020 were \$1,964,843.37. Therefore, Community states that it is due to refund to the TUSF the amount of \$332,764 in this true-up proceeding.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 55312.

TRD-202302751
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: August 3, 2023



Notice of Application for True-Up of 2020 Federal Universal Service Fund Impacts to the Texas Universal Service Fund

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on August 1, 2023, for true-up of 2020 Federal Universal Service Fund (FUSF) Impacts to the Texas Universal Service Fund (TUSF).

Docket Style and Number: Application of Big Bend Telephone Company, Inc. for True-Up of 2020 Federal Universal Service Fund Impacts to Texas Universal Service Fund, Docket Number 55314.

The Application: Big Bend Telephone Company, Inc. filed a true-up in accordance with findings of fact 18 and 19 and ordering paragraphs 2, 3, and 4 of the Notice of Approval issued in Docket No. 52886, *Application of Big Bend Telephone Company, Inc. to Recover Funds from the TUSF Under PURA § 56.025 and 16 TAC § 26.406 for 2020*. In that docket, the Commission determined that the Federal Communications Commission's actions were reasonably projected to reduce the amount that Big Bend received in Federal Universal Service Fund (FUSF) revenue by \$2,296,986.18 in 2020. It was also estimated that Big Bend would recover \$616,941.10 of the projected FUSF revenue impact from rate increases implemented for the time period. Big Bend's request to recover the remaining \$1,680,045.08 from the Texas Universal Service Fund (TUSF) for 2020 was approved. Ordering paragraphs 2, 3 and 4 detail how Big Bend was required to file its final and actual FUSF impacts for 2020 by August 1, 2023, with detailed supporting documentation, and deal with potential over or under recovery from the TUSF. Big Bend states that the realized FUSF losses for 2020 were \$1,614,826.08. Therefore, Big Bend states that it is due to refund to the TUSF the amount of \$65,219 in this true-up proceeding.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 55314.

TRD-202302760
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: August 3, 2023



Supreme Court of Texas

Final Approval of Amendments to Texas Rule of Appellate Procedure 6

Supreme Court of Texas

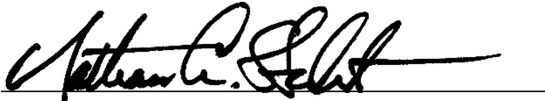
Misc. Docket No. 23-9051

Final Approval of Amendments to Texas Rule of Appellate Procedure 6

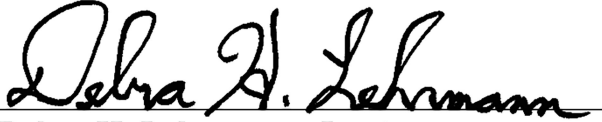
ORDERED that:

1. On May 2, 2023, the Supreme Court of Texas (in Misc. Dkt. No. 23-9027) and the Court of Criminal Appeals (in Misc. Dkt. No. 23-002), preliminarily approved amendments to Texas Rule of Appellate Procedure 6 and invited public comment.
2. The comment period has expired, and no additional changes have been made to the amendments. This Order gives final approval to the amendments set forth in Supreme Court of Texas Misc. Dkt. No. 23-9027 and Court of Criminal Appeals Misc. Dkt. No. 23-002, effective September 1, 2023.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

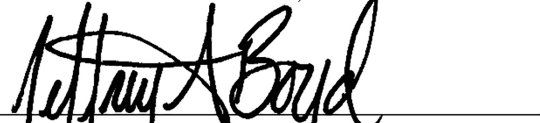
Dated: August 4, 2023.



