

PROPOSED RULES

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

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

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

TITLE 1. ADMINISTRATION

PART 1. OFFICE OF THE GOVERNOR

CHAPTER 4. TEXAS MILITARY PREPAREDNESS COMMISSION

The Texas Military Preparedness Commission (Commission), within the Office of the Governor, proposes amendments to 1 TAC §4.1, concerning Introduction and Purpose; §4.2, concerning Military Value/Redevelopment Value Review and Pre-Application Assessment for Funds; §4.3, concerning Processing and Review of Applications; §4.4, concerning Application for Funds; §4.5, concerning Availability of Funds; §4.7, concerning Office and Commission Responsibilities; and §4.8, concerning Reporting Responsibilities, in Subchapter A, concerning the Texas Military Value Revolving Loan Fund Program. The Commission also proposes the repeal of §4.6, concerning Awardee Responsibilities, in Subchapter A.

The Commission further proposes amendments to §4.30, concerning Introduction and Purpose; §4.32, concerning Eligibility for Funds; §4.33, concerning Documentation; §4.36, concerning Processing and Review of Application; §4.37, concerning Availability of Funds; §4.38, concerning Awardee Responsibilities; §4.39, concerning Commission and Office Responsibilities; and §4.40, concerning Reporting Responsibilities, in Subchapter B, concerning the Defense Economic Adjustment Assistance Grant Program.

The proposed amendments and the proposed repeal are being made as a result of the Commission's review of Chapter 4 under Texas Government Code §2001.039. The proposed amendments conform the rules to Chapter 436 of the Texas Government Code as amended by House Bill 2564, 89th Legislature, Regular Session (2025), remove requirements that are duplicative of contract terms, remove unused defined terms, conform defined terms to the form in which they are defined, and improve the clarity and readability of the rules.

EXPLANATION OF PROPOSED AMENDMENTS AND PROPOSED REPEAL

Chapter 4 implements Chapter 436 of the Texas Government Code. Subchapter A governs the Texas Military Value Revolving Loan Fund (TMVRLF), which offers loans to defense communities for projects that enhance the military or defense value of a military base or defense facility, that minimize the negative effects of a defense base reduction on the defense community, or that accommodate new or expanded military missions assigned to a military base or defense facility. Subchapter B governs the Defense Economic Adjustment Assistance Grant (DEAAG) program, which offers grants to eligible local governmental entities that the Commission determines may be adversely or positively

affected by an anticipated, planned, announced, or implemented action of the United States Department of Defense to close, reduce, increase, or otherwise realign defense worker jobs or facilities.

As part of the rule review conducted under Texas Government Code §2001.039, the Commission has determined that the reasons for initially adopting Chapter 4 continue to exist. The Commission has also determined that amendments are appropriate to conform the rules to current statute, to remove provisions that are unnecessary or duplicative, and to modernize and clarify the rules.

House Bill 2564, 89th Legislature, Regular Session (2025), effective September 1, 2025, abolished the defense economic adjustment assistance panel. That legislation repealed the definition of "panel" in Texas Government Code §436.001, repealed the provision that established the panel, and revised Texas Government Code §§436.205 and 436.206 to place the evaluation and scoring of DEAAG applications with the commissioners. The proposed amendments to §4.30 and §4.36 conform the rules to those statutory changes.

The proposed amendments to §4.1 repeal the definitions of "Financial Partners," "Military Installation," and "Project Costs," which are not used elsewhere in Subchapter A, and renumber the remaining definitions accordingly. The proposed amendments also conform defined terms to the form in which they are defined and make clarifying revisions to the description of the loan program.

The proposed amendments to §4.2 revise the section caption for readability and conform defined terms to the form in which they are defined.

The proposed amendments to §4.3 repeal subsection (a)(2), concerning quick assessment project considerations, which does not describe a discernible review criterion, and renumber the remaining paragraphs. The proposed amendments also revise subsection (a)(6) to state the financial analysis summary criterion as a complete phrase rather than as a hyphenated list, and conform defined terms to the form in which they are defined.

The proposed amendments to §§4.4, 4.5, and 4.8 conform defined terms to the form in which they are defined.

The Commission proposes the repeal of §4.6, concerning Awardee Responsibilities. The ten obligations listed in §4.6 are imposed on an Awardee by contract. Section 4.7(a)(4) requires the Commission to develop contracts with Awardees that include sufficient performance measures, audit requirements, and reporting requirements to ensure prudence and due diligence in the expenditure of state funds, and §4.6 itself operates only through the contract between the Awardee and the Commission. The Commission has determined that restating contract terms

in rule is unnecessary and that the repeal will not diminish the obligations imposed on an Awardee under its loan agreement.

The proposed amendments to §4.7 conform the reference to the Director of the Commission to the term defined in §4.1, replace gendered language with the defined term, and conform other defined terms to the form in which they are defined.

The proposed amendments to §4.30 repeal the definition of "Review Panel," which refers to a body abolished by House Bill 2564 and to a statutory provision that no longer exists. The proposed amendments add definitions of "Awardee" and "Chief of Staff," both of which are used in Subchapter B but were defined only in Subchapter A, and repeal the definitions of "Defense Community" and "Financial partners," which are not used in Subchapter B. The proposed amendments also conform the defined terms to a consistent form, replace gendered language, and renumber the definitions accordingly.

The proposed amendments to §4.32 and §4.33 conform defined terms to the form in which they are defined. The proposed amendments to §4.33 also correct the cross-reference to §4.32 of this title, which is captioned Eligibility for Funds.

The proposed amendments to §4.36 conform the rule to House Bill 2564. Subsection (e) is revised to provide that the commissioners will score each grant application based on criteria that include the significance of the adverse or positive effect on the local governmental entity, the number of jobs lost, gained, or retained in relation to the workforce in the local governmental entity's jurisdiction, the added military value of the project, and any other criteria established by the Commission in a grant solicitation. Subsection (f) is revised to provide that the Commission will use the scores assigned under subsection (e) to determine whether to make a grant and will approve or disapprove the award by majority vote. The provisions requiring the Commission to score applications using the same criteria as the review panel, to ensure that the review panel does not show bias, to weigh the recommendations of the review panel against the Commission's own score, and to provide a statement of explanation for approved applications that are not in agreement with the review panel's recommendations are repealed because the panel no longer exists. The proposed amendments also conform defined terms to the form in which they are defined.

The proposed amendments to §§4.37, 4.38, 4.39, and 4.40 conform defined terms to the form in which they are defined and replace gendered language in §4.39.

Section 4.35, concerning Application for Funds, will be read-opted without changes as a result of the Commission's review and is not proposed for amendment.

FISCAL NOTE

Keith Graf, Director of the Texas Military Preparedness Commission, has determined that for each year of the first five years in which the proposed amendments and proposed repeal are in effect, there are no foreseeable fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments and proposed repeal.

PUBLIC BENEFIT AND COSTS

Mr. Graf has also determined that for each year of the first five years in which the proposed amendments and proposed repeal are in effect, the public benefit anticipated as a result of the proposal will be rules that are consistent with current statute, clearer, and easier to apply for defense communities and local govern-

mental entities that participate in the TMVRLF and DEAAG programs.

Mr. Graf has determined that there are no anticipated economic costs to persons who are required to comply with the proposed amendments and proposed repeal.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. Because the Commission has determined that the proposed amendments and proposed repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code §2006.002, is not required.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Graf has determined that the proposed amendments and proposed repeal will not affect a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Graf has determined that for each year of the first five years in which the proposed amendments and proposed repeal are in effect, the proposal:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the Commission;
- will not require an increase or decrease in fees paid to the Commission;
- does not create a new regulation;
- will repeal one existing regulation and will expand or limit existing regulations only to the extent the amendments conform the rules to statute, remove unnecessary provisions, and clarify existing requirements;
- will not increase or decrease the number of individuals subject to the applicability of the rules; and
- will not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS

The proposed amendments and proposed repeal do not impose a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, Texas Government Code §2001.0045 does not require the Commission to repeal or amend another rule.

SUBMISSION OF COMMENTS

Written comments regarding the proposed amendments and proposed repeal may be submitted for 30 days following the date of publication of this notice by mail to Keith Graf, Office of the Governor, Texas Military Preparedness Commission, P.O. Box 12428, Austin, Texas 78711, or by email to TMPC@gov.texas.gov with the subject line "Chapter 4 Proposed Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on November 9, 2026.

SUBCHAPTER A. TEXAS MILITARY VALUE REVOLVING LOAN FUND PROGRAM

1 TAC §§4.1 - 4.5, 4.7, 4.8

STATUTORY AUTHORITY

The amendments are proposed under Texas Government Code §436.101(f), which directs and authorizes the Commission to adopt rules necessary to implement its duties.

The amendments are also proposed as a result of the Commission's review of Chapter 4 under Texas Government Code §2001.039.

CROSS REFERENCE TO STATUTE

Subchapter D, Chapter 436, Government Code. No other statutes, articles, or codes are affected by the proposed amendments.

§4.1. *Introduction and Purpose.*

(a) The Texas Military Value Revolving Loan Fund provides a low-cost [low cost] source of revenue to eligible communities who meet the application criteria. The minimum amount of a loan is \$1,000,000, while the maximum amount of a loan is determined by the availability of funds and the creditworthiness of the Applicant [applicant]. State funding will be obtained through the sale of general obligation bonds. The State may provide up to 100 percent of the cost of the Project [described project], dependent upon the creditworthiness of the Applicant [applicant].

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings unless otherwise indicated.

(1) Applicant--A Defense Community, as defined in paragraph (5) of this subsection, applying for a loan from the Fund.

(2) Awardee--The Defense Community whose loan application is approved by the Commission.

(3) Chief of Staff--The Chief of Staff of the Office of the Governor.

(4) Commission--The Texas Military Preparedness Commission. The Commission is attached for administrative purposes to the Office of the Governor.

(5) Defense Community--A "Defense community" as defined in §397.001 of the Local Government Code.

(6) Defense Facility--A "Defense facility" as defined in §397.001 of the Local Government Code.

(7) Director of the Commission--Director of the Texas Military Preparedness Commission.

(8) Economic Redevelopment Value Statement--A statement that illustrates specific ways funds are to be used to promote economic development in the community to include that information as provided for in §397.0021 of the Local Government Code.

[(9) Financial Partners--Federal and state agencies, private and public nonprofit foundations, local taxing authorities, and private investors who agree to provide money for projects eligible for funding under this program.]

(9) [(40)] Fund or TMVRLF--The Texas Military Value Revolving Loan Fund or account established under §436.156 of the Government Code.

[(11) Military Installation--An activity under the jurisdiction of the Department of Defense, including leased space, that is controlled by, or primarily supports, Department of Defense activities.]

(10) [(12)] Military Value Enhancement Statement--A military base or Defense Facility [defense facility] value enhancement statement that illustrates specific ways funds are to be used to enhance the military or defense value of the military base or Defense Facility [defense facility] to include that information as provided for in §397.002 of the Local Government Code.

(11) [(13)] Project--The construction, renovation, or acquisition for which a TMVRLF loan is requested.

[(14) Project Costs--The Defense Community's total costs for completing the project, including any and all costs of financing and administration assessed by the Commission.]

(12) [(15)] Redevelopment Value--The extent to which an economic development project will minimize the negative effects of a defense base reduction, or an infrastructure project will assist the Defense Community [defense community] in accommodating the new or expanded military missions that are assigned to the military facility.

§4.2. *Military Value and [redacted] Redevelopment Value Review and Pre-Application Assessment for Funds.*

(a) The Defense Community shall submit the following information, as applicable, to the Director of the Commission:

(1) with respect to a Defense Community applying for a loan under §436.153 of the Government Code, a Military Value Enhancement Statement;

(2) with respect to a Defense Community applying for a loan under §436.1531 or §436.1532 of the Government Code, an Economic Redevelopment Value Statement; and

(3) with respect to any Defense Community applying for a TMVRLF loan, a pre-application assessment.

(b) The Commission shall review the Military Value Enhancement Statement or Economic Redevelopment Value Statement, as applicable, and perform:

(1) an analysis of the Project [project] feasibility; and

(2) an analysis of alternative funding for each Project [project] listed.

(c) The Commission shall review the Applicant's [applicant's] pre-application assessment.

(d) The Commission shall take into consideration the Military or Defense Value or Redevelopment Value, as applicable, and, by a majority vote, make its recommendation to approve or disapprove the Military Value Enhancement Statement or Economic Redevelopment Value Statement, as applicable.

§4.3. *Processing and Review of Applications.*

(a) The Commission shall conduct its review of the Applicant's [applicant's] creditworthiness based on standard due diligence practices and procedures that are consistent with other Office of the Governor programs including, but not limited to:

(1) review of Project [project] description to assess whether it satisfies program criteria requirements;

~~[(2) quick assessment project considerations;]~~

(2) ~~[(3)]~~ economic/financial analysis;

(3) ~~[(4)]~~ revenue analysis;

(4) ~~[(5)]~~ credit rating review; and

(5) ~~[(6)]~~ a financial analysis summary identifying [-] strengths, weaknesses, and exceptions.

(b) In addition, the Commission, in consultation with the Texas Public Finance Authority, shall also be responsible for developing the loan and security structure including:

(1) the loan term sheet;

(2) the loan agreement; and

(3) the bond sale activities.

§4.4. *Application for Funds.*

(a) The Commission, in consultation with the Texas Public Finance Authority, shall develop and adopt a formal loan application form to be included in the formal application process to assist in the evaluation of a loan submission. The application may require certain attachments and certifications.

(b) Successful Applicants [applicants] may be required to pay, upon financing, all closing costs.

§4.5. *Availability of Funds.*

(a) Funds Commitment. If the Project [project] is approved by the Commission, funds become committed to the Awardee [awardee] subject to the sale of the general obligation bonds by the state.

(b) Letter of Commitment. The Applicant [applicant] will be required to submit a letter of commitment after the final approval of the Project [project] by the Commission.

(c) Upon sale of state-issued bonds, funds are disbursed to the Awardee [awardee] by the Comptroller of Public Accounts.

§4.7. *Office and Commission Responsibilities.*

(a) In carrying out its duties and responsibilities under this subchapter, the Commission shall:

(1) publicize the loan program to potential Applicants [applicants];

(2) work closely with loan Applicants [applicants] to ensure the application is complete and all relevant material is provided;

(3) establish and conduct the evaluation process in a responsive manner to maximize the opportunity to acquire federal and other funding;

(4) develop contracts with Awardees [awardees] that include sufficient performance measures, audit requirements, and reporting requirements to ensure prudence and due diligence in the expenditure of state funds; and

(5) minimize reporting requirements that may be repetitive of reporting required by federal grant agencies or that may be unnecessary for the effective monitoring of the program.

(b) The Director of the Commission, on behalf of the Commission and [;] in consultation with the Chief of Staff or the Chief of Staff's [his] designee, may waive any provision of this chapter upon a finding that the public interest would be furthered by granting the waiver.

§4.8. *Reporting Responsibilities.*

(a) After completion of the Project [project], the Awardee [awardee] will provide milestones and updates as required by the contract.

(b) Throughout the Project [project] period, the Awardee [awardee] must provide copies of all reports required by federal agencies pursuant to the terms of individual federal grants received, within 30 days of their submission to the granting agencies.

(c) Failure to submit reports in a timely and satisfactory manner may result in the withholding of funds due or requested by the Awardee [awardee]. Failure to document post-completion requirements may result in the return of funds to Commission as set forth in the contract.

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 September 25, 2026.

TRD-202604170

Keith Graf

Director

Office of the Governor

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 463-2000



1 TAC §4.6

STATUTORY AUTHORITY

The repeal is proposed under Texas Government Code §436.101(f), which directs and authorizes the Commission to adopt rules necessary to implement its duties.

The repeal is also proposed as a result of the Commission's review of Chapter 4 under Texas Government Code §2001.039.

CROSS REFERENCE TO STATUTE

Subchapter D, Chapter 436, Government Code. No other statutes, articles, or codes are affected by the proposed repeal.

§4.6. *Awardee Responsibilities.*

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 September 25, 2026.

TRD-202604171

Keith Graf

Director

Office of the Governor

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 463-2000



SUBCHAPTER B. DEFENSE ECONOMIC ADJUSTMENT ASSISTANCE GRANT PROGRAM

1 TAC §§4.30, 4.32, 4.33, 4.36 - 4.40

STATUTORY AUTHORITY

The amendments are proposed under Texas Government Code §436.101(f), which directs and authorizes the Commission to adopt rules necessary to implement its duties.

The amendments are also proposed as a result of the Commission's review of Chapter 4 under Texas Government Code §2001.039.

CROSS REFERENCE TO STATUTE

Subchapter E, Chapter 436, Government Code. No other statutes, articles, or codes are affected by the proposed amendments.

§4.30. *Introduction and Purpose.*

(a) Background. The Texas Defense Economic Adjustment Assistance Grant Program (DEAAG) provides state funds to assist eligible local governmental entities that may be adversely or positively impacted by an anticipated, planned, announced, or implemented action of the United States Department of Defense to close, reduce, increase, or otherwise realign Defense Worker Jobs [defense worker jobs] or facilities.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings unless indicated otherwise.

(1) Application Deadline--Not later than 5:00 P.M. Central Time on the closing date indicated in the grant solicitation.

(2) Awardee--The local governmental entity whose grant application is approved by the Commission.

(3) Chief of Staff--The Chief of Staff of the Office of the Governor.

(4) [(2)] Commission--The Texas Military Preparedness Commission. The Commission is attached to the Office of the Governor for administrative purposes.

[(3) Defense Community--A "Defense community" as defined in §397.001 of the Local Government Code.]

(5) [(4)] Defense Worker [worker]--A "Defense worker" as defined in §436.001 of the Government Code.

(6) [(5)] Defense Worker Job [worker job]--A "Defense worker job" as defined in §436.001 of the Government Code.

(7) [(6)] Director--The Director of the Texas Military Preparedness Commission or the Director's [his] designee.

[(7) Financial partners--Federal and state agencies, private and public non-profit foundations, local taxing authorities, and private investors who agree to provide money for a project eligible for funding under this grant.]

[(8) Review Panel--The Defense Economic Adjustment Assistance Panel established pursuant to §436.205(a) of the Government Code to evaluate grant applications and make grant award recommendations to the Commission.]

§4.32. *Eligibility for Funds.*

The local governmental entity making application for the grant must provide adequate documentation of actual, anticipated, planned, or announced Defense Worker Job [defense worker job] loss or Defense Worker Job [defense worker job] gain.

§4.33. *Documentation.*

Appropriate documentation required under §4.32 of this title (relating to Eligibility for [ef] Funds) verifying actual, anticipated, planned, or

announced Defense Worker Job [defense worker job] loss or Defense Worker Job [defense worker job] gain must be submitted with the application, including documentation from, but not limited to:

(1) Information from Department of Defense manpower or personnel records, socio-economic impact studies and Environmental Impact Statements; or

(2) United States Census Bureau, Department of Labor, or Texas Workforce Commission reports or statistics.

§4.36. *Processing and Review of Application.*

(a) The applicant will submit a grant application to the Commission.

(b) Applications or additional information received after the Application Deadline [application deadline] will not be considered.

(c) The Commission will:

(1) Publicize the DEAAG program to potential applicants and provide grant solicitation information; and

(2) Evaluate each application for completeness.

(d) The Commission may assist a local government entity in applying for a grant.

(e) The Commission will score each grant application based on, but not limited to, the following criteria:

(1) The significance of the adverse or positive effect on the local governmental entity;

(2) The number of jobs lost, gained, or retained in relation to the workforce in the local governmental entity's jurisdiction;

(3) The added military value of the project; and

(4) Any other criteria established by the Commission as set forth in a grant solicitation.

[(e) The Review Panel will:]

[(1) Review applications, score, and make recommendations to the Commission;]

[(2) Provide evaluations and recommendations for grant awards for all grant applications received based on, but not limited to, the following criteria:]

[(A) If the effect on the local governmental entity is adverse or positive;]

[(B) The significance of the number of jobs lost, gained or retained in relation to the workforce in the local governmental entity's jurisdiction;]

[(C) The added military value of the project; and]

[(D) Any other criteria established by the Commission as set forth in a grant solicitation.]

(f) The Commission will use the scores assigned under subsection (e) of this section to determine whether to make a grant to an applicant. The Commission will review and approve or disapprove the award of the grant by a majority vote.[:]

[(1) Review and score applications using the same criteria as the Review Panel;]

[(2) Ensure that the Review Panel does not show bias in scoring applications;]

[(3) Review and take into consideration those recommendations of the Review Panel and the Commission's own score;]

[(4) Review and approve or disapprove the award of the grant by a majority vote; and]

[(5) Provide a statement of explanation for the funding round of the approved applications that are not in agreement with the Review Panel recommendations.]

§4.37. *Availability of Funds.*

(a) Funds commitment. Once approved by the Commission for an award, program money becomes encumbered, subject to the availability of funds.

(b) If the Commission determines that a qualified Defense Economic Adjustment Assistance Grant Program Awardee [awardee] has a deviation from the project scope or other financial commitments set out in the Awardee's [awardee's] grant application, the commitment of funding previously committed may be withdrawn and the funding amount re-allocated to other applicants.

(c) The Commission may offer less funding than is requested by the applicant.

§4.38. *Awardee Responsibilities.*

In order to receive reimbursement of grant program funds that have been committed to them, Awardees [awardees] will be required to enter into a grant contract with the Office of the Governor.

§4.39. *Commission and Office Responsibilities.*

(a) In carrying out its duties and responsibilities under this subchapter, the Commission shall:

(1) Solicit grant applications and publicize Application Deadlines [application deadlines];

(2) Establish and conduct the evaluation and award process in a responsive manner to maximize the opportunity to acquire federal and other funding;

(3) Develop contracts with Awardees [awardees] that include sufficient performance measures, audit requirements, and reporting requirements to ensure prudence and due diligence in the expenditure of state funds; and

(4) Minimize reporting requirements that may be repetitive of reporting required by federal grant agencies or that may be unnecessary for the effective monitoring of the program.

(b) The Director on behalf of the Commission, in consultation with the Chief of Staff or the Chief of Staff's [his] designee, may waive any provision of this subchapter upon a finding that the public interest would be furthered by granting the waiver.

§4.40. *Reporting Responsibilities.*

(a) Reimbursement of funds will be made in accordance with the terms of the contract.

(b) After completion of the project, the Awardee [awardee] will provide [the following] milestones and updates as required by the contract.

(c) Throughout the project period, the Awardee [awardee] must provide copies of all reports required by federal agencies pursuant to the terms of individual federal grants received, within 30 days of their submission to the granting agencies.

(d) The Awardee [awardee] must provide all reports to the Commission as required by the terms of the grant contract, including, but not limited to, reports on any performance measures, milestone reports, and project completion reports.

(e) Failure to submit reports in a timely and satisfactory manner may result in the withholding of funds due or requested

by the Awardee [awardee]. Failure to document post-completion requirements may result in the return of funds to the Commission as set forth in the contract.

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 September 25, 2026.

TRD-202604172

Keith Graf

Director

Office of the Governor

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 463-2000



PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 67. FOREIGN OWNERSHIP ENFORCEMENT

1 TAC §§67.1 - 67.12

The Office of the Attorney General (OAG) proposes new Chapter 67 in Title 1, Part 3 of the Texas Administrative Code (TAC), relating to foreign ownership enforcement. The proposed rules are necessary to implement and administer Subchapter H, Chapter 5, Texas Property Code, as added by Senate Bill 17 (S.B. 17), 89th Legislature, Regular Session (2025), effective September 1, 2025. S.B. 17 established restrictions on certain purchases or acquisitions of interests in real property in this State by designated foreign persons or entities.

EXPLANATION AND JUSTIFICATION OF RULES

During its 89th Regular Session (2025), the Texas Legislature enacted S.B. 17, effective September 1, 2025. S.B. 17 added Subchapter H (Sections 5.251-5.259) to Chapter 5 of the Texas Property Code. The legislation prohibits certain foreign individuals, foreign governmental entities, and foreign-owned or foreign-controlled companies and organizations from purchasing or otherwise acquiring an interest in real property in this State, and authorizes the OAG to examine transactions, investigate potential violations, bring civil enforcement actions, and coordinate with other agencies in carrying out Subchapter H.

Proposed new Chapter 67 establishes procedures and standards to facilitate the uniform implementation and enforcement of Subchapter H. The proposed rules define key terms, including those addressing entity-level acquisitions and arrangements that, in substance, create covered real-property interests; establish duties and procedures for the submission of complaints, including obligations applicable to facilitating entities; set timelines and requirements for responding to civil investigative demands and Secretary of State (SOS) interrogatories; direct interagency coordination; and provide confidentiality standards for complaints, investigative materials, and related records. These procedures are intended to support consistent administration of Subchapter H and ensure effective investigative and enforcement processes.

SECTION-BY-SECTION SUMMARY

Proposed §67.1 describes the purpose and applicability of Chapter 67, stating that the rules implement and enforce Subchapter H, Chapter 5, Texas Property Code, and apply only to purchases or acquisitions of an interest in real property in this State occurring on or after September 1, 2025, consistent with the statutory effective date and applicability provisions of Subchapter H.

Proposed §67.2 defines terms used in Chapter 67, including "control," "facilitating entity," "foreign person or entity," "interest in real property in this State," and "purchase or otherwise acquire," and incorporates statutory definitions by reference to Subchapter H, Chapter 5, Texas Property Code. The definitions are intended to mirror and supplement statutory terms to provide clarity for regulated parties, including by addressing transactions involving successive short-term arrangements and acquisitions of entities that hold covered real property interests.

Proposed §67.3 requires the OAG to maintain a designated enforcement unit responsible for maintaining a task force, receiving, reviewing, investigating, planning, carrying out necessary planning, ensuring and enforcing compliance with Subchapter H, Chapter 5, Texas Property Code. The section describes the unit's core functions, including accepting complaints, issuing guidance and responses to written inquiries regarding the applicability of Subchapter H to specific transactions, coordinating with state agencies and political subdivisions, and referring matters to appropriate licensing or regulatory bodies when warranted by statute.

Proposed §67.4 specifies how complaints alleging violations of Subchapter H, Chapter 5, Texas Property Code may be submitted to the OAG. The section provides that a facilitating entity that knows or should have known, after reasonable due diligence, that a purchase or acquisition of an interest in real property in this State violates Subchapter H has a duty to submit a complaint. The section establishes permissible methods of filing complaints, authorizes a standardized complaint form, and provides that the OAG may refer a facilitating entity that fails to submit a required complaint to the appropriate licensing or professional disciplinary authority; the section is intended to implement the statutory scheme and does not create any cause of action or remedy beyond those provided by law. This section establishes a due-diligence safe harbor for facilitating entities that follow industry-standard practices. It provides that good-faith reliance on customary and recognized due-diligence procedures may demonstrate that an entity did not know, and should not have known, of a violation of Subchapter H.

Proposed §67.5 allows any person who has reason to believe that a purchase or acquisition of interests in real property in this State by designated foreign persons or entities violates Subchapter H to submit a complaint.

The proposed §67.6 establishes an optional reporting mechanism through which any person, including facilitating entities, may submit to the OAG with information concerning certain real property that would be subject to Property Code Section 5.253, but that was acquired before the effective date of Subchapter H, Chapter 5, Texas Property Code. The reporting mechanism is informational only and neither constitutes a complaint or, by itself, nor indicates that any violation has occurred. A report will assist the OAG in identifying potential foreign ownership patterns, supporting outreach, and maintaining an accurate public registry.

Proposed §67.7 sets out response requirements for civil investigative demands issued by the OAG under Subchapter H, Chapter 5, Texas Property Code and for interrogatories issued by the

SOS under that subchapter. The section provides that the OAG and SOS must generally allow at least seven calendar days to respond absent exigent circumstances and authorizes extensions of time for good cause shown, thereby promoting fair notice and orderly enforcement within existing statutory authority.

Proposed §67.8 provides that the OAG will consult, as appropriate, with the SOS, the Texas Real Estate Commission, the Texas Department of Insurance, Texas Department of Agriculture, and other relevant regulatory agencies to promote consistent and uniform implementation and enforcement of Subchapter H, Chapter 5, Texas Property Code. This coordination provision is procedural in nature and is intended to support the effective exercise of statutory powers already granted to the OAG and other agencies.

Proposed §67.9 addresses the confidentiality of complaints, investigative demands, interrogatories, and related responses, records, and information generated in connection with the administration of Chapter 67 and Subchapter H, Chapter 5, Texas Property Code. The section provides that such materials are confidential and not subject to public disclosure except as required or otherwise authorized by law, identifies limited circumstances in which they may be disclosed to courts, the SOS, other state agencies identified in Subchapter H, and federal agencies to enforce Subchapter H or promote the objectives of S.B. 17, and requires receiving agencies to maintain confidentiality to the extent authorized by law; the section is intended to operate consistently with and not in derogation of applicable public-information and confidentiality statutes.

Proposed §67.10 provides that the OAG may establish a plan to maintain a publicly accessible property search portal containing information about finalized enforcement actions and public information concerning prohibited real property transactions under Subchapter H, Chapter 5, Texas Property Code. The portal is intended to promote transparency and public awareness, to support deterrence of violations, decrease the likelihood of false or redundant reports, and clarify applicable dates. The OAG may coordinate with other state and local governmental entities to promote the accuracy, reliability, and timely updating of information available through the portal.

Proposed §67.11 is a savings clause stating that nothing in Chapter 67 limits or affects the OAG's existing authority to request, obtain, or compel the production of information under any other provision of Texas law, including the Texas Constitution, statutes, or other applicable rules. This section is intended to clarify that Chapter 67 is supplemental and does not narrow or expand the OAG's independent statutory or constitutional powers.

Proposed §67.12 is a severability provision stating that the provisions of Chapter 67 are severable so that, if any provision or application is held invalid, the remaining valid provisions and applications remain in effect. This section is consistent with general principles of statutory construction and is intended to preserve the operation of valid portions of the rules if a court invalidates any particular portion.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS

Justin Gordon, General Counsel, has determined that for the first five-year period the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the rules, beyond any costs associated with implementing Subchapter H, Chapter 5, Texas Property Code, as enacted.

PUBLIC BENEFIT AND COST NOTE

Justin Gordon, General Counsel, has determined that for the first five-year period the proposed rules are in effect, the anticipated public benefit is increased clarity, uniformity, and consistency in implementing Subchapter H, Chapter 5, Texas Property Code. The proposed rules set out definitions, complaint procedures, investigative timelines, and interagency coordination standards that support consistent administration of the statute.

Mr. Gordon has further determined that there are no anticipated additional significant economic costs to persons required to comply with the proposed rules beyond those imposed by Subchapter H, Chapter 5, Texas Property Code.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY

The OAG has determined that the proposed rules do not have a measurable impact on local employment or local economies. The rules implement procedural requirements for an existing statutory program and are not expected to affect employment levels or economic conditions. Therefore, no local employment or economy impact statement is required under Texas Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES

The OAG has determined that for each year of the first five-year period the proposed rules are in effect, no adverse fiscal impact on small businesses, microbusinesses, or rural communities is anticipated.

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

TAKINGS IMPACT ASSESSMENT

The OAG has determined that the proposed rules implement Subchapter H, Chapter 5, Texas Property Code, and do not independently restrict, limit, or impose a burden on private real property rights beyond those established by statute. Accordingly, the proposed rules do not constitute a taking and do not require a takings impact assessment under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with Texas Government Code §2001.0221, the OAG has prepared a government growth impact statement. During the first five years the proposed rules are in effect, the proposed rules:

- will not create a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not lead to an increase or decrease in fees paid to a state agency;
- will create a new rule;
- will not repeal an existing regulation;

- will result in an increase in the number of individuals subject to the rule because Chapter 67 is new; and

- will not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENT

Written comments on the proposed rules may be submitted electronically to the OAG by email to OAGRuleCommentsCh67@oag.texas.gov, or by mail to General Counsel Division, Attn: Rule Comments, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548. Comments will be accepted for 30 days following publication in the *Texas Register*.

To request a public hearing on the proposal, submit a request before the end of the comment period by email to OAGRuleCommentsCh67@oag.texas.gov, or by mail to General Counsel Division, Attn: Rule Comments, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548.

STATUTORY AUTHORITY

The new 1 TAC Chapter 67 is proposed to comply with S.B. 17 Section 5, which requires the OAG to adopt rules to implement Subchapter H, Chapter 5, Texas Property Code.

CROSS-REFERENCE TO STATUTE

These rules implement Subchapter H, Chapter 5, Texas Property Code. Property Code section 5.005 references Subchapter H when discussing an alien's property rights. See Tex. Prop. Code §5.005. Likewise, Civil Practice and Remedies Code subsection 64.001(a)(6) references Subchapter H when discussing receiver appointment. See Tex. Civ. Prac. & Rem. Code §64.001(a)(6). No other rule, regulation, or law is affected by this proposal.

§67.1. Purpose and Applicability.

(a) The purpose of this chapter is to implement and enforce Subchapter H, Chapter 5, Texas Property Code, relating to restrictions on certain purchases or acquisitions of interests in real property in this State by designated foreign persons or entities.

(b) This chapter applies only to purchases or acquisitions of an interest in real property in this State that occur on or after September 1, 2025.

§67.2. Definitions.

In this chapter, the following terms have the meanings assigned below:

(1) Complaint--A written or electronic statement submitted to the OAG alleging a violation of Subchapter H, Chapter 5, Texas Property Code, that includes facts sufficient to identify the transaction or conduct at issue.

(2) Control--The possession, direct or indirect, of the power to direct or cause:

(A) the direction of the management or policies of an entity; or

(B) the acquisition or disposition of an interest in real property in this State by an entity, whether through ownership, by contract, office, position, or otherwise. Without limiting the foregoing, each of the following shall be deemed to be in control of an entity:

(i) a general partner;

(ii) a managing member;

(iii) a shareholder or stockholder holding ten percent or more of voting interests;

(iv) any executive officer of an entity; and

(v) any person who has the present or future right to acquire or dispose of an interest in real property in this State by such entity.

(3) Facilitating entity--A person or entity that, in the regular course of business, assists with, brokers, insures, finances, values, or processes a purchase or acquisition of an interest in real property in this State, including, but not limited to, a mortgage lender, title insurance company, property insurer, appraiser, or licensed real estate professional.

(4) Foreign person or entity--An individual or entity described in §5.253 of the Texas Property Code.

(5) Interest in real property in this State--Has the meaning assigned by §5.251(6) of the Texas Property Code. The term does not include a leasehold interest with a duration of less than one year, as provided by §5.252(3) of the Texas Property Code. The term includes a series of licenses, leases, or other arrangements that, in substance, create a leasehold interest in real property in this State for one year or longer, even if structured as successive short-term agreements.

(6) OAG--Office of the Attorney General.

(7) Purchase or otherwise acquire--In addition to the direct purchase or acquisition of an interest in real property in this State, the term includes:

(A) any transaction or series of transactions by which a person or entity obtains control of an entity that owns an interest in real property in this State, including a redemption or repurchase of the entity's outstanding interests, regardless of whether the entity acquired the real property before September 1, 2025; and

(B) a series of licenses, leases, or other arrangements that, in substance, create a leasehold interest in real property in this State for one year or longer, even if structured as successive short-term agreements.

(8) Unless the context clearly indicates otherwise, a term defined in Subchapter H, Chapter 5, Texas Property Code, has the meaning assigned by that subchapter.

§67.3. OAG Enforcement Unit and Task Force Unit.

(a) The OAG shall maintain a designated enforcement unit including a task force unit responsible for receiving, reviewing, investigating, planning, carrying out necessary planning, ensuring and enforcing compliance with Subchapter H, Chapter 5, Texas Property Code.

(b) The enforcement unit shall:

(1) Maintain a task force unit to ensure compliance and carry out necessary planning specified under this subchapter;

(2) Accept written or electronic complaints alleging violations of Subchapter H, Chapter 5, Texas Property Code;

(3) Issue guidance and respond to written inquiries regarding the applicability of Subchapter H, Chapter 5, Texas Property Code to specific transactions;

(4) Coordinate with state agencies and political subdivisions affected by the implementation and enforcement of Subchapter H, Chapter 5, Texas Property Code; and

(5) Refer violations to the appropriate licensing or regulatory body.

§67.4. Complaint Submission.

(a) A facilitating entity that knows or should have known, after reasonable due diligence, that a purchase or acquisition of an interest

in real property in this State violates Subchapter H, Chapter 5, Texas Property Code must submit a complaint to the OAG.

(b) Any person or facilitating entity, who has reason to believe that a purchase or acquisition of interests in real property in this State by designated foreign persons or entities violates Subchapter H, Chapter 5, Texas Property Code, may submit a complaint to the OAG.

(c) Complaints must be submitted electronically through the OAG's online complaint portal or by mail to the address designated by the OAG for this purpose.

(d) The OAG may prescribe a standardized complaint form to facilitate consistent filings under this section.

(e) If the OAG determines that a facilitating entity knew or should have known, after reasonable due diligence, of a violation but failed to file a complaint, the OAG may refer the matter to the appropriate licensing or professional disciplinary authority.

(f) The duty in this subsection includes transactions structured as post-closing transfers or assignments to affiliates, parents, subsidiaries, or entities under common ownership or control when used to effect or conceal a prohibited acquisition.

(g) A facilitating entity that conducts know-your-customer due diligence consistent with guidelines promulgated by an applicable regulatory body or that conducts such due diligence consistent with standards adopted in good faith by a recognized industry group, including but not limited to an official trade association or professional organization, and does not discover a violation of Subchapter H, Chapter 5, Texas Property Code, shall not be deemed to have "known or should have known" of a violation of Subchapter H, Chapter 5, Texas Property Code.

§67.5. Complaints by Any Person.

Notwithstanding §67.4 of this chapter (relating to Complaint Submission) any person who has reason to believe that a purchase or acquisition of an interest in real property in this State has occurred in violation of Subchapter H, Chapter 5, Texas Property Code, may submit a complaint to the OAG. A complaint submitted under this section may include any facts, documents, or information the person believes may assist the OAG in determining whether a violation has occurred.

§67.6. Optional Reporting for Properties.

(a) The OAG may establish an optional reporting mechanism, accessible through a designated form or section of the OAG's online portal.

(b) Any person, including facilitating entities, who has reason to believe that a parcel of real property in this State is owned by an individual or entity that meets the definitions set forth in Subchapter H, Chapter 5, Texas Property Code, but that was acquired prior to the statute's effective date of September 1, 2025 may file a report with the OAG.

(c) Reports submitted under this section are voluntary and do not constitute a complaint under §67.4 of this chapter (relating to Complaint Submission). Submission of a report under this section does not, by itself, indicate that a violation of Subchapter H has occurred.

§67.7. Investigative Demands and Response Requirements.

(a) A person must respond to a civil investigative demand issued by the OAG under Subchapter H, Chapter 5, Texas Property Code by the date specified in the demand; however, the OAG must provide at least seven (7) calendar days for response unless exigent circumstances require a shorter timeframe. Upon written request and for good cause shown, the OAG may extend the response deadline.

(b) A person must respond to interrogatories issued by the Secretary of State (SOS) by the date specified in the demand; however, the SOS must provide at least seven (7) calendar days for response unless exigent circumstances require a shorter timeframe. Upon written request and for good cause shown, the SOS may extend the response deadline.

§67.8. Interagency Coordination.

The OAG may consult, as appropriate, with the SOS, Texas Real Estate Commission, Texas Department of Insurance, Texas Department of Agriculture, and other relevant regulatory agencies to ensure the uniform implementation and enforcement of Subchapter H, Chapter 5, Texas Property Code.

§67.9. Confidentiality of Records.

(a) All complaints, civil investigative demands, interrogatories, and requests for information issued by the OAG, and all responses, records, and other information submitted or generated in connection with such requests under this chapter, are confidential and not subject to public disclosure, except as required by law.

(b) Confidential records under this section may be disclosed only:

(1) pursuant to a court order;

(2) to the SOS or other state agency identified in Subchapter H, Chapter 5, Texas Property Code;

(3) to federal agencies, as necessary to enforce Subchapter H, Chapter 5, Texas Property Code, or to promote the objectives of Senate Bill 17; or

(4) as otherwise authorized by law.

(c) Any agency receiving records under this section shall maintain the confidentiality of the records to the extent authorized by law.

§67.10. Plan for Proposed Property Search and Public Information Portal.

(a) The OAG may prepare and propose a plan to develop and maintain a publicly accessible property search portal to assist the public in identifying certain real property interests in this State.

(b) The purpose of a portal is to provide a searchable interface concerning prohibited purchases or acquisitions of interests in real property by designated foreign persons or entities. The portal specifications may operate in a manner similar to other statewide public information registries, including but not limited to the Texas sex offender registration database. The portal will be designed to promote transparency, assist public awareness, and support deterrence of violations of Subchapter H.

(c) The OAG may coordinate with the federal, state, and local governmental entities, as necessary, in planning the portal and to ensure the accuracy, reliability, and timely update of information displayed in the portal.

§67.11. Savings Clause.

Nothing in this chapter shall be construed to limit or affect the authority of the OAG to request, obtain, or compel the production of information under any other provision of Texas law, including but not limited to the Texas Constitution, statutes, or other applicable rules.

§67.12. Severability.

(a) All provisions of this chapter are severable.

(b) If any application of any provision of this chapter is held to be invalid for any reason, all valid provisions are severable from the invalid provisions and remain in effect. If any section or portion of a section is held to be invalid in one or more of its applications, in all valid applications the provisions remain in effect and are severable from the invalid applications.

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 September 28, 2026.