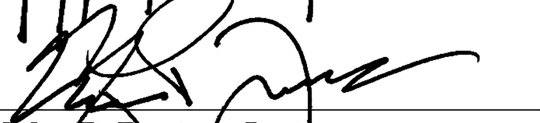
Nathan L. Hecht, Chief Justice




Debra H. Lehrmann, Justice



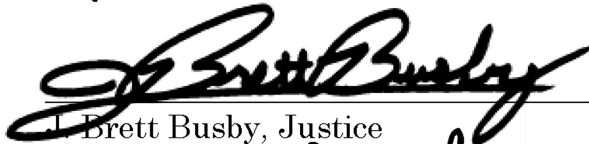
Jeffrey S. Boyd, Justice



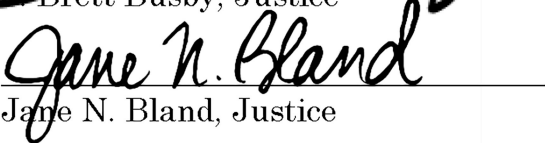
John P. Devine, Justice



James D. Blacklock, Justice



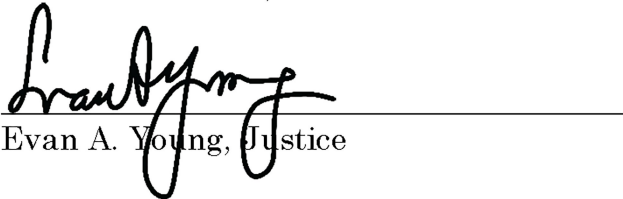
Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TRD-202302773
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: August 7, 2023

◆ ◆ ◆
Order Amending Comment to Texas Rule of Civil Procedure
21d

Supreme Court of Texas


Misc. Docket No. 23-9050

Order Amending Comment to Texas Rule of Civil Procedure 21d

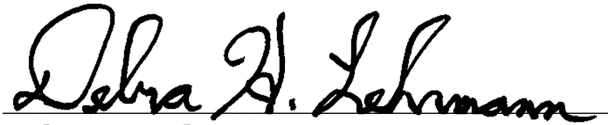
ORDERED that:

1. In accordance with the Act of May 9, 2023, 88th Leg., R.S., ch. 152 (S.B. 870, codified at TEX. FAM. CODE § 201.1045), the comment to Texas Rule of Civil Procedure 21d is amended as published in this Order, effective immediately.
2. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

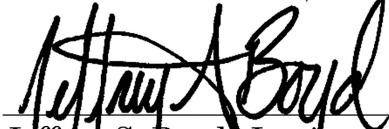
Dated: August 1, 2023.



Nathan L. Hecht, Chief Justice




Debra H. Lehrmann, Justice



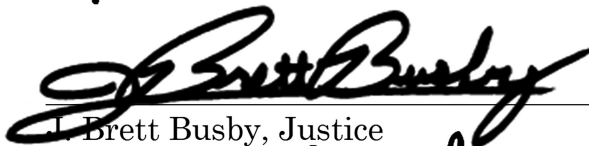
Jeffrey S. Boyd, Justice



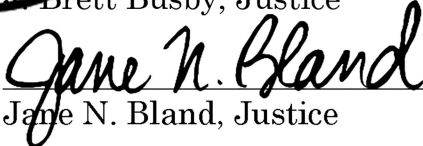
John P. Devine, Justice



James D. Blacklock, Justice



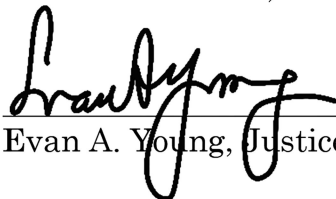
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

Section 1. General Rules

RULE 21d. APPEARANCES AT COURT PROCEEDINGS

Notes and Comments

Comment to 2023 change: New Rule 21d clarifies procedures for appearances at court proceedings. Paragraph (a) defines “court proceeding” and “participant.” Paragraph (b) governs a participant’s method of appearance. Certain statutes expressly prohibit or further permit electronic appearances, in which case the governing statute applies. Paragraph (c) provides that the judge may appear by electronic means, but it requires the judge to appear electronically from a location required by law. *See, e.g.*, TEX. CONST. art. V, § 7(d); TEX. GOV’T CODE §§ 24.030(a), 26.002(c). Nothing in paragraph (c) permits the judge to conduct a proceeding away from a location required by law. Paragraph (d) addresses objections to any method of appearance, and paragraph (e) addresses good-cause factors. Paragraph (f) recognizes the public’s right to reasonable notice of and access to a fully electronic proceeding unless there is an overriding interest. A court should rarely close a court proceeding from public observation, and in such an exceptional case, the court must use the least restrictive measure to protect the overriding interest.