TRD-202604182

Justin Gordon

General Counsel

Office of the Attorney General

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 475-4291



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 31. ADMINISTRATION

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §31.2, relating to State Owned Motor Vehicles; and 16 TAC §31.3, relating to Petition for the Adoption of a Rule. TABC also proposes to repeal 16 TAC §31.5, relating to Public Information Act Requests; 16 TAC §31.6, relating to Establishment of Advisory Committees; 16 TAC §31.7, relating to Internal Audit Advisory Committee; 16 TAC §31.8, relating to Advisory Committee on Major Information Technology Projects; and 16 TAC §31.9, relating to Public Safety Advisory Committee. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). The amendments and repeals proposed now are based on TREO's recommendations.

The proposed amendments to §31.2(b) better align the rule with Texas Government Code §2171.1045 and clarify when agency vehicles may be assigned to agency staff or checked out from the motor pool. And the proposed amendments to §31.3(a) simply reduce word count by cross referencing the rule petitioner eligibility requirements in Texas Government Code §2001.021(d) rather than stating those requirements in the rule text.

The proposed repeals of §§31.5 - 31.9 simply eliminate unnecessary rules. Rule 31.5(a) adopts by reference the Office of the Attorney General's schedule of charges for copies of public information, but that schedule is the default standard, thus it is not necessary to adopt it by rule. And §31.5(b) designates the general counsel as the agency's public information coordinator, but that designation does not have to be done by rule. Rule 31.6 provides the general framework and requirements for agency

advisory committees, while §§31.7 - 31.9 establish three specific advisory committees. These three committees have technically expired by operation of law pursuant to Texas Government Code §2110.008(b), and the agency does not foresee the need for advisory committees in the near future, thus these rules are unnecessary. If the agency determines that establishing advisory committees are advisable in the future, it may adopt new rules doing so.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments and repeals are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal. Mrs. Maceyra made this determination because the proposed amendments and repeals do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended or repealed rules. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments and repeals are in effect, Mrs. Maceyra expects there to be public benefits of removing unnecessary rules from the Administrative Code, bringing the amended rules in line with statute, and providing further clarity on those rules. Mrs. Maceyra does not expect the proposed amendments and repeals will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments and repeals will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments and repeals are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government

action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments and repeals from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

16 TAC §31.2, §31.3

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §5.31 and Government Code §2171.1045. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 2171.1045 requires each state agency to adopt rules "relating to the assignment and use of the agency's vehicles."

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Government Code §§2001.021 and 2171.1045.

§31.2. *State Owned Motor Vehicles.*

- (a) (No change.)
- (b) Assignment of Vehicles.

(1) Except as provided in paragraphs (2) and (3) of this subsection, commission vehicles are assigned to the agency's motor pool and are available for checkout by authorized agency staff whose essential duties and functions require regular or periodic travel by vehicle. [This subsection implements §2171.1045, Government Code, relating to the restrictions on assignment of state vehicles.]

(2) Vehicles may be [are] assigned to commission executive staff whose essential agency duties and functions require them to have vehicles available on a regular or frequent basis to provide state-wide oversight, management and supervision of agency staff. A vehicle may be assigned under this paragraph only after the executive director makes a written documented finding that the assignment is critical to the needs and mission of the commission.

[(3) Pool vehicles are maintained at headquarters to reduce the cost to the state for travel required by qualified agency staff whose essential duties and functions require regular or periodic travel by vehicle.]

(3) [(4)] Vehicles are assigned to field operation employees whose essential agency duties and functions require daily and extensive use of vehicles and the cost to the state of providing a state-owned vehicle is less than the cost of reimbursing employees for the use of personal vehicles.

§31.3. *Petition for the Adoption of a Rule.*

(a) Purpose. This section implements Government Code §2001.021 and provides procedures for any interested person (peti-

tioner) to request the Alcoholic Beverage Commission (commission) to adopt a rule. The petitioner must meet the eligibility requirements of Government Code §2001.021(d). [The petitioner must be:]

[(1) a resident of this state;]

[(2) a business entity located in this state;]

[(3) a governmental subdivision located in this state; or]

[(4) a public or private organization located in this state that is not a state agency.]

(b) - (f) (No change.)

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604129

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



16 TAC §§31.5 - 31.9

STATUTORY AUTHORITY. TABC proposes the repeals pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §§5.21 and 5.31. Section 5.21 provides TABC rulemaking authority pertaining to advisory committees. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed repeals implement Alcoholic Beverage Code §5.21 and Government Code §2110.008.

§31.5. *Public Information Act Requests.*

§31.6. *Establishment of Advisory Committees.*

§31.7. *Internal Audit Advisory Committee.*

§31.8. *Advisory Committee on Major Information Technology Projects.*

§31.9. *Public Safety Advisory Committee.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604130

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 33. LICENSING

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §33.5, relating to Food and Beverage Certificate; 16 TAC §33.40, relating to General Provisions; 16 TAC §33.41, relating to Conduct Surety Bonds; and 16 TAC §33.42, relating to Performance Bonds. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). TABC also identified potential rule changes through an internal review. The proposed amendments are based on TREO's recommendations and TABC's rule review.

The proposed amendments to §33.5(f)(3), (k)(3), and (l) remove the complimentary drink valuation tracking requirements because they were overly burdensome on TABC's licensees and permittees and are not required by the governing statutes. TABC recognizes that tracking complimentary drinks is required by the Texas Comptroller of Public Accounts (CPA) for certain tax purposes. These proposed amendments do not alter any requirements imposed by the CPA that may be applicable to TABC license and permit holders. However, the Alcoholic Beverage Code provisions setting forth Food and Beverage Certificate eligibility do not contain any requirements pertaining to complimentary drinks. See Tex. Alco. Bev. Code §§25.13(a-1)(2), 28.18(a-1)(2), 32.23(a-1)(2), 69.16(a-1)(2). Those provisions only reference "receipts from the sale of alcoholic beverages" in comparison to the "total receipts from the location." *Id.* (emphasis added).

The proposed amendment to §33.5(k)(4) reduces the relevant Food and Beverage Certificate holder records retention period from four years to two years to better align with TABC's license/permit renewal cycle and to reduce the regulatory burden on those certificate holders. The proposed amendment to §33.40(d) removes the requirement that all relevant bonds be payable in Travis County. Alcoholic Beverage Code §204.02(a) still mandates that excise tax bonds of permittees be payable in Travis County, but that statutory requirement does not extend to other bond types. The agency no longer believes it is necessary to extend that same requirement by rule because it serves as an unnecessary regulatory burden. The proposed amendment to §33.40(i) removes the requirement for participating banks and credit unions to have a physical presence in the state and replaces it with requirements that such a bank or credit union simply be authorized to transact business in Texas and be insured by either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA). These proposed amendments reduce barriers to surety companies, banks, and credit unions providing bonds under the rule. The proposed amendments to §§33.41(e) and 33.42(d) correct internal rule subdivision references and codify the agency's new policy of not seeking conduct surety bond and performance bond forfeitures based on written warnings issued under 16 TAC §34.1. As further explained in a simultaneous rulemaking, the agency has proposed to change its approach to written warnings, treating them more as an informal deterrent than a formal violation notice.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering

the proposal. Mrs. Maceyra made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mrs. Maceyra expects that enforcing or administering the amended rules will have the public benefit of reducing regulatory burdens on licensees and permittees, and increasing the number of surety companies, banks, and credit unions eligible to provide bonds, certificates of deposit, and letters of credit under the rules. Mrs. Maceyra does not expect the proposed amendments will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to

rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

SUBCHAPTER A. APPLICATIONS

16 TAC §33.5

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31, 25.13, 28.18, 32.23, and 69.16.

§33.5. *Food and Beverage Certificate.*

(a) - (e) (No change.)

(f) An applicant for an original food and beverage certificate shall furnish the following, as well as any other information requested by the commission to ensure compliance:

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

(3) if qualifying under subsection (c)(3)(A) of this section, sales data [~~including complimentary drinks, as recorded pursuant to subsection (k)(3) of this section~~] or, if not available, a projection of sales. The sales data or projection of sales should include sufficient breakdown of revenues of food, alcoholic beverages, and all other sales categories at the location (e.g., tickets, merchandise, retail goods);

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

(g) - (j) (No change.)

(k) The following recordkeeping requirements apply to certificate holders:

(1) (No change.)

(2) purchase invoices must be maintained to reflect the total purchases of alcoholic beverages, food and all other purchase categories at the location; and

~~[(3) complimentary alcoholic beverages must be recorded and included in the total alcoholic beverage sales as if they were sold and clearly marked as being complimentary; and]~~

~~(3) [(4)] all records must be maintained for two [four] years and made available to authorized representatives of the commission upon request.~~

~~[(4) In considering alcoholic beverage sales, the dollar value of complimentary drinks shall be added to total sales or service of alcoholic beverages in determining the percentage of alcoholic beverage sales or service from the licensed premises.]~~

~~(1) [(m)] In determining the permanent food service facilities requirement for businesses qualifying under subsection (c)(3)(A) of this section, the gross receipts of all business entities sharing the location will be considered. For audit purposes, it shall be the responsibility of the food and beverage certificate holder to provide financial and accounting records related to food, alcohol, and other major sales categories of all business entities sharing the location. For audit purposes, if such information that is provided is deemed insufficient to determine~~

if a license or permit holder qualifies for issuance of a food and beverage certificate at the location, the computation and determination of the percentage of alcohol sales or service fees to total gross receipts at the licensed location may be based upon any available records of information.

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604131

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



SUBCHAPTER C. BONDS

16 TAC §§33.40 - 33.42

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 11.11, 61.13. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Sections 11.11(c) and 61.13(c) authorize TABC to adopt rules relating to conduct surety bonds, including the form of a bond and qualifications for sureties.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31, 11.11, 11.61, 61.13, 61.71, 62.14, 63.03, 204.01, and 204.02.

§33.40. General Provisions.

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

(d) All bonds shall be payable to the State of Texas [~~in Travis County~~].

(e) - (h) (No change.)

(i) Qualifications of Surety Company.

(1) (No change.)

(2) In addition to the requirements of Alcoholic Beverage Code §§11.11 and 61.13, a bank or credit union must be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA) and be authorized to transact business in this state [~~have a physical facility in this state to accept cash deposits, make cash advances to customers and carry out day-to-day operations within this state~~].

(j) - (q) (No change.)

§33.41. Conduct Surety Bonds.

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

(e) Forfeiture of a Conduct Surety Bond.

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

(6) Counting Violations for Conduct Surety Bond Forfeiture Purposes.

(A) Except as provided by subparagraph [~~subsection~~] (B) of this paragraph [~~section~~], the commission may seek forfeiture of a conduct surety bond upon the third violation during the effective period of the bond, excluding [~~including~~] warnings, of any statute or rule under the commission's jurisdiction.

(B) - (C) (No change.)

(7) (No change.)

§33.42. Performance Bonds.

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

(d) Forfeiture of Performance Bonds.

(1) Except as provided by paragraph (2) of this subsection, the commission may seek forfeiture of a performance bond upon a violation, excluding warnings, of any statute or rule under the commission's jurisdiction.

(2) (No change.)

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604132

Matthew Cherry

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Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 34. SCHEDULE OF SANCTIONS AND PENALTIES

16 TAC §§34.1 - 34.4, 34.10, 34.20

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §34.1, relating to General Provisions; 16 TAC §34.2, relating to Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations; 16 TAC §34.3, relating to Offenses Against the General Welfare; Place or Manner Violations; 16 TAC §34.4, relating to Suspensions; 16 TAC §34.10, relating to Sanctions for Regulatory Violations; and 16 TAC §34.20, relating to Attribution of Actions of Employee to License or Permit Holder. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). TABC also identified potential rule changes through an internal review of its rules. The proposed amendments are based on TREO's recommendations and TABC's review.

The proposed amendments to §34.1(b), (d), and (g) implement a new approach to written warnings issued by the agency. Currently written warnings may be issued to licensees and permittees by TABC staff for a violation of the Alcoholic Beverage Code or agency rules, and while the warning does not carry a sanction itself, it may be used as an aggravating circumstance when determining appropriate sanctions for future violations. Because of

this, TABC has offered the recipient of a written warning the ability to request an administrative hearing to challenge the warning. The requirement to offer a hearing has proved to be burdensome on the agency as staff must dedicate time and resources whenever an administrative hearing is requested. These resources can be better spent on more serious violations. Furthermore, the nature of a warning is that of a deterrent, and TABC believes it makes more sense not to formalize such a deterrent. Therefore, the proposed amendments would provide that written warnings may not be used as an aggravating factor and do not entitle the recipient to a hearing, but they may be used to establish that the recipient was aware of the violation for which the warning was issued. The proposed amendments would also allow the agency to rescind any warning that was issued in error without the need for a formal process.

The proposed amendment adding new §34.1(j) provides a non-exclusive list of factors the agency may consider, along with the circumstances identified in Alcoholic Beverage Code §11.64(c), when determining the appropriate sanction to impose for a violation. This amendment codifies agency practice and provides clarity to licensees and permittees. Proposed new §34.1(k) provides that a licensee or permittee, as the respondent in a contested case, bears the burden of proof in establishing the existence of any relevant mitigating factors. The burden to establish mitigating factors is akin to the burden to establish any defenses to an alleged violation, which has traditionally been placed on the respondent as the beneficiary of such a finding if proved. See, e.g., 1 TAC §155.427 (State Office of Admin. Hearings, Burden of Proof). The proposed amendment simply codifies that approach in TABC's rules.

The proposed amendment to §34.2(e) updates the public safety violations chart by grouping similar violation categories together to improve clarity for licensees and permittees. The proposed amendment also moves two violation categories ("Place/Manner - Over Serving" and "Place/Manner- Assaultive Offenses") from the regulatory violations chart in 16 TAC §34.10(g) to the public safety violations chart because they involve public safety concerns. The proposal also adds a new violation for providing false statements under Alcoholic Beverage Code §101.69, a violation of which will result in cancellation of the license or permit. Knowingly providing false statements under §101.69 is a felony and a more serious violation than generally providing incorrect or misleading information under Alcoholic Beverage Code §§11.46(a)(4), 11.61(b)(4), 61.43(4), 61.71(a)(4) and 61.74(a)(11), hence the more severe sanction.

The proposed amendment to §34.3 adds new subsection (e), which provides definitions of "reasonable care" and "reasonable steps" as those terms are used in §34.3(b)(3). Both definitions are based on the standard used to determine reasonable or due care under the negligence standard. See Blacks's Law Dictionary 204 (7th ed. 1999). The definitions are intended to provide clarity to licensees and permittees.

The proposed amendment to §34.4(a) codifies the current agency practice of not allowing a licensee or permittee to pay a fine in lieu of serving an emergency suspension issued under Alcoholic Beverage Code §11.614. Emergency suspensions are only issued when there is a continuing threat to the public welfare, thus it would defeat the purpose of that statute if TABC allowed a licensee or permittee to avoid suspension by paying a fine as is allowed for other violations under Alcoholic Beverage Code §11.64. Current §34.4(b) lists those offenses and violations for which licensees and permittees will not be given the

option to pay a fine in lieu thereof. But the list simply repeats the offenses and violations already listed in §11.64. The proposed amendment removes the list and simply cites to §11.64, thus removing unnecessary text.

The proposed amendment to §34.10(g) reduces the agency's time period to review its published Penalty Policy from seven to four years to reflect the rapid evolution of the alcoholic beverage industry. The proposal also updates the regulatory violations chart by correcting internal citations and consolidating violation categories into broader groupings to improve clarity.

Finally, the proposed amendment to §34.20(a) extends the time period for license or permit holders to provide a compliance affidavit (consistent with Alcoholic Beverage Code §106.14(a)) to the agency from 10 to 30 days to help businesses avoid liability where appropriate. The proposed amendments to §34.20(c) and (e) extend the time frame during which multiple violations (three or more) will result in a rebuttable presumption that the license or permit holder indirectly encouraged a violation under §106.14(a)(3). The proposal extends that time frame from a 12-month period to a 24-month period, which supports public safety by holding license and permit holders more accountable for violations that repeatedly occur at their premises. The proposed amendment to §34.20(f)(5) expressly authorizes license and permit holders to retain certain records electronically, which codifies current agency practice and provides clarity to the industry. The proposal also creates new §34.20(k), which requires the agency to create a model written policy that license and permit holders can adopt, which in turn will create a rebuttable presumption of compliance with §34.20(f)(3). This will ease the burden on licensees and permittees by not requiring them to draft, or pay someone to draft, a unique policy.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal. Mrs. Maceyra made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mrs. Maceyra expects that enforcing or administering the amended rules will have the public benefit of reducing regulatory burdens on licensees and permittees, removing unnecessary rule text, simplifying the issuance of written warnings, and generally bringing more clarity to the rules. Mrs. Maceyra does not expect the proposed amendments will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §§5.31 and 5.362. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5.362(a) directs TABC to adopt a schedule of sanctions that may be imposed for violations of the Alcoholic Beverage Code or TABC's rules.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31, 5.362, 11.46, 11.61, 11.614, 11.64, 11.641, 61.42, 61.421, 61.43, 61.44, 61.50, 61.71, 61.712, 61.713, 61.73, 61.74, 61.75, 61.76, 61.761, 71.08, and 106.14.

§34.1. General Provisions.

(a) (No change.)

(b) Definitions. When used in this chapter, the following words and terms have the following meanings unless the context clearly indicates otherwise:

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

(6) Written Warning--An administrative notice issued by a representative of the commission to a licensee or permittee documenting a violation of the Code or commission rules.

(c) (No change.)

(d) Written warnings. [A written warning is an administrative notice issued by a representative of the commission to the licensee or permit holder documenting a violation of the Code or commission rules and:]

(1) A written warning may be issued by authorized commission personnel for any violation if the person issuing the written warning determines it to be an effective deterrent from further violations of the Code or commission rules. A written warning will not be issued to a licensee or permittee for a violation if the permittee or licensee has committed the same or substantially similar violation within the preceding 24 months.[;]

(2) A written warning may not be used as an aggravating circumstance or factor for purposes of determining the appropriate sanction but may be used to establish that the licensee or permittee was aware of the violation for which the warning was issued. [under §34.2 or §34.10; of this title and]

(3) A written warning may be rescinded if it is subsequently shown to have been issued in error. [is subject to the rights and procedures of a contested case under the Administrative Procedure Act.]

(e) - (f) (No change.)

(g) A subsequent violation of the same Code provision or rule will result in a higher sanction if:

(1) [the person has been given written notice of the prior violation and] the subsequent violation is:

(A) a health, safety, and welfare violation and occurs within 36 months of the prior violation; or

(B) a regulatory violation with a base penalty of \$1,000 and occurs within 24 months of the prior violation; or

(2) the subsequent violation involves covert investigative activities.

(h) - (i) (No change.)

(j) When determining the appropriate sanction to impose under this chapter for a violation of the Code or commission rules, the agency may consider the nature and severity of the violation, the licensee's or permittee's compliance history, and any other relevant aggravating or mitigating factors, including:

(1) whether the licensee or permittee maintained and enforced adequate written policies designed to prevent offenses on the premises;

(2) whether the licensee or permittee provided regular and adequate training to employees and agents on how to identify and respond to potential violations;

(3) whether the licensee or permittee employed adequate security measures at the licensed premises, including staffing, lighting, and video surveillance technology appropriate to the size, location, and operational profile of the premises;

(4) whether the licensee or permittee has cooperated with the investigation into the violation(s) and has a history of cooperating with the commission and other law enforcement agencies; and

(5) whether the licensee or permittee took prompt action to correct or disrupt a potential violation upon learning of it.

(k) The respondent has the burden of proving by a preponderance of the evidence the existence of any mitigating factors under subsection (j) of this section. The factors listed in subsection (j)(1) - (5) of this section are not exclusive, and the existence of or compliance with any particular factor(s) does not entitle the licensee or permittee to a reduced sanction.

§34.2. Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations.

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

(e) Nothing in this rule shall be construed to limit the commission's authority to suspend or cancel a license or permit under §§11.38, 11.61, 32.17, 61.71, 201.075, or any other provision of the Code authorizing suspension or cancellation of a license or permit.

Figure: 16 TAC §34.2(e)

[Figure: 16 TAC §34.2(e)]

§34.3. Offenses Against the General Welfare; Place or Manner Violations.

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

(c) For purposes of subsection (b)(3) of this section:

(1) "reasonable care" means the degree of care that a prudent and competent licensee or permittee would exercise under similar circumstances; and

(2) "reasonable steps" are actions that a prudent and competent licensee or permittee would have taken under similar circumstances to prevent the offense.

§34.4. Suspensions.

(a) This section implements Alcoholic Beverage Code (Code) §11.64(a), which requires the commission to adopt rules addressing when a suspension may be imposed without the opportunity to pay a civil penalty. This section does not apply to, and a licensee or permittee does not have the option to pay a civil fine in lieu of, a suspension imposed by emergency order under §11.614 of the Code.

(b) The executive director or the executive director's designee may deny a licensee or permittee the option of paying a civil fine in lieu of a suspension of the license or permit if the licensee or permittee has violated one or more of the provisions, or committed one or more of the offenses, identified in §11.64 of the Code. ~~[one or more of the following provisions of the Code:]~~

~~{{(1) Section 11.61(b)(14): sale to an intoxicated person by a permittee;}}~~

~~{{(2) Section 22.12: breach of the peace on the premises of a package store;}}~~

~~{{(3) Section 28.11: breach of the peace on the premises of a mixed beverage permittee;}}~~

~~{{(4) Section 32.17(a)(2): refuse to allow an authorized agent or representative to come onto the premises;}}~~

~~{{(5) Section 32.17(a)(3): refuse to furnish requested information to the commission or its agents or representatives;}}~~

~~{{(6) Section 32.17(a)(7): consumption or service of alcohol on the premises during prohibited hours;}}~~

~~{{(7) Section 61.71(a)(5): sale to a minor by a licensee;}}~~

~~{{(8) Section 61.71(a)(6): sale to an intoxicated person by a licensee;}}~~

~~{{(9) Section 61.74(a)(14): sale to a minor by a licensee;}}~~

~~{{(10) Section 69.13: breach of the peace on the premises of an on-premise retail malt beverage dealer;}}~~

~~{{(11) Section 71.09: breach of the peace on the premises of an off-premise retail malt beverage dealer;}}~~

~~{{(12) Section 101.04: refuse to allow inspection;}}~~

~~{{(13) Section 104.01(a)(4): solicitation of drinks;}}~~

~~{{(14) Section 101.63: sale to an intoxicated person;}}~~

~~{{(15) Section 106.03: sale to a minor;}}~~

~~{{(16) Section 106.06: purchase of alcohol for a minor;}}~~

~~{{(17) Section 106.15: engage in prohibited activity related to dancing by a person under 18;}}~~

~~{{(18) Chapter 105: sale or offer of sale of an alcoholic beverage during prohibited hours, or consumption or permitting consumption of an alcoholic beverage during prohibited hours;}}~~

~~{{(19) any offense relating to gambling, prostitution or trafficking of persons; or}}~~

~~{{(20) any offense relating to controlled substances or drugs;}}~~

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

§34.10. Sanctions for Regulatory Violations.

(a) - (f) (No change.)

(g) The commission shall review the Penalty Policy and update or revise it as necessary at least once every four (4) ~~[seven (7)]~~ years.

Figure 16 TAC §34.10(g)

[Figure 16 TAC §34.10(g)]

(h) (No change.)

§34.20. Attribution of Actions of Employee to License or Permit Holder.

(a) A license or permit holder who claims that the actions of an employee are not attributable to the license or permit holder under Code §106.14(a) must provide to the commission, not later than 30 ~~[10]~~ days after receipt of an administrative notice of violation, an affidavit indicating that the license or permit holder was in compliance with the requirements of Code §106.14(a) at the time of the violation for which the administrative notice was issued. At a hearing in which the license or permit holder claims the benefits of Code §106.14(a), the license or permit holder may be required to present additional evidence to support such claim.

(b) (No change.)

(c) Proof by the commission that an employee performed an action described in paragraph (1) or (2) of this subsection on three or more occasions within a 24-month ~~[12-month]~~ period shall create a rebuttable presumption that the license or permit holder has indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3). The rebuttable presumption is created regardless of whether the employee performing the action described in paragraph (1) or (2) of this subsection on a second or subsequent occasion is the same person.

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

(d) (No change.)

(e) For purposes of subsection (d) of this section, all incidents offered to satisfy the condition precedent set forth in subsection (c) of

this section shall be for the same type of offense and shall have occurred within a 24-month [~~12-month~~] period as calculated from the dates the incidents occurred.

(f) There is a rebuttable presumption that a license or permit holder has indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3) if the commission presents sufficient proof that a license or permit holder fails to meet any of the standards set forth in paragraphs (1) - (5) of this subsection.

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

(5) The license or permit holder maintains records for at least one year after the date employment was terminated that show that each employee read and understood the license or permit holder's current policies and procedures described in paragraph (3) of this subsection. Records may be maintained in electronic format, including digital signatures and cloud-based storage systems, provided such systems maintain adequate data integrity, including audit trails, tamper-resistance, and accessibility for commission inspection.

(g) - (j) (No change.)

(k) The commission shall publish and maintain a model written policy template that license or permit holders may adopt to satisfy the requirements of subsection (f)(3) of this section. Adoption of the commission's model creates a rebuttable presumption of compliance with that paragraph.

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 September 24, 2026.

TRD-202604133

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 35. ENFORCEMENT

16 TAC §35.3, §35.7

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §35.3, relating to Risked-Based Inspection of Licensed and Permitted Premises; and 16 TAC §35.7, relating to Consumption of Consumable Hemp Products. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). TABC also identified potential rule changes through an internal review of its rules. The proposed amendments are based on TREO's recommendations and TABC's review.

Current §35.3(c) defines when a licensed or permitted premises is considered a priority location for purposes of determining when inspections of the premises will occur under the rule. Under current §35.3(c)(3)-(4), certain premises are a priority location if they have been licensed for less than two years and

have not been the target of any underage compliance operations or other public safety operations. The proposed amendments to §35.3(c)(3)-(4) would expand the scope of those provisions by classifying those premises as priority locations if they have not been the target of *any* investigative activity rather than just underage compliance or other public safety operations. This change will allow the agency to better focus its attention and resources on higher risk locations.

The proposed amendment to §35.7(b) adds definitions of "reasonable care" and "reasonable steps" as those terms are used in the rule. The definitions mirror the definitions proposed for 16 TAC §34.3 in a simultaneous rulemaking and are based on the standard used to determine reasonable or due care under the negligence standard. See Blacks's Law Dictionary 204 (7th ed. 1999). The definitions are intended to provide clarity to licensees and permittees.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Nicole Langley, Interim Chief of Enforcement, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal. Chief Langley made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Chief Langley also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Chief Langley expects that enforcing or administering the amended rules will have the public benefit of better focusing the agency's attention and resources on higher risk locations and bringing more clarity to the rules. Chief Langley does not expect the proposed amendments will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 5.361. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5.361(a-1) provides that TABC shall, by rule, develop a risk-based plan for inspecting licensees and permittees.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31, 5.361, 11.46, 11.61, 61.42, and 61.71.

§35.3. Risk-Based Inspection of Licensed and Permitted Premises.

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

(c) For purposes of this section, a premises is a "priority location" if:

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

(3) the premises has been licensed for less than two years for off-premises consumption, and has not been the target of an investigative activity [~~any underage compliance operation or other public safety operation~~]; or

(4) the premises has been licensed for less than two years for on-premises consumption, holds a late hours certificate, and has not been the target of an investigative activity [~~underage compliance operation or other public safety operation~~].

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

§35.7. Consumption of Consumable Hemp Products.

(a) (No change.)

(b) A permittee or licensee may not authorize or allow any person to consume a consumable hemp product on a premises covered by a wine and malt beverage retailer's off-premise permit, retail dealer's

off-premise license, package store permit, or wine-only package store permit. A permittee or licensee violates this subsection if it knows or, in the exercise of reasonable care, should know of the consumption of consumable hemp products or the likelihood of its occurrence and fails to take reasonable steps to prevent it. For purposes of this subsection:

(1) "reasonable care" means the degree of care that a prudent and competent licensee or permittee would exercise under similar circumstances; and

(2) "reasonable steps" are actions that a prudent and competent licensee or permittee would have taken under similar circumstances to prevent the consumption.

(c) (No change.)

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604134

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491

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CHAPTER 37. LEGAL
SUBCHAPTER A. RULES OF PRACTICE

16 TAC §37.5

The Texas Alcoholic Beverage Commission (TABC) proposes to repeal 16 TAC §37.5, relating to Determining Population. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). The repeal proposed now is based on TREO's recommendations.

Rule 37.5 provides that "[f]or purposes of any provision of the Alcoholic Beverage Code or the commission's rules that refer to population, it shall be determined by the most recent federal decennial census." TABC has determined that this rule is unnecessary because the Code Construction Act (Texas Government Code §311.005(3)) already defines "population" by reference to the federal decennial census, and Government Code §311.002 provides that the Code Construction Act applies to agency rules. Additionally, some Alcoholic Beverage Code provisions provide alternatives by specifically accounting for a city's or county's population according to a census other than the most recent federal census, which may be viewed as conflicting with the current rule. See, e.g., Tex. Alco. Bev. Code §105.05(c). Therefore, TABC believes §37.5 should be repealed.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years after the repeal is in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal.

Mrs. Maceyra made this determination because the proposed repeal does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with it. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years after the repeal is in effect, Mrs. Maceyra expects there to be the public benefit of removing an unnecessary rule from the Administrative Code. Mrs. Maceyra does not expect the proposed repeal will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just that proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed repeal will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years after the proposed repeal is in effect, it:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed repeal from any person interested in the repeal. Additionally, TABC requests information related to the cost, benefit, or effect of the repeal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed repeal at 10:00 a.m. on October 29,

2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the repeal pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed repeal implements Alcoholic Beverage Code §5.31.

§37.5. *Determining Population.*

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 September 24, 2026.

TRD-202604135

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 39. PORT OF ENTRY

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §39.1, relating to Personal Importation; and repeal 16 TAC §39.2, relating to Calculation of Taxes Due; and 16 TAC §39.4, relating to Table of Taxes Due for Liquor. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). The amendments and repeals proposed now are based on TREO's recommendations.

The proposed amendments to §39.1 would repeal current subsections (b) and (d) and reorganize the rule's remaining subsections accordingly. Current subsection (b) simply provides that alcoholic beverage containers imported into the state for personal consumption are subject to applicable taxes and fees, and these fees will be included in the posted tax rates. Subsection (b) effectively restates Alcoholic Beverage Code §107.07(a) and is thus redundant. Current subsection (d) simply provides that nothing in the rule chapter should be construed to alter personal importation limits set in law. This subsection is unnecessary because a rule generally cannot alter requirements set in statute. Therefore, TABC believes it is appropriate to remove these subsections from the rule.

The proposed repeals of §39.2 and §39.4 simply eliminate unnecessary rules. Rule 39.2(a) lists tax rates for various types of alcoholic beverages that are imported into the state, but those tax rates are already set and listed in Alcoholic Beverage Code §§201.03, 201.04, and 203.01. Rule 39.2(b) provides that the tax due on alcohol in metric containers will be determined by converting the metric amount into gallons and then rounding up to the nearest quarter of a dollar. But the conversion require-

ment is already established in statute (Alcoholic Beverage Code §201.17) and the agency is already authorized to round up to the nearest quarter of a dollar under Alcoholic Beverage Code §107.07(g). And §39.4 simply provides that TABC will display a table of the taxes due on alcoholic beverages at each port of entry and the agency's website. TABC will continue to post this information, but it is not necessary to mandate this action in rule.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Nicole Langley, Interim Chief of Enforcement, has determined that during each year of the first five years the proposed amendments and repeals are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal. Chief Langley made this determination because the proposed amendments and repeals do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended or repealed rules. Chief Langley also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments and repeals are in effect, Chief Langley expects there to be the public benefit of removing unnecessary rules from the Administrative Code. Chief Langley does not expect the proposed amendments and repeals will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments and repeals will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments and repeals are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments and repeals from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

16 TAC §39.1

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§107.07, 201.03, 201.04, 201.17, and 203.01.

§39.1. *Personal Importation.*

(a) (No change.)

~~[(b) All alcoholic beverage containers imported into Texas for personal consumption are subject to the applicable state tax and administrative fees. These administrative fees shall be included in the posted tax rates.]~~

~~[(e)]~~ Payment of the fees and taxes must be documented by a tax stamp. For purposes of this rule, "tax stamp" means a written acknowledgement, which may be an electronic notification, documenting that the State of Texas has received payment of fees and taxes.

~~[(d) Nothing in this Chapter shall be construed to alter the personal importation limits set in Code §107.07(a).]~~

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 September 24, 2026.

TRD-202604136

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



16 TAC §39.2, §39.4

STATUTORY AUTHORITY. TABC proposes the repeals pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed repeals implement Alcoholic Beverage Code §§107.07, 201.03, 201.04, 201.17, and 203.01.

§39.2. *Calculation of Taxes Due.*

§39.4. *Table of Taxes Due for Liquor.*

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 September 24, 2026.

TRD-202604137

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 41. AUDITING

SUBCHAPTER B. RECORDKEEPING & REPORTS

16 TAC §41.12

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §41.12, relating to Compliance Reporting by License and Permit Holders. Earlier this year TABC adopted §41.12(e) to allow the agency to issue written warnings to permittees and licensees that fail to file compliance reports in a timely manner without providing those permittees and licensees the opportunity to request an administrative hearing to challenge the warnings. See 51 TexReg 4014 (June 19, 2026). This was an exception to the general standard in 16 TAC §34.1(d) allowing permittees and licensees to request a hearing to challenge any written warning. Upon further review, the agency no longer believes that written warnings should serve as an aggravating factor in determining appropriate sanctions for future violations, which in turn would negate the need for offering permittees and licensees an opportunity to request an administrative hearing challenging the warning. With that change to §34.1, which is being proposed in a simultaneous rulemaking, there is no longer a need for the exception in §41.12(e) and TABC now proposes to delete that subsection.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendment is in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rule. Mrs. Maceyra made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with it. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years after the amendment is in effect, Mrs. Maceyra expects there to be the public benefit of removing an unnecessary rule subdivision from the Administrative Code. Mrs. Maceyra does not expect the proposed amendment will impose economic costs on the regulated industry.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendment will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years after the proposed amendment is in effect, it:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or negatively affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendment from any person interested in the repeal. Additionally, TABC requests information related to the cost, benefit, or effect of the repeal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed repeal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendment pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed amendment implements Alcoholic Beverage Code §§5.32 and 5.361.

§41.12. *Compliance Reporting by License and Permit Holders.*

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

[(e) Notwithstanding §34.1(d)(3) of this title, the commission may issue a written warning as provided in subsection (d) of this sec-

tion without providing the permittee or licensee an opportunity for an administrative hearing under the Administrative Procedure Act.]

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 September 24, 2026.

TRD-202604138

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 45. MARKETING PRACTICES

SUBCHAPTER F. ADVERTISING AND PROMOTION

16 TAC §45.121

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §45.121, relating to Advertising Standards Required. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). The proposed amendments are based on TREO's recommendations.

Rule 45.121 generally prohibits the publication or dissemination of alcoholic beverage advertisements in this state if the advertisement is calculated to induce sales, unless done so in compliance with agency rules. The rule specifies various mediums of communication (radio, newspaper, etc.) that the prohibition applies to. It also references specific persons (newspaper publisher, radio operator, etc.) that the rule does not apply to. By referencing only specific mediums of communication and specific persons excepted from the rule, the agency risks creating unintended loopholes, especially as new methods of communication emerge. Therefore, the proposed amendments replace all references to specific mediums and persons with all-inclusive terms.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rule. Mrs. Maceyra made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with it. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years after the proposed amendments are in effect, Mrs. Maceyra expects there to be the public benefit of clarifying the scope of an agency rule that provides a public safety purpose.

Mrs. Maceyra does not expect the proposed amendments will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years after the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments from any person interested in the rule. Additionally, TABC requests information related to the cost, benefit, or effect of the amendments, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed repeal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §5.31.

§45.121. Advertising Standards Required.

No person, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated through any medium or channel of communication [~~by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter, including via the internet~~], any advertisement of alcoholic beverages if such advertisement is in this state, is calculated to induce sales in this state, or is disseminated [~~by mail or e-mail~~] in this state, unless such advertisement is in conformity with this chapter. This chapter does not apply to the publisher or operator of any communication medium [~~of any newspaper, periodical or other publication, or radio broadcaster,~~] unless such publisher or operator [~~radio broadcaster~~] is a permittee.

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 September 24, 2026.

TRD-202604139

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER AND DELIVERY DRIVER TRAINING

SUBCHAPTER C. SELLER SERVER SCHOOL CERTIFICATES AND REQUIREMENTS

16 TAC §50.17, §50.20

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §50.17, relating to Application for Primary Internet-Based Seller Server School Certificates; and 16 TAC §50.20, relating to Application for Branch In-House Seller Server Certificate. Consistent with Texas Government Code §465.0052, the Texas Regulatory Efficiency Office (TREO) reviewed TABC's rules and provided recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules. See Regulatory Efficiency Review of TABC (available at <https://efficiency.texas.gov/treo-files/TABC.pdf>). The proposed amendments are based on TREO's recommendations. All proposed changes to §50.17 and §50.20 are intended to reduce regulatory burdens on applicants for seller server school certificates.

Under current §50.17(b), criminal background checks are performed on a wide variety of individuals associated with internet-based seller server schools, including all owners, officers, and managers. The proposed amendment to §50.17(b) would reduce regulatory burden by narrowing that requirement only to individuals with an ownership interest greater than 25 percent, executive officers, and instructors who interact with students.

Current §50.17(f) requires applicants for an internet-based seller server school certificate to verify that its security measures meet state and federal standards for the transmission and protection of personal identification and financial information. To reduce regulatory burden, the proposed amendment to this subsection would allow applicants to satisfy this requirement by providing TABC with certain standardized third-party security certifications.

Rule 50.17(h) lists certain domain information that must be listed in an application for a primary internet-based training school certificate. The proposed amendment to §50.17(i) reduces regulatory burden by extending the amount of time a school has to update the agency on changes to that domain information from 24 hours to 10 business days.

The proposed amendment to §50.17(j) - (l) would allow a primary internet-based training school certificate to cover all domains and delivery platforms under common ownership with the school and its designated primary domain, rather than requiring a school to obtain a branch certificate for each domain under common ownership, as is currently required. The proposed amendment to §50.17(k) and the repeal of subsection (m) would require the agency to approve a standardized disclosure statement to be provided by schools when students are redirected from the designated primary domain to any other domain under common ownership. Currently, schools must draft individual disclosure statements according to specifications in rule.

The proposed amendment to §50.20(d) will allow an applicant for multiple branch classroom-based in-house seller server school certificates to submit a single master application with each branch clearly identified, as provided on TABC forms, rather than separate applications for each certificate. And the proposed amendment to §50.20(h) will not require branch in-house seller server school certificate applicants to submit new criminal background check authorizations if the individual's most recent background check was done within the preceding 90 days.

The proposed amendment to §50.20(l) extends the amount of time a certificate applicant has to correct deficiencies in their application from ten to 15 business days from the date they were notified of the deficiency. And like the proposed amendment to §50.20(d), the proposed amendment to §50.20(q) will allow an applicant for multiple branch internet-based or mobile application in-house seller server school certificates to submit a single master application with each branch clearly identified, as provided on TABC forms, rather than separate applications for each certificate.

The proposed amendments also delete current §50.20(u) because it is duplicative and thus unnecessary. And like the proposed amendment to §50.20(l), the proposed amendment to new §50.20(x), extends the amount of time a certificate applicant has to correct deficiencies in their application from ten to 15 business days from the date they were notified of the deficiency. Proposed new §50.20(y) implements a new process whereby TABC may grant expedited approval of applications from primary schools that already hold a certificate and that are not subject to pending violations or disciplinary actions within the preceding 24 months. And finally, proposed new §50.20(z) clarifies that any materials required to be submitted to the agency under this rule may be submitted electronically.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Cherish Yenzer, Deputy Director of Training, has determined that during each year of the first five years the proposed

amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the proposal. Ms. Yenzer made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Ms. Yenzer also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Yenzer expects that enforcing or administering the amended rules will have the public benefit of reducing regulatory burdens on applicants. Ms. Yenzer does not expect the proposed amendments will impose economic costs on the regulated industry. In its Regulatory Efficiency Review, TREO identified significant positive economic impacts associated with its recommendations to eliminate unnecessary or ineffective rules and reduce inefficiencies resulting from the agency's rules, but that analysis was based on all identified rule changes, not just those proposed here.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy, as identified by TREO.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendments from any person interested in the proposal. Additionally, TABC requests information related to the cost, benefit, or effect of the proposal, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, November 9, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin,

Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposal at 10:00 a.m. on October 29, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Alcoholic Beverage Code §§5.31 and 106.14(b). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 106.14(b) provides that TABC shall adopt rules or policies establishing the minimum requirements for approved seller training programs.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31 and 106.14.

§50.17. Application for Primary Internet-Based Seller Server School Certificate.

(a) (No change.)

(b) An applicant for an original certificate or change of ownership for an internet-based seller server school must disclose all individual owners, individuals and legal entities having an ownership interest, and all officers, directors, managers, and instructors. Criminal history background checks under paragraph (3) of this subsection are required only for individuals with an ownership interest greater than 25 percent, executive officers, and instructors who interact with students.

(1) A legal entity must provide its formation and registration documents and must be authorized to transact business in this state.

(2) A personal history sheet must be completed and submitted with the application for each individual disclosed on the application.

(3) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check.

(4) Additional information may be required by the commission to verify ownership or qualifications of the applicant.