TRD-202302750
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: August 2, 2023



Preliminary Approval of Amendments to Canons 3B, 5, and 6 of the Texas Code of Judicial Conduct and the Procedural Rules for the Removal or Retirement of Judges, Now Titled the Procedural Rules for the State Commission on Judicial Conduct

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," this order is not included

in the print version of the Texas Register. The order is available in the on-line version of the August 18, 2023, issue of the Texas Register.)

TRD-202302776
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: August 7, 2023



Preliminary Approval of Amendments to Texas Rules of Civil Procedure 21, 165a, 239a, 246, 297, 298, 299, 299a, and 306a

Supreme Court of Texas

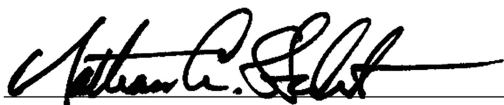
Misc. Docket No. 23-9053

Preliminary Approval of Amendments to Texas Rules of Civil Procedure 21, 165a, 239a, 246, 297, 298, 299, 299a, and 306a

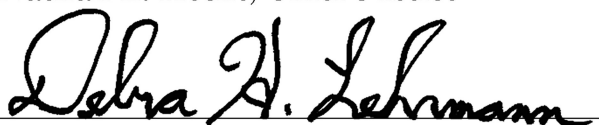
ORDERED that:

1. The Court invites public comments on amendments to Texas Rules of Civil Procedure 21, 165a, 239a, 246, 297, 298, 299, 299a, and 306a.
2. To effectuate the Act of May 28, 2023, 88th Leg., R.S., ch. 861 (H.B. 3474, codified at TEX. GOV'T CODE § 18.002(b)), the amendments are effective September 1, 2023. But the amendments may later be changed in response to public comments. The Court requests public comments be submitted in writing to rulescomments@txcourts.gov by November 1, 2023.
3. The Court and the Court of Criminal Appeals will issue an order amending the Texas Rules of Appellate Procedure and the Statewide Rules Governing Electronic Filing in Criminal Cases at a later date but before September 1, 2023.
4. The Judicial Committee on Information Technology is directed to implement measures to copy court orders, notices, and other documents to re:SearchTX as soon as practicable.
5. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

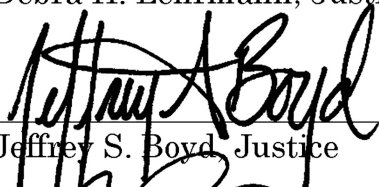
Dated: August 7, 2023.



Nathan L. Hecht, Chief Justice



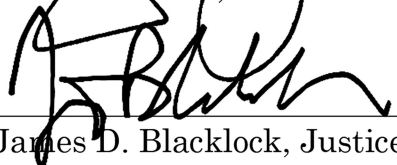
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