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

(f) An applicant for an internet-based seller server school certificate must verify that the security measures implemented and maintained by the school meet state and federal standards for the transmission and protection of personal identification information and financial information of individuals accessing the website. A current, valid SOC 2 Type II, PCI DSS, or ISO 27001 certification shall be accepted as sufficient evidence of compliance with this subsection.

(g) - (h) (No change.)

(i) The applicant must agree to update the list required by subsection (h) of this section within 10 business days [24 hours] of a change during the term of the certificate and failure to keep the list current is grounds for cancellation of the primary internet-based training school certificate.

(j) A primary internet-based training school certificate covers all domains and delivery platforms under common ownership. The primary certificate holder shall notify the commission of any new domain or delivery platform within 10 business days of deployment through an online notification system maintained by the commission. [A primary internet-based training school must obtain a branch internet-based training school certificate for each domain that is under common ownership with the designated primary domain but that offers

a different course of instruction from that offered at the designated primary domain-]

(k) Certificate holders must ensure that, before any domain redirects a student to the designated primary domain or to any domain under common ownership, the redirecting domain must display a standardized disclosure statement approved by the commission informing the student of the redirect, the identity of the school providing instruction, and the student's right to decline the redirect without incurring fees. [A primary internet-based training school is not required to obtain a branch internet-based or branch mobile application training school certificate for a domain that is under common ownership with the designated primary domain but that either merely redirects students to the designated primary domain or to another domain that is under common ownership with the primary domain.]

(l) The commission shall maintain a fully digital application system that retains prior application data for renewals, accepts electronic signatures, and allows digital submission for all materials required under this section. [A primary internet-based training school is required to obtain:]

[(1) a branch mobile application training school certificate for each delivery platform that is under common ownership with the designated primary internet-based program. This includes, but is not limited to, programs designed for specific mobile devices or custom programming as a delivery platform for the mandatory curriculum and internet-based testing; or]

[(2) a branch internet-based training school certificate for each delivery domain that is under common ownership with the designated primary internet-based program but provides a different course of instruction than that which is approved on the designated primary domain-]

[(m) A primary internet-based training school must require that before any domain redirects a student to the designated primary domain or to any domain under common ownership with it, and before charging the student, the redirecting domain must inform the student:]

[(1) that he will be transferred to another site;]

[(2) of the name of the school that will actually provide the course of instruction;]

[(3) of the name of the school that will appear on his certificate upon successful completion of the course;]

[(4) that the school to which he will be redirected will solicit private, personally identifiable information from the student; and]

[(5) that the student may refuse to be transferred without incurring fees.]

§50.20. Application for Branch In-House Seller Server School Certificate.

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

(d) An applicant may submit one or more applications for a branch classroom-based in-house seller server school certificate[; but each application must be separately completed and submitted on forms provided by the commission]. Applications may be submitted individually or as a single master application with branch-specific addenda, on forms provided by the commission.

(e) - (g) (No change.)

(h) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check. The commission may access existing background check results from the primary school application database in lieu of

requiring a new authorization where the individual's most recent background check was completed within the preceding 90 days.

(i) - (k) (No change.)

(l) An applicant must:

(1) keep an exact copy of the application submitted to the commission; and

(2) complete and correct any deficiencies within 15 [ten] business days after being notified of the deficiency.

(m) - (p) (No change.)

(q) An applicant may submit one or more applications for a branch internet-based or mobile application in-house seller server school certificate[; but each application must be separately completed and submitted on forms provided by the commission]. Applications may be submitted individually or as a single master application with branch-specific addenda, on forms provided by the commission.

(r) - (t) (No change.)

[(u) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check-]

(u) [(v)] Additional information may be required by the commission to verify ownership or qualifications of an applicant or individual.

(v) [(w)] The applicant must sign and verify that:

(1) the applicant has authority to act on behalf of all owners;

(2) the applicant has personally completed or reviewed the application and has personal knowledge of and is responsible for its content;

(3) all parts of the application that apply are complete;

(4) each fact, disclosure, and statement made in the application is true and correct at the time the application is submitted;

(5) the applicant acknowledges that an application for a certificate is a government document and is subject to verification by the commission; and

(6) the applicant acknowledges that providing false or misleading information or omitting a material fact may result in the refusal of the application, cancellation of a certificate, or criminal prosecution.

(w) [(x)] Incomplete applications or applications submitted without required fees will neither be accepted for processing nor returned to the applicant.

(x) [(y)] An applicant must:

(1) keep an exact copy of the application submitted to the commission; and

(2) complete and correct any deficiencies within 15 [ten] business days after being notified of the deficiency.

(y) Expedited Approval. The commission may grant expedited or automatic approval for branch applications from primary schools that hold a current, compliant certificate with no pending violations or disciplinary actions within the preceding 24 months.

(z) Electronic Processing. All materials required under this section, including personal history sheets and background check authorizations, may be submitted electronically with electronic signatures.

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 September 24, 2026.

TRD-202604140

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 206-3491



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER A. REQUIRED CURRICULUM **19 TAC §74.5**

The State Board of Education (SBOE) proposes an amendment to §74.5, concerning the academic achievement record (transcript). The proposed amendment would require a student's academic achievement record to indicate that the student has met the new graduation requirement related to the direct admissions program administered by the Texas Higher Education Coordinating Board (THECB) in accordance with Senate Bill (SB) 2314, 89th Texas Legislature, Regular Session, 2025.

BACKGROUND INFORMATION AND JUSTIFICATION: In 2025, the 89th Texas Legislature, Regular Session, passed SB 2314, amending the state graduation requirements in Texas Education Code (TEC), §28.025(c), to add a new graduation requirement related to the direct admissions program administered by THECB. TEC, §28.0257, requires that a student must elect whether to allow the THECB to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admissions program before graduating.

At the June 2026 SBOE meeting, the SBOE approved for second reading and final adoption amendments to 19 TAC §74.11, High School Graduation Requirements, and §74.12, Foundation High School Program, to update the rules to include the new direct admissions program graduation requirement beginning with students enrolled in the 2026-2027 school year. The adopted rules also allow a student to satisfy the requirement by declining to complete and submit the information necessary to participate in the program through a formal opt-out process.

The proposed amendment to §74.5 would update the rule for the academic achievement record to require documentation of the completion of the new graduation requirement related to the direct admissions program.

The SBOE approved the proposed amendment for first reading and filing authorization at its September 4, 2026 meeting.

FISCAL IMPACT: Shannon Trejo, deputy commissioner for school programs, has determined that there are no additional costs to state or local government. There may be costs to

school districts and charter schools associated with required updates to local student information systems in order to implement the requirements of statute. These may include changes to district-developed databases. Since the design and format of and data collection for the academic achievement record (high school transcript) are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

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

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

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

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

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by requiring school districts and charter schools to report the completion of the requirement related to the direct admissions program on the academic achievement record.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit 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: Dr. Trejo has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to improve documentation of requirements on the academic achievement record and the ability to more effectively transmit that information between school districts. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have data and reporting implications. The proposed amendment would require school districts and charter schools to report the completion of the graduation requirement related to the direct admissions program on the high school transcript.

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

PUBLIC COMMENTS: The SBOE requests public comments on the proposal, including, per Texas Government Code,

§2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins October 9, 2026, and ends at 5:00 p.m. on November 9, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2026 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 9, 2026.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §7.102(c)(13), which requires the State Board of Education (SBOE) to adopt transcript forms and standards for differentiating high school performance for purposes of reporting academic achievement under TEC, §28.025; TEC, §28.025(c), as amended by Senate Bill (SB) 2314, 89th Texas Legislature, Regular Session, 2025, which requires that a student must elect whether to allow the Texas Higher Education Coordinating Board (THECB) to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admissions program before graduating; TEC, §28.025(e), which requires each school district to report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the SBOE; and TEC, §28.0257, as added by SB 2314, 89th Texas Legislature, Regular Session, 2025, which requires a student to elect whether to opt in to allowing the THECB to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admissions program established by THECB.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.102(c)(13); 28.025(c), as amended by Senate Bill (SB) 2314, 89th Texas Legislature, Regular Session, 2025; 28.025(e); and 28.0257, as added by SB 2314, 89th Texas Legislature, Regular Session, 2025.

§74.5. Academic Achievement Record (Transcript).

(a) The commissioner of education shall develop and distribute to each school district and institution of higher education the state guidelines for a common academic achievement record and coding system for courses and instructions for recording information on the academic achievement record. Each school district must use the coding system provided by the commissioner.

(b) Following guidelines developed by the commissioner, each school district must use an academic achievement record (transcript) form that includes the following:

- (1) student demographics;
- (2) school data;
- (3) student data; and
- (4) the record of courses and credits earned.

(c) The academic achievement record shall serve as the academic record for each student and must be maintained permanently by the district. Each district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must

respond promptly to each request for student records from a receiving school district.

(d) Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.

(e) A student who completes high school graduation requirements shall have attached to the academic achievement record a seal approved by the State Board of Education.

(f) A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record.

(g) A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record.

(h) A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record.

(i) A student who demonstrates proficiency in speech as specified in §74.11(a)(3) of this title (relating to High School Graduation Requirements) shall have completion of the speech requirement clearly indicated on the academic achievement record.

(j) A student who completes the required instruction in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED) as specified in §74.38 of this title (relating to Requirements for Instruction in Cardiopulmonary Resuscitation (CPR) and Use [the use] of an Automated External Defibrillator (AED)) [~~automated external defibrillator (AED)~~] in Grade 9, 10, 11, or 12 shall have completion of the CPR and use of an AED instruction clearly indicated on the academic achievement record.

(k) A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record.

(l) A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record.

(m) A student who participates in the direct admission program administered by the Texas Higher Education Coordinating Board or submits an opt-out form declining participation in accordance with §74.11(c) of this title shall have completion of the direct admission program requirement clearly indicated on the academic achievement record.

(n) [~~(m)~~] A student who satisfies a languages other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with §74.12(b)(5)(F) of this title (relating to Foundation High School Program) shall have the credit clearly indicated on the academic achievement record.

(o) [~~(n)~~] A student who earns a high school diploma by satisfying the requirements of the Texas First Early High School Completion Program in accordance with Chapter 4, Subchapter AA, of this title (relating to relating to the Texas First Early High School Completion Program) [~~Chapter 21, Subchapter D, of this title (relating to the Texas First Early High School Completion Program)~~] shall have completion of the program and the distinguished level of achievement clearly indicated on the academic achievement record.

(p) [~~(o)~~] A student who completes all graduation requirements except for required end-of-course assessment instruments may be is-

sued a certificate of coursework completion. The academic achievement record will include a notation of the date such a certificate was issued to the student.

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 September 28, 2026.

TRD-202604181

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: November 8, 2026

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 217. MILK AND DAIRY

SUBCHAPTER D. BULK MILK REGULATIONS

25 TAC §§217.61 - 217.65

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes amendments to §217.61, concerning Bulk Milk Hauler/Sampler Qualifications and Requirements; §217.62, concerning Bulk Milk Holding Tanks; §217.63, concerning Milk Tank Trucks; §217.64, concerning Unloading Stations and Milk Tank Truck Cleaning Facilities; and §217.65, concerning Responsibilities of the Bulk Milk Hauler/Sampler.

BACKGROUND AND PURPOSE

The purpose of the proposal is to update and clarify regulations related to bulk milk operations to ensure consistency with current industry practices and federal requirements in the Grade "A" Pasteurized Milk Ordinance (PMO). The proposed amendments to Chapter 217, Subchapter D, are necessary to align rule language with current federal standards governing the production, transportation, and handling of milk and dairy products in interstate commerce and to reflect current program practices.

The proposed amendments remove references to the PMO because it is adopted by reference in §217.2, relating to Adopted Regulations and Standards for milk. The proposal updates terminology, improves clarity, and incorporates plain language revisions to enhance readability and understanding. The proposed amendments also remove duplicative or unnecessary provisions and clarify existing requirements without creating new regulatory obligations.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §217.61 requires bulk milk haulers and samplers to collect a temperature control at the first stop and label it appropriately and updates a reference.

The proposed amendment to §271.62 updates a reference.

The proposed amendment to §217.63 allows DSHS to honor the milk tank truck permits of the regulatory agencies of other states and modifies the requirement that milk tank trucks be inspected every 12 months to every 24 months.

The proposed amendment to §217.64 removes the requirement for unloading stations to provide agitation equipment and a minimum agitation time of milk prior to sampling; uses the department issued certification number instead of the sample collector's driver's license number; removes outdated or unnecessary requirements, including limitations on the distance between unloading and wash stations, and duplicative provisions to improve clarity and consistency; revises cleaning requirements to align with manufacturer specifications for cleaning solutions; allows milk tank trucks to deliver to only one facility without a wash tag if the facility can demonstrate that cleaning and sanitizing occurred; and updates a reference.

The proposed amendment to §217.65 requires bulk milk haulers and samplers to request certification renewal before certification expires and updates a reference.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Christy Havel Burton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, do not impose a

cost on regulated persons, and are necessary to comply with federal law.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public will benefit from improved clarity and consistency in bulk milk regulations and alignment with federal standards that support safe milk production and transport.

Christy Havel Burton has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the regulated entities are already in compliance with the federal regulations and program practices.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's property that otherwise exists in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R066" in the subject line.

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The amendments implement Texas Government Code §524.0151 and Texas Health and Safety Code Chapter 1001 and §435.003.

§217.61. *Bulk Milk Hauler/Sampler Qualifications and Requirements.*

(a) Requirements for Bulk Milk Hauler/Sampler Certifications [bulk milk hauler/sampler certifications].

(1) Each bulk milk hauler/sampler candidate must [shall] complete a [comprehensive] training program provided or approved

by the department. The program must teach how [; which shall include a course teaching specific procedures necessary] to transport [properly handle] milk from the dairy farm to the unloading [plant, receiving station, or transfer] station. This program must [shall further] include [practical] field training and evaluation in handling [sufficient to develop a proficient working knowledge of proper] bulk milk [handling procedures].

(2) Each [After training has been completed, each] hauler/sampler candidate must [shall] pass a written test [qualifying examination] administered by the department. The department denies certification to candidates who score below 70 percent. Retesting is necessary until a candidate receives a passing score. [Candidates failing the exam with a score of less than 70%, shall be denied permits or licenses until they can achieve a passing score of 70%. The examination should be adequate enough to determine if a bulk milk hauler/sampler is competent.] The test must include at least [exam shall be composed of a minimum of] 20 total questions broken down into the following areas:

(A) six questions about [relating to] sanitation and personal cleanliness;

(B) six questions about [relating to] sampling and weighing procedures;

(C) four questions about [relating to] equipment, including proper use, care, cleaning[; etc.]; and

(D) four questions about [relating to] proper record keeping requirements.

(3) A candidate may use an [An] industry sponsored training program instead [may be used in lieu] of this program, if [provided that]:

(A) such training program meets or exceeds the [minimum standards and] requirements [set forth] in these rules [regulations];

(B) the department has issued written [a letter indicating the] acceptance of the training program; and

(C) the department administers the written test [qualifying examination is administered by the department].

(4) The department certifies individuals who pass the written test and field evaluation. [Bulk milk haulers/samplers successfully qualifying by examination and who have been satisfactorily evaluated in the field will be certified by the department to perform milk hauler/sampler duties.] Only certified [those milk] haulers/samplers having certification issued by the department or by the authorized Regulatory Agency of another state will be allowed to remove milk from a farm bulk milk tank. Only certified samplers may [and] collect milk samples for laboratory testing [examination].

(5) The department must reevaluate certified individuals [All official milk samplers, including bulk milk haulers/samplers, shall be evaluated] at least once every 24 months. Certification will expire on the last day of the same month on which it was issued. The [by the] department or [by] the authorized Regulatory Agency of another state will conduct this evaluation [of another state].

(6) The department may issue temporary hauler/sampler certifications in emergency situations. The department may waive the training, test, and evaluation if the employer proves the individual's competence. This is a [without the prescribed examinations, evaluation and training program; provided acceptable certification of competence is made by the employer of the individual. A] temporary permit that is only valid for 30 days.

(7) The department may suspend a [hauler/sampler] certification if an investigation determines a violation of [when, upon investigation, the department finds a violation of any of the following]:

(A) this subchapter; or

(B) §217.2 of this chapter (relating to Adopted Regulations and Standards) [title (relating to Grade A Pasteurized Milk Ordinance)].

(b) Procedure and Handling Requirements.

(1) Each bulk milk [pickup] tanker must have [shall be supplied with sanitized sample bottles or bags, other] sampling equipment[, and supplies necessary], as required in §217.2 of this chapter, [title] to collect samples [clean and sanitize multi-use equipment used in sampling and pickup operations].

(2) All haulers/samplers must collect a temperature control (TC) sample at the first stop of each load. The TC label must include the collection time, date, temperature, dairy identification, and sampler number.

(3) [(2)] All [bulk milk] haulers must provide [operating bulk milk pickup tankers shall make available to the department upon request] a copy of the load manifest and a current list of producers for each route pickup load. These documents must include [with] the following information:

(A) the producer name and number in the order of milk pickup;

(B) the time of arrival at each dairy;

(C) the time of arrival at the unloading station;

(D) the name and address of the unloading station; and

(E) the hauler/sampler name and certification [driver's license] number.

§217.62. Bulk Milk Holding Tanks.

(a) Farm bulk milk tanks must be large enough to hold the milk produced [shall have a capacity adequate for production] between routine pickups. Pickups must occur at least every other day. There must be enough milk in the tank after [The time between pickups shall not exceed every other day. Milk must be of sufficient quantity for adequate mechanical agitation at the completion of] the first milking to allow proper mechanical agitation to achieve a representative sample.

(b) Farm bulk milk tanks must have [shall be equipped with] an indicating thermometer. The thermometer's[, the] sensor must be able to read [of which shall be located to permit the registering of] the temperature of the milk [contents] when the tank contains no more than 20 percent [20%] of its calibrated capacity.

(c) Farm bulk milk tanks must have a [will be equipped with easily accessible] sampling port [ports] or a sample cock.

(d) Farm bulk milk tanks must meet [shall comply with] the requirements of the "Grade A Pasteurized Milk Ordinance" [which is adopted by reference] in §217.2 of this chapter (relating to Adopted Regulations and Standards) [title (relating to Grade A Pasteurized Milk Ordinance)].

§217.63. Milk Tank Trucks.

(a) Each milk tank truck used to transport milk or milk products must have a permit from [to or from a dairy farm, milk plant, or receiving station, shall be permitted by] the department. The department may honor permits issued [or] by the authorized Regulatory Agency of another state. Failure to obtain a permit may result in the department

removing the milk tank truck and its contents [being immediately removed] from Grade A milk or food use.

(b) All vehicles and milk tank trucks containing milk or milk products must display [shall be legibly marked with] the name and address of the milk plant or hauler in possession of the contents. The department issued permit sticker must [issued by the department shall] be placed near the outlet valve of the tanker truck or trailer.

(c) The department must inspect [All] milk tank trucks before issuing [must be inspected prior to the issuance of] a permit. Milk tank trucks must be inspected at least [and a minimum of] once each 24 [42] months plus the remaining days of the month. This requirement [thereafter. The requirement for this annual inspection] does not replace [eliminate or supersede] other required regulatory licenses or permits [required by any other official regulatory agency]. The transport [owner or manager of the milk transportation] company must [will] report [verbally or in writing to the department, within ten days, any milk transport tanks taken out of service or] severely damaged or out-of-service tankers to the department within 10 days of the occurrence. This report may be verbal or written.

(d) Milk tank trucks must be [operated] in compliance with the following provisions.

(1) Permanently installed milk tank truck washing equipment must be approved by the department. The equipment must meet 3-A Sanitary Standards and Accepted Practice standards [be in compliance with the current edition of the 3-A Sanitary Standards and Accepted Practices at the time of installation and be approved by the department]. This equipment must [shall be so designed that it will properly] clean and sanitize all milk-contact surfaces when using [connected to] a cleaning system. Cleaning and sanitizing must occur at an approved milk tank truck cleaning facility.

(2) Each milk tank truck must provide [bulk milk pickup tanker shall be provided with adequate] space for sanitary storage[, without overcrowding of the equipment and supplies. Storage items may include:[, of] fittings, valves, milk pumps, racks for milk conducting equipment, wrenches, sample bottles, dippers, solutions for washing and sanitizing milk contact equipment, and all other equipment used for milk handling and sampling purposes.

(3) Compartment [When compartment] milk tank trucks must not transport [are used,] Grade A milk [shall not be permitted to be hauled] in one compartment and [while] ungraded milk or another product [is being hauled] in another compartment [on the same tanker].

(4) Certified samplers must protect the milk from contamination during agitation and sampling. These [Agitating and sampling milk in a milk tank truck shall be accomplished in such a manner as to provide maximum protection against product contamination. In no instance shall these] activities must occur [be performed] at a department approved [place other than a] location [approved by the department].

(5) Milk tank trucks must [may] not [be used to] transport poisonous or toxic substances.

(6) Pasteurized product tankers must not transport microbiological products, including raw milk, raw milk products, and raw egg products, that could cause contamination. The department determines what a microbiological product is. Pasteurized milk transported in a potentially microbiological contaminated tanker must be re-pasteurized. Pasteurized product tankers must not transport chemical products that could cause contamination [Milk tank trucks transporting pasteurized milk or milk products that will not be re-pasteurized at the receiving milk processing plant shall not be used to transport raw milk, raw egg products, or any other product determined by the department to be a source of microbiological or chemical contamination].

§217.64. *Unloading Stations and Milk Tank Truck Cleaning Facilities.*

(a) Milk tank truck unloading stations.

(1) An [When the milk tank truck] unloading station operating as [is] a receiving station or a milk processing plant must follow [; it shall comply with the following] sanitation rules. The requirements for equipment are located in §217.2 of this chapter (relating to Adopted Regulations and Standards). These requirements cover areas, including [requirements for Grade A pasteurized milk as specified in the "Grade A Pasteurized Milk Ordinance" which is adopted by reference in §217.2 of this title (relating to Grade A Pasteurized Milk Ordinance)]:

- (A) floors;
- (B) walls and ceilings;
- (C) doors and windows;
- (D) lighting and ventilation;
- (E) toilet-sewage disposal facilities;
- (F) water supply;
- (G) hand-washing facilities;
- (H) milk plant cleanliness;
- (I) sanitary piping;
- (J) construction and repair of containers and equipment;
- (K) cleaning and sanitizing of containers and equipment;
- (L) storage of cleaned containers and equipment;
- (M) storage of single service containers, utensils, and materials;
- (N) protection from contamination;
- (O) cooling of milk;
- (P) personnel cleanliness; and
- (Q) surroundings.

(2) Unloading stations operating as transfer stations must follow [When the unloading station is a transfer station, it shall comply with] all receiving station [the] requirements. The rules [of a receiving station except that the provisions] for walls, ceilings, doors, and windows do not apply [are not required] unless climatic and operation conditions interfere with safe handling of the milk. Unloading stations must provide overhead [Overhead] protection [shall be provided] in all cases.

(3) The unloading [pump-out] of the tanker must take place [milk tank truck shall be done] in an area where a cover extends over the entire milk tank truck. Unloading must occur in an enclosed space when the environment prevents safe handling of the milk. Unloading stations must [complete transport tank or, when climatic and operating conditions require, in a completely enclosed area. Pump-out operations must be protected in such a manner as to] prevent product contamination during the unloading process. Manhole or air inlet vents must have a suitable filter if the unloading area is not enclosed. Suitable filters are also required if the station doors are open during unloading. [If the area is not completely enclosed or doors of the unloading area are open during unloading, a suitable filter is required for the manhole or the air inlet vent.]

(4) Unloading stations must protect the milk from contamination during milk tank truck agitation and sampling. Only certified

milk samplers may collect official representative "universal" samples [The agitating and sampling of the transport tank milk shall be accomplished in such a manner as to provide maximum protection against product contamination. The unloading station shall provide the necessary equipment to adequately agitate the milk in the transport tank. The milk shall be agitated for a minimum of 15 minutes prior to obtaining samples. The department may approve alternative procedures to achieve adequate agitation. Samples shall be collected only by certified milk samplers. In no instance shall agitation and sampling be done at a place other than a location approved by the department].

(5) The unloading station must keep a [shall] record of [the following information on] each load of milk received for at least[; and maintain these records for a period of not less than] 90 days. The information recorded must include:

- (A) the date the load was received;
- (B) the time received;
- (C) the number of pounds in the load;
- (D) the temperature of the milk when received [upon receipt];
- (E) the permit number of the milk tank truck delivering the milk;
- (F) the name of the station operator receiving the milk; and
- (G) the manifest with the [driver's license number of the] sample collector's certification number [collector].

(6) Unloading stations must not receive milk [In no case shall milk be received] from a milk tank truck that appears [to be] damaged or[;] dirty. Unloading stations must not receive milk from a milk tank truck that[; or] does not have a current wash [cleaning] tag, except as provided in subsection (b)(7) of this section, without the permission of the department.

(b) Milk Tank Truck Cleaning Facilities.

(1) Each [It shall be the responsibility of each] unloading station must [to] provide a milk tank truck cleaning facility. This [The milk tank truck cleaning] facility may be [an integral] part of the unloading station or a separate facility. Only permitted facilities may wash and sanitize milk tank trucks. [When the milk tank truck cleaning facility is a separate facility, it shall be located convenient to and in the proximity of the unloading station. All milk tank trucks that transport milk and milk products as permitted by the department, shall be washed and sanitized at a permitted milk plant, receiving station, transfer station, or milk tank truck cleaning facility.]

(2) The milk tank truck cleaning facilities must follow [facility shall comply with] the same [following] sanitation rules as [requirements for Grade A pasteurized milk] unloading stations. The requirements for cleaning and sanitizing are located in §217.2 of this chapter. These requirements cover areas listed in (a)(1)(A)-(Q) of this rule. [of the "Grade A Pasteurized Milk Ordinance:"] floors; walls and ceilings; doors and windows; lighting and ventilation; toilet-sewage disposal facilities; water supply; hand-washing facilities; milk plant cleanliness; sanitary piping; construction and repair of containers and equipment; cleaning and sanitizing of containers and equipment; storage of cleaned containers and equipment; storage of single service containers, utensils, and materials; protection from contamination; cooling of milk; personnel cleanliness; and surroundings.]

(3) Unloading stations may receive [An unloading station which receives milk in] milk tank trucks [equipped] with permanently

installed tank washers. These stations must [will] provide a milk tank truck cleaning facility [equipped] with the following:

(A) [adequate] water heating facilities or equipment capable of providing a supply of hot water to complete all cleaning and sanitization processes without interruption;

(B) tanks [of an adequate size] to hold the rinsing, washing, [rinse, wash,] and sanitizing solutions to complete all cleaning and sanitization processes without interruption [solution];

(C) a wash pump to [which will] deliver [the] cleaning and sanitizing solutions [solution] to the inside [milk-contact surface] of the milk tank truck and the delivery to the milk-contact surfaces must be at a [an adequate] rate and velocity to clean and sanitize all milk-contact surfaces;

(D) a removal pump to [which will] remove rinsing [rinse] and cleaning solutions from the tanker [milk tank truck] as fast as such solutions are pumped into the milk tank truck;

(E) a cleaned and sanitized screen to [a screening device shall be provided which will] prevent [the passage of any] foreign material from entering [into] the system [that would adversely affect the performance of the spray device(s), and located so as to be easily cleaned and sanitized];

(F) a temperature recorder and pressure indicator, which meets current equipment [the applicable] requirements located in §217.2 of this chapter and: [of the most current revision of the "Grade A Pasteurized Milk Ordinance" shall be provided. In addition, a pressure indicator should be provided. These may be an integral unit or separate units.]

(i) the [The] temperature sensor must [should] be located in the return solution line;[-]

(ii) the [The] pressure sensor must [shall] be located in the solution-rinse line downstream from the pressure supply pump;[-]

(iii) recording [Reecording] charts must show the [shall be properly identified (showing) date, permit number of milk tank truck, and [transportation tank cleaned,] operator's initials; and[,-] etc.-]

(iv) the unloading station must keep temperature recording charts [and kept] on file for at least [not less than] 90 days;

(G) cleaning [the necessary] equipment: [shall be provided]

(i) for [the] cleaning [of transport] tank pumps, gaskets, hoses, and other parts or equipment [etc.-], which do not clean in place (CIP);

(ii) for cleaning [- Equipment shall be provided to clean the] hoses by circulating [circulation of] cleaning solution [in conjunction] with a [the] clean-out-of-place (COP) vat [that is equipped] with a temperature recorder that [which] meets the [applicable] requirements of §217.2 of this chapter; and

(iii) if a built-in CIP system and equipment are used for circulation to clean equipment, it must [of the most current revision of the "Grade A Pasteurized Milk Ordinance;" however, if an integrated CIP system designed to clean transport tanker, milk pumps, gaskets, hoses and appurtenances, by circulation is provided, the following criteria must be met]:

(I) [(i)] include a temperature recorder and a pressure indicator that meet [complies with the applicable] requirements of §217.2 of this chapter [the most current revision of the

"Grade A Pasteurized Milk Ordinance" and a pressure recorder shall be provided];

(II) [(ii)] provide an [the] extended tube holder for cleaning [milk] hoses long enough [and receiving hoses shall be of adequate length] to accommodate up to 35 feet in length of hoses [of 35 feet maximum length];

(III) [(iii)] provide cleaning programs for the CIP system that must include [shall provide a cleaning regimen for a] pre-rinse, wash, post-rinse, and sanitize cycles; the system must clean and sanitize milk tank trucks, [sanitizing of the transport tanker,] milk pumps, gaskets, hoses, receiving hose, and related parts [appurtenances]; and

(IV) [(iv)] ensure [the CIP system shall be capable of a minimum] wash temperature that meets the requirements of the approved cleaning solution [of 135 degrees Fahrenheit] and minimum circulation flow rate of five feet per second; [and]

(v) all equipment and utensils shall be in compliance with the standards outlined in the current edition of the 3-A Sanitary Standards and Accepted Practices at the time of installation;]

(H) [all] equipment and utensils must meet [be in compliance with the current edition of the] 3-A Sanitary Standards and Accepted Practices standards at the time of installation; and

(I) the milk tank truck cleaning facility must establish and post a cleaning procedure [regimen shall be established and posted in the milk tank truck cleaning facility]. This procedure must [regimen shall] provide for pre-rinsing [a pre-rinse] and sanitizing of the milk tank truck. The wash solution must meet [have a minimum] temperature requirements of the approved cleaning solution. The facility must measure the temperature in the return line [of 135 degrees Fahrenheit].

(4) An [The department may permit an] unloading station may use a [to utilize a milk tank truck] cleaning facility [equipped only] with portable [tank] washing equipment. Portable washing equipment can include drop-in washers. The unloading station must get department approval if it only has portable washing equipment. The station must have [(drop in washers) or with] the equipment and personnel necessary to manually clean tankers. The department may approve the use of portable washing equipment only if the station demonstrates it can effectively clean and sanitize milk tank trucks. A station approved under this paragraph may unload a milk tank truck equipped with an installed tank washer only with department permission, which the department grants [for manual tank cleaning, providing the station can demonstrate the capability of effectively cleaning and sanitizing the milk tank trucks. In no case will milk tank trucks equipped with installed tank washers be unloaded into said unloading stations without the permission of the department. This permission will be granted] only in emergency situations.

(5) All milk tank trucks, equipment, and related parts must be cleaned on the same day they are used. A milk tank truck and its related parts must be cleaned after each use, unless the truck is used continuously to pick up multiple loads during a 24-hour period. In that case, the truck and its related parts must be washed at the end of the 24-hour period. [The milk tank truck and appurtenances shall be thoroughly cleaned after each use and all equipment shall be thoroughly cleaned at least once each day used. It is allowable to pick up multiple loads continuously within a 24-hour period, provided the milk tank truck is washed after each day's use.]

(6) The milk tank truck and its related parts must [appurtenances shall] be sanitized with an approved sanitizer immediately after being washed [washing with an approved sanitizer]. The wash-rinse system must pump [milk tank truck shall be sanitized by

pumping] the sanitizing solution through the tanker. Cleaned and sanitized milk tank trucks not used within 96 hours of being cleaned and sanitized [the wash-rinse system. When the time elapsed after cleaning and sanitizing, and before its first use, exceeds 96 hours, the tank] must be re-sanitized.

(7) The cleaning facility must attach a [A] cleaning and sanitizing tag [shall be affixed] to the outlet valve of the tanker. This cleaning and sanitizing tag must remain attached [milk tank truck] until the milk tank truck is unloaded. When unloading the milk, unloading stations must remove the wash tag and keep it for at least 15 days. Haulers and unloading stations must verify cleaning and sanitizing occurred before loading or unloading a milk tank truck missing a wash tag. Milk tank trucks delivering to only one facility do not need a cleaning and sanitizing tag if the facility can prove cleaning and sanitizing occurred. [next washed and sanitized. When the milk tank truck is washed and sanitized, the previous cleaning and sanitizing tag shall be removed and stored at the location where the milk tank truck was washed for a period of not less than 15 days.] The cleaning and sanitizing tag must include [shall bear] the following information:

- (A) the milk tank truck permit number;
- (B) the date and time cleaning and sanitizing occurred [it was cleaned and sanitized];
- (C) the name and location of the cleaning facility [station]; and
- (D) the name of the person who cleaned and sanitized the milk tank truck.

§217.65. Responsibilities of the Bulk Milk Hauler/Sampler:

Duties and responsibilities of the Bulk Milk Hauler/Sampler must comply [shall be in compliance] with §217.2 of this chapter (relating to Adopted Regulations and Standards) [title (relating to Grade A Pasteurized Milk Ordinance)]. In addition, the Bulk Milk Hauler/Sampler must [shall]:

- (1) agitate the farm bulk milk tank for a minimum of 10 [ten] minutes, or longer, if necessary to obtain a representative sample; [Larger tanks may require more time; and]
- (2) deliver producer samples to a department approved [designated] place and personnel; and [as approved by the department.]
- (3) request certification renewal before certification expires.

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604128

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Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 289-1704



CHAPTER 229. FOOD AND DRUG

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes an amend-

ment to Subchapter P §229.261, concerning Assessment of Administrative Penalties; and new Subchapter JJ, Shrimp Labeling, consisting of §229.1101, concerning Purpose and Scope; §229.1102, concerning Definitions; §229.1103, concerning Exemptions; §229.1104, concerning Shrimp Labeling; §229.1105, concerning Records; and §229.1106, concerning Enforcement.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with Senate Bill (SB) 823, 89th Legislature, Regular Session, 2025, which amended Texas Health and Safety Code (HSC) Chapter 436, Subchapter F, by adding §436.083. HSC §436.083 requires wholesalers to label shrimp as imported if the shrimp does not satisfy the United States country of origin requirements for wild or farm-raised shellfish established by Title 7 Code of Federal Regulations §60.128, or successor regulations. SB 823 allows DSHS to assess administrative penalties for violators that are required to license with DSHS according to HSC Chapter 431. The proposal amends §229.261 by adding HSC Chapter 436 for penalty assessment and adds new Subchapter JJ to implement labeling requirements.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §229.261 adds a reference to HSC Chapter 436 for the assessment of administrative penalties, updates rule citation for formal hearing rules, and makes plain language revisions to improve clarity, readability, and consistency with current drafting standards.

Proposed new Subchapter JJ, Shrimp Labeling, adds a new subchapter in Chapter 229 to implement state legislation as listed below.

Proposed new §229.1101 describes the purpose and scope of the rule. Statutory authority and the applicability of the rule to shrimp wholesaled into and within Texas are described in this section.

Proposed new §229.1102 establishes the definitions used throughout the subchapter.

Proposed new §229.1103 establishes exemptions to the rule.

Proposed new §229.1104 establishes the labeling requirements for shrimp.

Proposed new §229.1105 establishes the records wholesalers must retain to substantiate the labeling.

Proposed new §229.1106 establishes DSHS' authority to assess administrative penalties for rule violations.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of DSHS employee positions;

- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to DSHS;
- (5) the proposed rules will create a new regulation;
- (6) the proposed rules will expand existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Christy Havel Burton has also determined that there will be an adverse economic effect on small businesses or micro-businesses, or rural communities.

DSHS estimates that the number of small businesses and micro-businesses subject to the proposed rules is approximately 8,200. DSHS cannot estimate the projected economic impact for a small business and micro-business due to insufficient data.

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

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

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

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, DVM, Ph.D., Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public benefit will be increased consumer awareness and greater transparency for customers and seafood markets about the shrimp's origin.

Christy Havel Burton has also determined that for the first five years the rules are in effect, persons who are required to comply with the proposed rules may incur economic costs because the new requirements may cause shrimp wholesalers to update labels or labeling, procedures, provide additional training, and maintain records to substantiate the label. Shrimp wholesalers may incur costs to come into compliance with the requirements.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601

West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R051" in the subject line.

SUBCHAPTER P. ASSESSMENT OF ADMINISTRATIVE PENALTIES

25 TAC §229.261

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, and Texas Health and Safety Code (HSC) §1001.075, which authorize the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

The amendment implements Texas Government Code §524.0151, HSC Chapter 1001, and HSC §436.083.

§229.261. Assessment of Administrative Penalties.

(a) Proposals for assessment of administrative penalties. The Texas Department of State Health Services (department) proposes ~~[department shall propose to assess]~~ administrative penalties in accordance with ~~[the requirements of the]~~ Texas Health and Safety Code (HSC)[;] Chapter 146, concerning Tattoo and Certain Body Piercing Studios; Chapter 431, concerning Texas Food, Drug, and Cosmetic Act; Chapter 432, concerning Texas Food, Drug, Device, and Cosmetic Salvage Act; Chapter 436, concerning Aquatic Life; and Chapter 437, concerning Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors.

(b) Assessment of administrative penalties and conduct of hearings. The department ~~must~~ ~~[shall]~~ assess administrative penalties and conduct hearings pursuant to those administrative penalties according to ~~[in accordance with]~~ the appropriate statute in subsection (a) of this section and rules adopted under it; the Administrative Procedure Act, Texas Government Code[;] Chapter 2001; and the department's formal hearing rules under Chapter 1 of this title ~~(relating to Miscellaneous Provisions)~~ ~~[proceedures in §§1.21, 1.23, 1.25, and 1.27 of this title (relating to Formal Hearing Procedures)]~~.

(c) Criteria for the assessment of administrative penalties. The department ~~must~~ ~~[shall]~~ assess administrative penalties based on ~~on~~ ~~[upon]~~ one or more of the following criteria:

- (1) history of previous violations;
- (2) seriousness of the violation;
- (3) ~~danger~~ ~~[hazard]~~ to the health and safety of the public;
- (4) demonstrated good faith efforts to correct;
- (5) economic harm to property or the environment;
- (6) amounts necessary to deter future violations;
- (7) enforcement costs relating to the violation; and

(8) any other matter justice may require.

(d) Severity levels. The violations must ~~[shall]~~ be categorized by one of the following severity levels.

(1) Severity Level I covers violations that are most significant and may have a significant negative impact on the public health and safety.

(2) Severity Level II covers violations that are very significant and may have a negative impact on the public health and safety.

(3) Severity Level III covers violations that are significant and, if not corrected, could threaten the public health and safety.

(4) Severity Level IV covers violations that are of more than minor significance, but if left uncorrected, could lead to more serious circumstances.

(5) Severity Level V covers violations that are of minor health or safety significance.

(e) Levels of penalties. Except ~~[as provided]~~ for ~~[in]~~ subsection (f) of this section ~~[relating to retail food establishments]~~ and subsection (g) of this section ~~[relating to tattoo studios]~~, the department will impose different levels of penalties per day, per violation, for the following severity level violations:

- (1) Level I--Up to \$25,000;
- (2) Level II--Up to \$15,000;
- (3) Level III--Up to \$10,000;
- (4) Level IV--Up to \$5,000; and
- (5) Level V--Up to \$2,500.

(f) Levels of penalties for retail food establishments. For ~~[As to]~~ retail food establishments permitted under HSC [Texas Health and Safety Code,] Chapter 437, the department will impose different levels of penalties per day, per violation, for the following severity level violations:

- (1) Level I--Up to \$10,000;
- (2) Level II--Up to \$7,500;
- (3) Level III--Up to \$5,000;
- (4) Level IV--Up to \$2,500; and
- (5) Level V--Up to \$1,250.

(g) Levels of penalties for tattoo and body-piercing studios. For ~~[As to certain]~~ tattoo and body-piercing studios licensed under HSC [Texas Health and Safety Code,] Chapter 146, the department will impose different levels of penalties per day, per violation, for the following severity level violations:

- (1) Level I--Up to \$5,000;
- (2) Level II--Up to \$4,000;
- (3) Level III--Up to \$3,000;
- (4) Level IV--Up to \$2,000; and
- (5) Level V--Up to \$1,000.

(h) Adjustments to penalties. The department may adjust the penalties listed in subsections (e), (f), or (g) of this section for any one of the following factors.

(1) Previous violations. The department may consider previous violations. The penalty may be reduced or increased for past

performance. Past performance involves the consideration of the following factors:

- (A) whether the previous violation was identical or similar to the current violation;
- (B) how recent was the previous violation;
- (C) the number of previous violations; and
- (D) the violator's response to previous violations in regard to correction of the problem.

(2) Demonstrated good faith. The department may consider good faith efforts of the violator to correct the violations and demonstrate compliance with the department's rules and regulations as a basis to reduce the proposed penalty. The penalty may be reduced if good faith efforts to correct a violation have been, or are being made. Good faith effort is determined by the department on a case-by-case basis. All good faith efforts to comply with the department's rules and regulations must be fully documented by the violator to merit consideration from the department ~~[as to whether]~~ to reduce the proposed penalty.