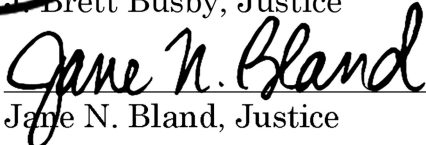
John P. Devine, Justice



James D. Blacklock, Justice




J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 21. FILING AND SERVING PLEADINGS AND MOTIONS

- (a) **Filing and Service Required.** Every pleading, plea, motion, or application to the court for an order, whether in the form of a motion, plea, or other form of request, unless presented during a hearing or trial, must be filed with the clerk of the court in writing, must state the grounds therefor, must set forth the relief or order sought, and at the same time a true copy must be served on all other parties, and must be noted on the docket.
- (b) **Service of Notice of Court Proceeding.** An application to the court for an order and notice of any court proceeding, as defined in Rule 21d(a), not presented during a court proceeding, must be served upon all other parties not less than three days before the time specified for the court proceeding, unless otherwise provided by these rules or shortened by the court. Notice of any court proceeding must contain the information needed for participants, as defined in Rule 21d(a), to participate in the proceeding, including the location of the proceeding or instructions for joining the proceeding electronically, the court's designated contact information, and instructions for submitting evidence. A court must publish the information needed for participants to participate in its proceedings.
- (c) **Multiple Parties.** If there is more than one other party represented by different attorneys, one copy of each pleading must be served on each attorney in charge.
- (d) **Certificate of Service.** The party or attorney of record, must certify to the court compliance with this rule in writing over signature on the filed pleading, plea, motion, or application.
- (e) **Additional Copies.** After one copy is served on a party, that party may obtain another copy of the same pleading upon tendering reasonable payment for copying and delivering.
- (f) **Electronic Filing.**
 - (1) **Requirement.** Except in juvenile cases under Title 3 of the Family Code and truancy cases under Title 3A of the Family Code, attorneys must electronically file documents in courts where electronic filing has been mandated. Attorneys practicing in courts where electronic filing is available but not mandated and unrepresented parties may electronically file documents, but it is not required.

- (2) **Email Address.** The email address of an attorney or unrepresented party who electronically files a document must be included on the document.
- (3) **Mechanism.** Electronic filing must be done through the electronic filing manager established by the Office of Court Administration and an electronic filing service provider certified by the Office of Court Administration.
- (4) **Exceptions.**
 - (A) Wills are not required to be filed electronically.
 - (B) The following documents must not be filed electronically:
 - (i) documents filed under seal or presented to the court in camera; and
 - (ii) documents to which access is otherwise restricted by law or court order.
 - (C) For good cause, a court may permit a party to file other documents in paper form in a particular case.
- (5) **Timely Filing.** Unless a document must be filed by a certain time of day, a document is considered timely filed if it is electronically filed at any time before midnight (in the court's time zone) on the filing deadline. An electronically filed document is deemed filed when transmitted to the filing party's electronic filing service provider, except:
 - (A) if a document is transmitted on a Saturday, Sunday, or legal holiday, it is deemed filed on the next day that is not a Saturday, Sunday, or legal holiday; and
 - (B) if a document requires a motion and an order allowing its filing, the document is deemed filed on the date that the motion is granted.
- (6) **Technical Failure.** If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from the court. If the missed deadline is one imposed by these rules, the filing party must be given a reasonable extension of time to complete the filing.

- (7) **Electronic Signatures.** A document that is electronically served, filed, or issued by a court or clerk is considered signed if the document includes:
- (A) a “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
 - (B) an electronic image or scanned image of the signature.
- (8) **Format.** An electronically filed document must:
- (A) be in text-searchable portable document format (PDF);
 - (B) be directly converted to PDF rather than scanned, if possible;
 - (C) not be locked; and
 - (D) otherwise comply with the Technology Standards set by the Judicial Committee on Information Technology and approved by the Supreme Court.
- (9) **Paper Copies.** Unless required by local rule, a party need not file a paper copy of an electronically filed document.
- (10) **Electronic Orders, Notices, and Other Documents From the Court.** The clerk ~~may~~must send orders, notices, orders,—orand other ~~communications about the case~~documents to the parties electronically through the electronic filing manager established by the Office of Court Administration and an electronic filing service provider certified by the Office of Court Administration. A court seal may be electronic.
- (11) **Non-Conforming Documents.** The clerk may not refuse to file a document that fails to conform with this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit the document in a conforming format.
- (12) **Original Wills.** When a party electronically files an application to probate a document as an original will, the original will must be filed with the clerk within three business days after the application is filed.
- (13) **Official Record.** The clerk may designate an electronically filed document or a scanned paper document as the official court record. The clerk is not required to keep both paper and electronic versions of the same document unless otherwise required by local rule. But the clerk must retain an original will filed for probate in a numbered file folder.