(3) Danger ~~[Hazard]~~ to the health and safety of the public. The department may consider the danger ~~[hazard]~~ to the health and safety of the public. The penalty may be increased when a direct danger ~~[hazard]~~ to the health and safety of the public is involved. The department will consider ~~[shall take into account]~~, but is ~~[need]~~ not ~~[be]~~ limited to, the following factors:

- (A) whether any deaths, diseases, or injuries have occurred from the violation;
- (B) whether any existing conditions contribute to a situation that could expose humans to a danger to health ~~[hazard]~~;
- (C) the impact that the danger ~~[hazard]~~ has on various segments of the population such as children, surgical patients, and the elderly; and

(D) whether the consequences would be of an immediate or long-range danger to health ~~[hazard]~~.

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 September 24, 2026.

TRD-202604126

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 834-6670



SUBCHAPTER JJ. SHRIMP LABELING

25 TAC §§229.1101 - 229.1106

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §524.0151, and Texas Health and Safety Code (HSC) §1001.075, which authorize the executive commissioner of HHSC to adopt rules and policies for the operation and provision

of health and human services by DSHS and for the administration of HSC Chapter 1001.

The new sections implement Texas Government Code §524.0151, HSC Chapter 1001, and HSC §436.083.

§229.1101. Purpose and Scope.

(a) This subchapter implements Texas Health and Safety Code (HSC) Chapter 436. HSC Chapter 436 authorizes the Texas Department of State Health Services to adopt rules about the labeling and representation of imported shrimp.

(b) This subchapter applies to shrimp wholesaled into and within Texas.

§229.1102. Definitions.

The following terms in this subchapter have the following meanings unless the context clearly indicates otherwise.

(1) Imported shrimp--Has the meaning assigned in Texas Health and Safety Code §436.083.

(2) Label--Has the meaning assigned in Texas Health and Safety Code §431.002(21).

(3) Properly labeled--Labeled with country of origin and all federally and state mandated food labeling.

(4) Wholesale--Food distributed for resale or to any person other than the end consumer.

§229.1103. Exemptions.

This subchapter does not apply to:

(1) shrimp properly labeled that is sold packaged; or

(2) shrimp used as an ingredient in another food product that is sold packaged.

§229.1104. Shrimp Labeling.

Shrimp wholesaled in Texas must be labeled with a notice stating whether the shrimp is imported, and the notice must be provided either on the shrimp's immediate container, on the master shipping container, or in a document that accompanies the product. The notice must:

(1) appear in English language and foreign languages if any labeling or documents that accompany the product appear in foreign languages;

(2) appear in size no less than the largest size currently used for labeling required by other state or federal regulations; and

(3) be typed, printed, or handwritten and must not obscure other labeling information required by other state or federal regulations.

§229.1105. Records.

(a) Wholesalers of shrimp sold in Texas must retain records for one year to provide evidence for the notice.

(b) Producer affidavits can be considered acceptable records that wholesalers may utilize to substantiate the notice.

§229.1106. Enforcement.

(a) Administrative penalties under Texas Health and Safety Code (HSC) §§431.054, 431.055, 431.056, 431.057, and 431.058, and §229.261 of this chapter (relating to Assessment of Administrative Penalties), may be imposed if food manufacturers, food wholesalers, or warehouse operators required to obtain licenses per HSC Chapter 431 are found in violation of this subchapter. Before a penalty is imposed, the department must provide an opportunity for a hearing.

(b) Hearings regarding administrative penalties will be held under Texas Government Code Chapter 2001, and the department's formal hearing rules under Chapter 1 of this title (relating to Miscellaneous Provisions).

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 September 24, 2026.

TRD-202604127

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 834-6670

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 21. TRADE PRACTICES

SUBCHAPTER J. PROHIBITED TRADE PRACTICES

28 TAC §21.1006

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §21.1006, concerning the prohibition against declining to write residential property insurance based on the age or value of the property.

EXPLANATION. The proposed amendments to §21.1006 clarify the existing prohibition against refusing to write or renew residential property insurance on the basis of the property's age. These amendments do not change the rule's meaning or application. Instead, they further the goals of Government Code Chapter 465 by making the rule clearer, more concise, and more consistent. By improving readability, the proposed amendments better support compliance with the rule's intended regulatory purpose of prohibiting unfair practices.

The proposed amendments rearrange the rule's provisions into a more logical order, moving part of subsection (b) into subsection (d).

Subsection (a) remains the same.

Subsection (b) now includes only the prohibition on declinations based on property or component age and sets those out as paragraphs (1) and (2).

Subsection (c) remains essentially the same, prohibiting declinations based on minimum value.

New subsection (d) contains provisions moved from existing subsection (b) which state that the rule does not prohibit (paragraph 1) declinations based on the condition of the property or (paragraph 2) TWIA from requiring certain building code standards.

The proposed amendments reinforce that the prohibition against declinations based on age include those based on either the age of the property or a component of property. The existing rule includes the age of components by listing example components in subsection (b). The proposed amendments improve the readability of subsection (b) and incorporate the age of the components more directly into the subsection by moving the list of examples into new paragraph (2) and labeling them as "components or materials." This restructuring mitigates potential confusion and minimizes interpretive uncertainty.

The remaining amendments are proposed for consistency and clarity. The amendments in subsection (b) add another common example of a property's components to the list: siding. The amendments in subsection (b) and (c) remove the unnecessary language "sought to be insured." The proposal adds the words "components and materials" to new subsection (d) to align with subsection (b). The reference to Insurance Code Chapter 2210 is modified to conform to TDI's current drafting style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Marianne Baker, director of the Property and Casualty Lines Office, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering them other than that imposed by statute. Ms. Baker made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Baker does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Baker expects that enforcing them will have the public benefit of ensuring that TDI's rules conform to Insurance Code Chapter 541 and to TDI's long-standing application of §21.1006 by ensuring that insurers and consumers clearly understand the parameters of this unfair act or practice.

Ms. Baker expects that the proposed amendments will not increase the cost of compliance to insurance companies because they do not impose requirements beyond the existing rule. The amendments are not intended to expand the existing prohibition, so insurers currently in compliance with §21.1006 will not be required to make any filings.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities because the amendments make only nonsubstantive changes to clarify long-standing TDI application. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons, thus no additional rule-makings are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 9, 2026. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2874 at 2:00 p.m., central time, on November 3, 2026. TDI will hold the public hearing remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701 in Room 2.034. Details of how to view and participate virtually in the public hearing will be made available on TDI's website at www.tdi.texas.gov/alert/event/index.html.

STATUTORY AUTHORITY. TDI proposes amendments to §21.1006 under Insurance Code §541.401 and §36.001.

Insurance Code §541.401 provides that the commissioner may adopt rules necessary to accomplish the purpose of Insurance Code Chapter 541, which is to regulate trade practices in the business of insurance by defining or determining trade practices that are unfair methods of competition or deceptive acts or practices and prohibiting them.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The amendments to §21.1006 implement Insurance Code §§541.001, 541.003, and 541.401.

§21.1006. Prohibition Against Declining to Write Residential Property Insurance Based on the Age or Value of the Property.

(a) "Residential property insurance" means insurance against loss to real or tangible personal property at a fixed location provided in a homeowners policy or residential fire and allied lines policy.

(b) An insurer may not decline to write residential property insurance based on the age of:

(1) the property; or

(2) any of the property's individual components or materials, [sought to be insured. This provision does not prohibit an insurer from declining to write coverage based on physical conditions of the property,] including wiring, heating, air conditioning, plumbing, siding, and roofing. [This provision does not prohibit the Texas Windstorm Insurance Association from requiring, in accordance with the provisions of Chapter 2210 of the Insurance Code, different building code standards to qualify for coverage based on the date that the structure was constructed, repaired, or additions were made.]

(c) An insurer may not decline to write residential property insurance based on a minimum value of the property [sought to be insured].

(d) This section does not prohibit:

(1) an insurer from declining to write coverage based on the physical condition of the property or any of the property's individual components or materials; or

(2) the Texas Windstorm Insurance Association from requiring different building code standards to qualify for coverage based on the date that the structure was constructed, repaired, or additions were made, in accordance with Insurance Code Chapter 2210, concerning Texas Windstorm Insurance Association.

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

Filed with the Office of the Secretary of State on September 25, 2026.

TRD-202604173

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 656-6777



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 2. ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

SUBCHAPTER H. MEMORANDUM OF UNDERSTANDING WITH THE TEXAS HISTORICAL COMMISSION

43 TAC §§2.251, 2.253, 2.256, 2.259, 2.265, 2.267, 2.268, 2.270, 2.271

The Texas Department of Transportation (department) proposes amendments to §§2.251, 2.253, 2.256, 2.259, 2.265, 2.267, 2.268, 2.270, and 2.271, concerning the Memorandum of Understanding with the Texas Historical Commission.

EXPLANATION OF PROPOSED AMENDMENTS

Transportation Code, §201.607, requires the department to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historic or archeological resources. Transportation Code, §201.607, also requires the department to adopt the MOU and all revisions to it by rule and to periodically evaluate and revise the MOU. The department has evaluated its MOU with the Texas Historical Commission (THC) adopted in 2018, and finds it necessary to make various changes to Chapter 2, Subchapter H, of the department's rules.

Amendments to §2.251, Purpose and Authority, update the reference to the preceding MOU that is being superseded to correctly refer to the 2018 MOU rather than the 2013 MOU.

Amendments to §2.253, Definitions, clarify that "minor widening" is limited to roadway projects "within existing right-of-way." This will make the definition of this term consistent with the definition in the 2023 Programmatic Agreement Among the Federal Highway Administration, the Texas Department of Transportation, the Texas State Historic Preservation Officer, Participating Tribes, and the Advisory Council on Historic Preservation Regarding the Implementation of Transportation Undertakings (2023 Programmatic Agreement).

The amendments to §2.253 also remove "aviation facility" and "public transportation facility" from the definition of "transportation project." This MOU is intended to apply to projects subject to the environmental review process established and overseen by the department's Environmental Affairs Division, which does not include aviation and public transportation projects handled by the Aviation and Public Transportation Divisions outside the terms of this MOU.

The amendments to §2.253 also remove the reference to "a transportation enhancement project funded under 23 USC 133(h)" from the definition of "transportation project." There is no longer a transportation enhancements funding program under 23 USC 133.

Amendments to §2.256, Projects Excluded from Review for Archeology Sites and Cemeteries, slightly revise the language excluding from review projects with less than 100 cubic yards of impacts to undisturbed sediments. The existing language states there is no potential for such projects to affect historic properties. The proposed language more accurately states that such projects have "minimal" potential to affect historic properties and makes this section consistent with equivalent provisions in the 2023 Programmatic Agreement. The exclusion from review for such projects remains intact. The amendments to §2.256 also make some minor grammatical revisions.

Amendments to §2.259, Permits for Archeological Sites and Cemeteries, clarify that the department is required to submit neither an "antiquities permit application form" nor a "scope of work" to be issued an antiquities permit under certain circumstances. This is more precise than the existing language which just states that the department is not required to submit an "antiquities permit application."

The amendments to §2.259 also revise the process by which the department notifies THC of the need for an antiquities permit. Instead of notifying THC in writing by email or letter, the proposed language will require the department to notify THC of the need for an antiquities permit by submission in THC's "eTRAC" application (or successor application) or by another method agreed upon in writing by THC.

The amendments to §2.259 also change the format of reports submitted by the department to THC upon completion of work under an antiquities permit. The revision removes the requirement for the department to submit pdf format reports "on an archival quality CD or DVD," and instead simply states that the department will submit "pdf format reports." This will allow the department to submit reports electronically rather than on physical media.

Amendments to §2.265, Standard Treatments for Particular Resource Types, add exclusions from formal evaluation and coordination for two new categories of discoveries (1) archeological sites dating exclusively to 1950 or later recovered from existing right of way, and (2) isolated domesticated animal or deer bones recorded from existing right of way. These types of discoveries are categorically determined to not warrant designation as State Antiquities Landmarks.

Amendments to §2.267, Documentation for Archeological Sites and Cemeteries, clarify that department archeological reports must contain certain information regarding any auger samples, backhoe trenches, and shovel test pits dug by the department. This is not a new requirement as this information has already been required by THC's survey standards, which the department has committed to follow, for several years.

Amendments to §2.268, Quarterly Reports for Archeological Sites and Cemeteries, reduce the frequency for the department to submit periodic reports for archeological sites and cemeteries to THC from four times per year to once per year.

Amendments to §2.270, Projects Excluded from Review for Non-Archeological Historic Properties, simplify the rule by excluding from THC review all projects that do not contain a designated non-archeological historic property (DNAHP) within the area of potential effect (APE). DNAHPs will be defined in the proposed rule language as "non-archeological historic properties that are designated State Antiquities Landmarks, listed in the National Register of Historic Places, or are historic bridges (listed in or previously determined eligible for listing in the NRHP). This is a substantial improvement over the existing rule language, which defines ten project types that typically do not require THC review, but then requires the department to evaluate projects within those categories to determine if THC review is required due to direct effects to "historic properties," which detracts from the purpose of defining the ten categories. Under the proposed rule language, THC review will be triggered by the presence of a DNAHP within the APE, regardless of the project type.

Amendments to §2.271, Procedures for Project Coordination when the Project Requires Review for Non-Archeological Historic Properties, revise references to "historic properties" to instead refer to "DNAHPs," which will be more precisely defined than the existing term. Language about the types of historic properties the department should focus on identifying will be removed as it will no longer be necessary with the new definition of DNAHPs. The requirement for the department to provide to THC a "justification for findings of historic properties" on projects that are individually coordinated with THC will also be removed as it also will no longer be necessary with the new definition of DNAHPs.

The amendments to §2.271 also add a requirement for the department to notify THC of any proposed work on a Recorded Texas Historic Landmark. The department anticipates that this would be a very rare occurrence. The amendments to §2.271

also make other minor language revisions for clarity and accuracy.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Doug Booher, Environmental Affairs Division Director, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Doug Booher has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be continued exchange of information between the department and THC regarding transportation projects and their potential impact on historic resources, and improved MOU language that better meets the agencies' needs.

COSTS ON REGULATED PERSONS

Doug Booher has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Doug Booher has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rules would be in effect:

- (1) they would not create or eliminate a government program;
- (2) their implementation would not require the creation of new employee positions or the elimination of existing employee positions;
- (3) their implementation would not require an increase or decrease in future legislative appropriations to the agency;
- (4) they would not require an increase or decrease in fees paid to the agency;
- (5) they would not create a new regulation;
- (6) they would not expand, limit, or repeal an existing regulation;
- (7) they would not increase or decrease the number of individuals subject to its applicability; and

(8) they would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Doug Booher has determined that a written takings impact assessment is not required under Government Code, §2007.043.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The proposed rules are subject to the Texas Coastal Management Program (CMP) and must be consistent with all applicable CMP policies. The department has concluded that the proposed rules are consistent with all applicable CMP policies.

The CMP policies applicable to transportation projects are set forth at 31 TAC §26.31. This rulemaking does not dictate the siting of transportation projects or contain any other requirements that would contradict any of the CMP policies listed in that rule. Rather, it establishes a mechanism by which the department and THC can efficiently and appropriately exchange information regarding transportation projects and their potential impacts on historic resources, as required by statute at Transportation Code, §201.607, that is acceptable to both department and THC staff. None of the CMP policies listed at §26.31 pertain to the mechanism by which the department and THC exchange information. For these reasons, this rulemaking is consistent with the CMP policies listed at 31 TAC §26.31.

A copy of this rulemaking will be submitted to the General Land Office for its comments on the consistency of the proposed rulemaking with the CMP. The department requests that the public also provide comments on whether the proposed rulemaking is consistent with the CMP.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §§2.251, 2.253, 2.256, 2.259, 2.265, 2.267, 2.268, 2.270, and 2.271. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "THC MOU rulemaking." The deadline for receipt of the information or comments is 5:00 p.m. on November 9, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the department, and more specifically, §201.607, requiring the department to have an MOU with THC and to adopt it by rulemaking.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.604, 201.607, and 201.752.

§2.251. *Purpose and Authority.*

This subchapter contains the memorandum of understanding (MOU) entered into by the Texas Historical Commission (THC) and the Texas Department of Transportation (TxDOT) in accordance with Government Code, §442.005 and §442.007; Natural Resources Code, §191.0525(f); and Transportation Code, §201.607. The purpose of this MOU is to provide a formal mechanism for expediting THC review of TxDOT's transportation projects that potentially pose adverse effects on cultural resources. This MOU supersedes the previous MOU made effective on August 15, 2018 [May 20, 2013].

§2.253. *Definitions.*

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

(1) **Antiquities permit**--A permit issued by THC in order to regulate the taking, alteration, damage, exhumation, destruction, salvage, archeological survey, testing, excavation and study of State Antiquities Landmarks including prehistoric, historic and underwater archeological sites, and the preservation, rehabilitation, restoration, reconstruction, architectural investigation, hazard abatement, relocation, demolition, or new construction related to historic structures and buildings designated as a State Antiquities Landmark[{}].

(2) **Area of potential effects (APE)**--The geographic space or spaces within which a project may cause changes in the character or use of historic properties, if any such properties exist.

(A) The area of potential effects for archeological properties will be confined to the limits of the proposed project right of way (including permanent and temporary easements), utility relocations designated by TxDOT, and project-specific locations designated by TxDOT. The area of potential effects also extends to the depth of impacts caused by the undertaking.

(B) The area of potential effects for non-archeological historic properties will be confined to the limits of the proposed project right of way (including permanent and temporary easements), utility relocations designated by TxDOT, and project-specific locations designated by TxDOT.

(3) **Cultural resources**--A general term referring to cemeteries; buildings; structures; objects; archeological sites, including shipwrecks; and districts more than 50 years of age with the potential to have significance in local, state, or national history.

(4) **Effect**--Alteration to the characteristics of a historic property qualifying it for formal designation as a State Antiquities Landmark.

(5) **Eligibility**--A property's eligibility for designation as a State Antiquities Landmark, as set forth in 13 TAC Chapter 26 (relating to Practice and Procedure).

(6) **Emergency permit**--A permit that may be used by TxDOT under certain emergency circumstances for the purposes of performing investigations prior to formal application for an antiquities permit.

(7) **Historic property**--Any prehistoric or historic district, site, building, structure, or object that meets the requirements for designation as a State Antiquities Landmark as set forth in 13 TAC Chapter 26 (relating to Practice and Procedure).

(8) **Minor widening**--Roadway projects resulting in pavement profile widened to less than double their original width within existing right-of-way, resulting from adding travel/center-turn lanes or paved shoulders.

(9) Project-specific location--The location of specific material sources (e.g., base material, borrow and sand pits) and other sites used by a construction contractor for a specific project.

(10) State Antiquities Landmarks (SAL)--Both Archeological and Non-archeological historic properties that are designated as landmarks as defined in Subchapter D of the Antiquities Code of Texas (Natural Resources Code, Chapter 191), or treated as landmarks under the interim protection described in §26.8(d) of 13 TAC Chapter 26 (relating to Designation Procedures for Publicly Owned Landmarks), and identified in accordance with 13 TAC Chapter 26 (relating to Practice and Procedure).

(11) THC--Texas Historical Commission.

(12) Transportation project--A project to construct, maintain or improve a highway, rest area, toll facility, ~~[aviation facility, public transportation facility,]~~ rail facility, ferry, or ferry landing. ~~[A transportation enhancement project funded under 23 USC 133(h) is also a transportation project.]~~

(13) TxDOT--Texas Department of Transportation.

§2.256. *Projects Excluded from Review for Archeological Sites and Cemeteries.*

(a) Projects with ground disturbance of less than 100 cubic yards of impacts to undisturbed sediments, by their nature and definition, have minimal ~~[do not have the]~~ potential to affect historic properties. Such a project does not require review of its ~~[potential]~~ project impacts on archeological resources or cemeteries by THC under this chapter or under this MOU. The following list provides examples of activities with this low level of new disturbance that do not require review of their potential impacts on archeological resources or cemeteries under this chapter or under this MOU:

(1) installation, repair, or replacement of fencing, signage, traffic signals, railroad warning devices, safety end treatments, cameras and intelligent highway system equipment;

(2) projects involving purchase or acquisition of land without associated ground-disturbing activities;

(3) routine structural maintenance and repair of bridges, highways, railroad crossings, picnic areas, and rest areas;

(4) in-kind repair ~~or~~^[,] replacement of lighting, signals, curbs and gutters, and sidewalks;

(5) crack seal, overlay, milling, grooving, resurfacing, and restriping;

(6) replacement, upgrade, and repair of safety barriers, ditches, storm drains, and culverts;

(7) intersection improvements, including repair or replacement of overpasses, that require less than 0.5 acres of additional right of way at each intersection;

(8) placement of riprap to prevent erosion of waterway banks and bridge piers provided no ground disturbance is required;

(9) all maintenance work between a highway and an adjacent frontage road;

(10) installation of noise barriers or alterations to existing publicly owned buildings less than 50 years old, to provide for noise reduction except in potential or listed National Register districts;

(11) driveway and street connections;

(12) all work within interchanges and within medians of divided highways;

(13) all work between the flowlines of the ditches and channels and above the original line and grade;

(14) ditch and channel maintenance, provided removal of fill is above the original line and grade;

(15) repairs needed as a result of an event, natural or man-made, which causes damage to a designated state highway, resulting in an imminent threat to life or property of the traveling public or which substantially disrupts or may disrupt the orderly flow of traffic and commerce;

(16) the installation and modification of sidewalks (including the addition of American with Disabilities Act (ADA) ramps) except:

(A) sidewalk installations where the depth of impact exceeds one foot;

(B) sidewalk and ADA ramp projects within the historic districts in the following cities or towns: Goliad, Rio Grande City, Roma, San Antonio, San Elizario, and San Ygnacio; and

(C) sidewalk or ADA ramp projects within the limits of the following cities or towns: Anahuac, Nacogdoches, San Patricio, and Socorro;

(17) routine maintenance projects;

(18) vegetation control;

(19) traffic control; and

(20) routine painting and striping.