Notes and Comments

Comment to 2013 Change: Rule 21 is revised to incorporate rules for electronic filing, in accordance with the Supreme Court's order - Misc. Docket No. 12-9206, amended by Misc. Docket Nos. 13-9092 and 13-9164 - mandating electronic filing in civil cases beginning on January 1, 2014. The mandate will be implemented according to the schedule in the order and will be completed by July 1, 2016. The revisions reflect the fact that the mandate will only apply to a subset of Texas courts until that date.

Comment to 1990 change: To require filing and service of all pleadings and motions on all parties and to consolidate notice and service Rules 21, 72 and 73.

Comment to 2023 change: Rule 21(b) is amended to clarify requirements for notices. Rule 21(f)(10) is amended to implement section 80.002(b) of the Government Code. Nothing in Rule 21(f)(10) prohibits the court from sending orders, notices, and documents to parties by additional methods.

RULE 165a. DISMISSAL FOR WANT OF PROSECUTION

1. **Failure to Appear.** A case may be dismissed for want of prosecution on failure of any party seeking affirmative relief to appear for any hearing or trial of which the party had notice. Notice of the court's intention to dismiss and the date and place of the dismissal hearing ~~shall~~must be sent by the clerk to ~~each~~ attorney of record, and to each party not represented by an attorney and whose address is ~~shown on the docket or in the papers on file, by posting same in the United States Postal Service~~ the parties as provided in Rule 21(f)(10). At the dismissal hearing, the court ~~shall~~must dismiss for want of prosecution unless there is good cause for the case to be maintained on the docket. If the court determines to maintain the case on the docket, it ~~shall~~must render a pretrial order assigning a trial date for the case and setting deadlines for the joining of new parties, all discovery, filing of all pleadings, the making of a response or supplemental responses to discovery and other pretrial matters. The case may be continued thereafter only for valid and compelling reasons specifically determined by court order. ~~Notice of the signing of t~~The clerk must send any order of dismissal shall be given as provided in Rule 306a to the parties as provided in Rule 21(f)(10). Failure to ~~mail~~send notices and orders as required by this rule ~~shall~~does not affect any of the periods mentioned in Rule 306a except as provided in that rule.

RULE 239a. NOTICE OF DEFAULT JUDGMENT

At or immediately prior to the time an interlocutory or final default judgment is rendered, the party taking the same or his attorney ~~shall~~must certify to the clerk in writing the last known email address and mailing address of the party against whom the judgment is taken, which certificate shall be filed among the papers in the cause. Immediately upon the signing of ~~the a~~ default judgment, the clerk ~~shall mail~~must send written notice thereof to the party against whom the judgment was rendered ~~at~~ as provided in Rule 21(f)(10) and to the mailing address shown in the certificate, and note the fact of such mailing on the docket. The notice ~~shall~~must state the number and style of the case, the court in which the case is pending, the names of the parties in whose favor and against whom the judgment was rendered, and the date of the signing of the judgment. Failure to comply with the provisions of this rule ~~shall~~does not affect the finality of the judgment.

RULE 246. CLERK TO GIVE NOTICE OF SETTINGS

The clerk ~~shall~~must keep a record ~~in his office~~ of all cases set for trial, ~~and it shall be his duty to inform any non resident attorney of,~~ upon written request, must send the parties the date of setting of any case upon request by mail from such attorney, accompanied by a return envelope properly addressed and stamped as provided in Rule 21(f)(10). Failure of the clerk to ~~furnish~~send such information on proper request ~~shall be~~is sufficient ground for continuance or for a new trial when it appears to the court that such failure has prevented ~~the attorney a party~~ the party from preparing or presenting ~~his~~the party's claim or defense.

RULE 297. TIME TO ~~FILE~~SEND FINDINGS OF FACT AND CONCLUSIONS OF LAW

Within twenty days after a timely request is filed, the court shall file~~the court shall file~~must send its findings of fact and conclusions of law ~~within twenty days after a timely request is filed. The court shall cause a copy of its findings and conclusions to be mailed to each party in the suit~~ to the parties as provided in Rule 21(f)(10).

If the court fails to ~~file~~send timely findings of fact and conclusions of law, the party making the request ~~shall~~must, within thirty days after filing the original request, file with the clerk and serve on all other parties in accordance with Rule 21a a "Notice of Past Due Findings of Fact and Conclusions of Law" which ~~shall~~must be immediately called to the attention of the court by the clerk. Such notice ~~shall~~must state the date the original request was filed and the date the findings and conclusions were due. Upon filing this notice, the time for the court to ~~file~~send findings of fact and conclusions of law is extended to forty days from the date the original request was filed.

Notes and Comments

Comment to 1990 change: To revise the practice and times for findings of fact and conclusion of law. See also Rules 296 and 298.

RULE 298. ADDITIONAL OR AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

After the court ~~files~~sends original findings of fact and conclusions of law, any party may file with the clerk of the court a request for specified additional or amended findings or conclusions. The request for these findings ~~shall~~must be made within ten days after the ~~filing of court~~sends the original findings and conclusions ~~by the court~~. Each request made pursuant to this rule ~~shall~~must be served on each party to the suit in accordance with Rule 21a.

Within ten days after such request is filed, the court shall file~~must send~~ any additional or amended findings and conclusions ~~that are appropriate within ten days after such request is filed, and cause a copy to be mailed to each party to the suit to the parties as provided in Rule 21(f)(10)~~. No findings or conclusions shall be deemed or presumed by any failure of the court to make any additional findings or conclusions.

RULE 299. OMITTED FINDINGS

When findings of fact are ~~filed~~sent by the trial court they ~~shall~~must form the basis of the judgment upon all grounds of recovery and of defense embraced therein. The judgment may not be supported upon appeal by a presumed finding upon any ground of recovery or defense, no element of which has been included in the findings of fact; but when one or more elements thereof have been found by the trial court, omitted unrequested elements, when supported by evidence, will be supplied by presumption in support of the judgment. Refusal of the court to make a finding requested ~~shall~~be is reviewable on appeal.

RULE 299a. FINDINGS OF FACT TO BE SEPARATELY ~~FILED~~SENT AND NOT RECITED IN A JUDGMENT

Findings of fact ~~shall~~must not be recited in a judgment. If there is a conflict between findings of fact recited in a judgment in violation of this rule and findings of fact made pursuant to Rules 297 and 298, the latter findings will control for appellate purposes. Findings of fact ~~shall~~must be ~~filed with the clerk of the court~~sent as a document or documents separate and apart from the judgment.

Notes and Comments

Comment to 1990 change: To require that findings of fact be separate from the judgment and that such separate findings of fact are controlling on appeal.

RULE 306a. PERIODS TO RUN FROM SIGNING OF JUDGMENT

3. **Notice of Judgment.** When the final judgment or other appealable order is signed, the clerk of the court must immediately ~~give notice~~ send the judgment or order to the parties or their attorneys of record electronically or by first class mail advising that the judgment or order was signed as provided in Rule 21(f)(10). If the judgment awards monetary damages, the notice must state: "If you are an individual (not a company), your money or property may be protected from being taken to pay this judgment. Find out more by visiting www.texaslawhelp.org/exempt-property. / *Si usted es una persona física (y no una compañía), su dinero o propiedad pudieran estar protegidos de ser embargados como pago de esta deuda decretada en juicio en contra suya. Obtenga mayor información visitando el sitio www.texaslawhelp.org/exempt-property.*" Failure to comply with the provisions of this rule shall not affect the periods mentioned in paragraph (1) of this rule, except as provided in paragraph (4).

TRD-202302775
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: August 7, 2023

some, expensive, or otherwise inexpedient," this order is not included in the print version of the Texas Register. The order is available in the on-line version of the August 18, 2023, issue of the Texas Register.)



Preliminary Approval of Texas Rules of Civil Procedure
194a and 195a and of Amendments to Texas Rules of Civil
Procedure 190, 192, 194, 195, 196, 197, and 198

TRD-202302774
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: August 7, 2023



(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumber-

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 48 (2023) is cited as follows: 48 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “48 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 48 TexReg 3.”

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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