(b) Design changes for projects that have completed all applicable review and consultation where the new activities would have less than 100 cubic yards of impacts to undisturbed sediments do not require additional review or coordination.

(c) Projects that are exempt from project-specific review for compliance with 13 TAC Chapter 26 and review under this MOU, as specified in subsections (a) and (b) of this section, are also exempt from compliance with other THC rules regarding project-specific investigations or coordination for potential impacts to cemeteries promulgated under Health and Safety Code, §711.012(c), unless one of the following two conditions is present:

(1) pavement would be extended to within 15 feet of the boundary of a known cemetery founded earlier than 1955; or

(2) a project element would directly affect known burials.

§2.259. *Permits for Archeological Sites and Cemeteries.*

(a) THC shall issue antiquities permits for reconnaissance survey, intensive survey, monitoring, eligibility testing, exhumations, and emergencies to archeological staff at TxDOT under the following terms:

(1) The archeological staff of TxDOT's Environmental Affairs Division, or its successor as established by TxDOT administration, oversees the work.

(2) The work shall be completed in accordance with the provisions of the MOU.

(3) THC shall not require TxDOT to submit an antiquities permit application form and scope of work.

(b) In lieu of a permit application form and scope of work, TxDOT archeological staff shall notify THC [in writing] (by submission in eTRAC or its successor application or another method agreed upon in writing by THC ~~[email or letter]~~) of:

- (1) the principal investigator;
- (2) the investigation type and scope of work;
- (3) the county in which the project will occur;
- (4) the project name or identifier (site trinomial, if applicable); and

- (5) the period of time for which the permit is desired.

(c) TxDOT staff may initiate work following notification of THC.

(d) THC shall issue a permit number within five business days of receiving the notification.

(e) TxDOT may revise the type of investigation based on observations made during the conduct of work as long as TxDOT provides to THC notification of the change prior to submission of the report.

(f) TxDOT may determine the appropriate amount of time a principal investigator will be in the field for a project based on the complexity of that project. TxDOT principal investigators will document their estimated proportion of field time on the corresponding reports of investigation.

(g) When conditions of natural disasters, man-made disasters, or post-review discovery necessitate immediate action, TxDOT may initiate work under an emergency permit without having first requested and received the permit number subject to the each of the following conditions.

(1) TxDOT staff shall only conduct work under an emergency permit when archeological deposits are discovered during development or other construction projects or under conditions of natural or man-made disasters that necessitate immediate action to deal with the situation and findings.

(2) TxDOT will provide notification to THC to obtain the permit number within five working days of initiating the work.

(3) All categories of investigations can be authorized under an emergency permit, but an emergency permit will only be issued under emergency conditions where the investigations must be initiated or performed prior to notification under subsection (b) of this section.

(h) THC shall consider the work conducted under the permit completed upon receipt of:

- (1) one unbound report;

(2) two tagged pdf format reports ~~[on an archival quality CD or DVD]~~, one containing all maps and locational information and one with maps and locational information redacted;

(3) a shape file of the project area subject to investigation; and

- (4) a completed abstract form.

(i) The number of defaulted permits accrued by particular TxDOT staff while working for TxDOT shall not affect the issuance of additional permits to other TxDOT staff by THC for TxDOT projects.

(j) The inspection of a project APE or proposed APE for purposes of evaluating the kind of archeological investigation that may be required (scoping) shall not constitute an activity that requires a permit from THC when that activity does not result in a report to be coordinated under the terms of the MOU.

(k) All types of archeological investigations conducted by TxDOT but not covered by this section shall require submission of an antiquities permit application and adhere to the terms of the permit and

13 TAC Chapter 26 (relating to Practice and Procedure) with the exception that any permit issued to TxDOT under this paragraph, including data recovery permits, shall not include a requirement for project-specific outreach to be completed as part of the scope of work. TxDOT shall conduct public outreach at a program level regarding its activities under this MOU as specified in §2.269 of this subchapter (regarding Public Outreach Regarding Archeological Sites and Cemeteries).

§2.265. *Standard Treatments for Particular Resource Types.*

(a) Isolated wells or cisterns unassociated with other remains will be treated as follows.

(1) Isolated wells or cisterns that post-date 1900 A.D. do not warrant notification of THC or additional investigation. Removal or sealing of these features does not constitute an adverse effect.

(2) Isolated wells or cisterns that pre-date 1900 A.D. require research and documentation of their location, construction, condition, and original context. Upon completion of the research and documentation, these features may be backfilled and capped. These activities do not constitute an adverse effect.

(b) Archeological sites dating exclusively to 1950 or later recovered from existing right of way do not require formal evaluation or coordination. Such sites shall be presumed to lack the data to warrant designation as a State Antiquities Landmark.

(c) Isolated domesticated animal or deer bones recovered from existing right of way do not require formal evaluation or coordination. Such finds shall be presumed to lack the data to warrant designation as a State Antiquities Landmark.

§2.267. *Documentation for Archeological Sites and Cemeteries.*

(a) Projects subject to review for archeological sites and cemeteries under this MOU will be documented by TxDOT in the manner described in this section. Documentation in the project file for each such project will include, at a minimum:

(1) a description of the project, defining the APE or the investigated portion of the APE in three dimensions;

(2) a project location map, plotting the project location on 7.5' Series USGS quadrangle maps;

(3) information regarding the setting that is relevant for the assessment of the integrity of any archeological sites within the APE;

(4) information on previously-recorded archeological sites in the project location;

(5) description and justification of the level of effort undertaken for the investigation; and

(6) results and recommendations.

(b) All TxDOT survey and testing reports will also include:

(1) description and justification of field methods, including the sampling strategy;

(2) description and quantification of any archeological materials identified;

(3) accurate plotting of any sites found on 7.5' Series USGS quadrangle maps;

(4) accurate plotting of any shovel test pits, auger samples, and backhoe trenches excavated for the survey on 7.5' Series USGS quadrangle maps;

(5) a table that lists the lat/longs or UTM's of the shovel test pits, auger samples, and backhoe trenches with the results of those excavated samples;

(6) [(4)] submission of electronic TexSite archeological site survey forms to the Texas Archeological Research Laboratory; and

(7) [(5)] recommendations regarding whether any site merits further investigation.

§2.268. Annual [Quarterly] Reports for Archeological Sites and Cemeteries.

Reports will be submitted by TxDOT to THC at least once per year [quarter], within 60 business days after the end of the calendar year [quarter]. The report will list all projects for which TxDOT has documented that no historic properties and cemeteries are present in the project's area of potential effect, and those projects that will have no adverse effects on archeological historic properties and cemeteries.

§2.270. Projects Excluded from Review for Non-Archeological Historic Properties.

(a) For the purposes of this section, the term designated non-archeological historic properties (DNAHP) will refer only to non-archeological historic properties that are designated SALs, listed in the National Register of Historic Places (NRHP), or are historic bridges (listed in or previously determined eligible for listing in the NRHP).

(b) Based on previous coordination outcomes, TxDOT and THC agree that a project is excluded from non-archeological review if it does not include a DNAHP within the Area of Potential Effect. [the following types of routine roadway projects pose limited potential to affect historic properties:]

[(1) maintenance, repair, installation, or replacement, of transportation-related features, including fencing, signage, traffic signals, railroad warning devices, safety end treatments, cameras and intelligent highway system equipment; non-historic bridges, railroad crossings, lighting, curbs and gutters, safety barriers, ditches, storm drains, non-historic culverts, overpasses, channels, rip rap, and noise barriers;]

[(2) maintenance and in-kind repair of designated historic bridges, picnic areas, rest areas, roadside parks, and, culverts;]

[(3) maintenance, repair, or replacement of roadway surfacing, including crack seal, overlay, milling, grooving, resurfacing, and restriping;]

[(4) maintenance, repair, reconfiguration, or correction of roadway geometries, including intersection improvements and driveway and street connections;]

[(5) maintenance, repair, installation or modification of pedestrian and cycling-related features, including American with Disabilities Act ramps, trails, sidewalks, and bicycle and pedestrian lanes unless they are on historic properties protected as SAL, county courthouse, or by preservation easement or covenant;]

[(6) maintenance, repair, relocation, addition, or minor widening of roadway, highway, or freeway features, including turn bays, center turn lanes, shoulders, U-turn bays, right turn lanes, travel lanes, interchanges, medians, and ramps;]

[(7) maintenance, repair, replacement, or relocation of features at crossings of irrigation canals, including bridges, new vehicle crossings, bank reshaping, pipeline and standpipe components, canal conversion to below-grade siphons, and utilities;]

[(8) repairs needed as a result of an event, natural or man-made, which causes damage to a designated state highway, resulting in an imminent threat to life or property of the traveling public, or which

substantially disrupts or may disrupt the orderly flow of traffic and commerce;]

[(9) design changes for projects that have completed all applicable review and consultation where the new project elements comprise only one or more of the activities listed in this subsection; and]

[(10) other kinds of undertakings jointly agreed to in writing by THC and TxDOT as not requiring review.]

[(c) For projects described in subsection (b) of this section, TxDOT qualified professional staff shall determine whether additional evaluation is required due to direct effects to historic properties. If no such evaluation is deemed necessary, such projects are determined to pose no effect on historic properties and do not require review by THC under 13 TAC Chapter 26 (relating to Practice and Procedure) or under this MOU.]

(c) [(d)] For review-exempt projects, documentation shall be limited to that maintained in TxDOT's project files. THC may audit TxDOT files for specific projects upon request.

§2.271. Procedures for Project Coordination when the Project Requires Review for Non-Archeological Historic Properties.

(a) Historic properties. For the purposes of this section, the term designated non-archeological historic properties (DNHAP) will refer only to non-archeological historic properties that are designated SALs, listed in the National Register of Historic Places (NRHP), or are historic bridges (listed in or previously determined eligible for listing in the NRHP).

(b) Internal Review Projects. For projects subject to review for DNAHPs [historic properties] under this MOU, TxDOT qualified professional staff shall confirm [determine] the presence [or absence] of DNAHPs [historic properties] in the area of potential effects. [Such efforts should focus on the types of historic properties within public rights-of-way and other sensitive areas, including but not limited to historic bridges, historic road corridors, historic roadside parks and rest areas, historic Depression Era masonry culverts, historic districts, historic courthouse squares and other historic commercial zones.] Project activities that TxDOT determines will have no effect or no adverse effect on DNAHPs [historic properties] may be internally reviewed by TxDOT and are approved for construction.

(c) Coordinated Projects. If TxDOT qualified professional staff determines that a project requires individual coordination with THC for a courthouse review, easement review, notification of any proposed work on a Recorded Texas Historic Landmark (RTHL), or antiquities permit or due to a potential adverse effect on DNAHPs [historic properties], TxDOT shall submit that project to THC.

(1) THC will respond within 20 calendar days of receipt of TxDOT's request for review, in accordance with and pursuant to the terms set out by an interagency contract executed by THC and TxDOT, by indicating whether an affected DNAHP [historic property] will require a historic structures permit for an SAL, whether THC intends to initiate an SAL nomination for the affected property, or whether additional consultation pursuant to a preservation easement or covenant will be required. If THC does not respond within 20 calendar days, TxDOT may assume THC's concurrence with its determinations, and TxDOT [TXDOT] may proceed with the project to construction.

(2) In accordance with Government Code, §442.008 and 13 TAC §17.2 (relating to Review of Work on County Courthouses), TxDOT will notify THC of any work affecting a county courthouse or its surrounding site, up to and including the curb. THC will respond within 20 calendar days of receipt of TxDOT's notification by indicating whether a historic structures permit for an SAL or additional

consultation pursuant to a preservation covenant or easement will be required.

(d) Documentation. For projects that are internally reviewed or individually coordinated under subsections (b) and (c) of this section, TxDOT will comply with the following project documentation requirements.

(1) Projects that are internally reviewed under subsection (b) of this section, TxDOT shall retain all documentation in the project file and will provide documentation to the THC upon request with memos and basic project information submitted through the THC's electronic review and compliance (eTRAC) system or other means, as appropriate.

(2) Projects that are individually coordinated under subsection (c) of this section, documentation submitted to THC will include:

(A) project description and scope;

(B) project location map with delineation of the APE and location of DNAHPs [historie properties];

(C) methodology used to identify DNAHPs [historie properties];

(D) photographic and descriptive information for each identified property;

[(E)] justification for findings of historie properties, including setting, integrity, and contextual information;

(E) [(F)] justification of effects on DNAHPs [historie properties], including evaluations, reports, and other information relevant to the findings by TxDOT; and

(F) [(G)] a description of efforts to avoid or minimize harm, mitigation, and commitments.

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 September 24, 2026.

TRD-202604141

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3001



CHAPTER 15. FINANCING AND CONSTRUCTION OF TRANSPORTATION PROJECTS

SUBCHAPTER N. STATE HIGHWAY PROJECTS FINANCED THROUGH THE ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

43 TAC §15.171, §15.174

The Texas Department of Transportation (department) proposes amendments to §15.171 and §15.174, concerning State

Highway Projects Financed Through the Issuance of Bonds and Other Public Securities.

EXPLANATION OF PROPOSED AMENDMENTS

The purpose of this rulemaking is to conform the definition of "Texas Highway Trunk System" as used in Chapter 15 of the department's rules to the definition of that term provided in §16.2, Definitions and Acronyms, which is being amended in a companion rulemaking and to replace references to "accident" in Chapter 15 with the term "collision" in conformance with recent changes made by the legislature in statutes related to these rules.

Amendments to §15.171, Definitions, align the definition of Texas Highway Trunk System with that provided in Chapter 16, which contains the rules that provide for the selection of the roadways to be included in that system. The amendments also replace references to "accident" with "collision."

Amendments to §15.174, Safety Projects, replace references to "accident" with "collision."

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Humberto Gonzalez, Jr., Transportation Planning and Programming Division Director, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Gonzalez has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be the improved ability to address additional needs of the transportation system resulting from inconsistencies and outdated information in the rules. The proposed changes are needed to keep the Trunk System relevant and better meet the existing and future needs of Texas.

COSTS ON REGULATED PERSONS

Mr. Gonzalez has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Gonzalez has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

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

TAKINGS IMPACT ASSESSMENT

Mr. Gonzalez has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §15.171 Definitions, and §15.174, Safety Projects, both concerning State Highway Projects Financed Through the Issuance of Bonds and Other Public Securities. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Chapter 15 TAC Amendments - Trunk System." The deadline for receipt of the information or comments is 5:00 p.m. on November 9, 2026 In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §222.003.

§15.171. Definitions.

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

~~[(1) Accident data--Information detailing the number of motor vehicle traffic accidents or casualties at or on a particular highway location, segment of highway, or type of highway.]~~

~~(1) [(2)] Bond--A public security issued by the State of Texas under the authority of Transportation Code, §222.003, for improvements to the state highway system and secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.~~

~~(2) Collision data--Information detailing the number of motor vehicle traffic collisions or casualties at or on a particular highway location, segment of highway, or type of highway.~~

~~(3) Commission--The Texas Transportation Commission.~~

~~(4) Department--The Texas Department of Transportation.~~

~~(5) Executive Director--The executive director of the department or the director's designee.~~

~~(6) Grade crossing--The intersection of a railroad and a public roadway.~~

~~(7) Grade separation--A structure that separates two highways, a highway and a railroad line, a highway and a county road, or a highway and a city street.~~

~~(8) Hazard Elimination Program--A federal construction program mandated under 23 U.S.C. §152 to reduce the number and severity of traffic collisions [accidents].~~

~~(9) Hazardous location--A location on the state highway system that requires improvement in order to increase safety at a location, as determined by the department through collision [accident] data analysis or engineering judgment.~~

~~(10) Highway--A public road, including right of way and all appurtenances, that is on the designated state highway system.~~

~~(11) Narrow two-lane highway--A two lane road on the state highway system with a width of less than 24 feet, including any paved shoulder.~~

~~(12) Pavement geometry--The vertical, horizontal and pavement structure design elements of a highway or bridge feature.~~

~~(13) Safety appurtenance--Highway safety features such as breakaway sign supports, breakaway utility poles, traffic barriers, impact attenuators, traversable terrain, and hardware features such as drainage inlets, barriers, and other safety related fixtures.~~

~~(14) Safety project--A project that reduces collisions [accidents] or corrects or improves a hazardous location.~~

~~(15) State highway system--The system of highways in the state included in a comprehensive plan prepared by the executive director with the approval of the commission, in accordance with Transportation Code, §201.103.~~

~~(16) State highway improvement project--Improvement projects designed to improve mobility, reduce congestion, or make other needed upgrades to the state highway system.~~

~~(17) Texas Highway Trunk System--Has the meaning assigned by §16.2 of this title (relating to Definitions and Acronyms) [A planned rural network of four or more lane divided roadways that will serve as a principal connector for Texas cities of greater than 20,000 population as well as major ports and points of entry].~~

~~(18) Unified Transportation Program--The 10-year financial plan of the Texas Department of Transportation outlining project development and construction.~~

§15.174. Safety Projects.

~~(a) Eligibility. Safety projects are eligible for funding, and include:~~

(1) projects submitted under the guidelines of the department's Hazard Elimination Program designed to reduce the number and severity of traffic collisions ~~[accidents]~~;

(2) projects designed to increase the width of narrow two-lane highways to a width of 24 feet or greater;

(3) expansion of undivided highways on the Texas Highway Trunk System to ~~[four-lane]~~ divided roadways that consist of four or more lanes ~~[highways]~~;

(4) construction of grade separations at highway intersections;

(5) construction of railroad grade separations eliminating at-grade rail/highway intersections by adding new railroad overpasses or underpasses;

(6) the installation of median traffic barriers;

(7) treatment or removal of roadside fixed objects that may create a roadway safety hazard such as sign or traffic signal supports, lighting supports, vegetation, mailboxes, barriers, bridge rails, fences, culverts, ditches, curbs, embankments, and other items located in the state highway right of way;

(8) improvements at rail/highway at-grade crossings, including active warning devices such as crossing gates, lights, and warning bells;

(9) the installation of sidewalks on state highway right of way to improve pedestrian safety and mobility;

(10) intersection improvements designed to improve pedestrian safety such as the installation of curb ramps;

(11) the installation of turn lanes at highway intersections;

(12) the improvement of geometrics, signal timing, and other general infrastructure improvements to intersections;

(13) the installation or improvement of traffic signals, flashing beacons, and other traffic control devices;

(14) the installation or improvement of safety appurtenances; and

(15) the conversion of two-way frontage roads to one-way frontage roads.

(b) Selection criteria. The department will consider ~~collision~~ ~~[accident]~~ data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions in selecting projects for funding under this section, and one or more of the following criteria:

(1) potential of the candidate project to correct identified safety problems;

(2) the anticipated time required to complete the candidate project;

(3) adherence to all accepted department design standards as well as applicable state and federal law and regulation; and

(4) feasibility of the project.

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 September 24, 2026.

TRD-202604142

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 484-9496



CHAPTER 16. PLANNING AND DEVELOPMENT OF TRANSPORTATION PROJECTS

The Texas Department of Transportation (department) proposes amendments to §§ 16.2, 16.56, and 16.153, concerning Planning and Development of Transportation Projects.

EXPLANATION OF PROPOSED AMENDMENTS

The Texas Highway Trunk System (Trunk System) is a network of highways outside urbanized areas that are designated by the Texas Transportation Commission (commission) as a part of the system. The Trunk System was created in 1990 with the objective of improving mobility and safety in rural Texas; it links centers of domestic and international trade with the state's key economic drivers of agriculture, energy, and timber production areas. The commission's minute order that established the Trunk System provided for periodic review to keep the network relevant and up to date.

The department's Transportation Planning & Programming Division completed a comprehensive Trunk System Study in December 2024. The study revealed that there are inconsistencies and outdated information in the rules. Through meaningful stakeholder engagement, the Trunk System criteria, policies, and procedures were evaluated to determine the required updates to the system and the selection criteria to best reflect current and future needs of the state.

This rulemaking makes changes needed to keep the Trunk System relevant and to better meet the existing and future needs of Texas.

Amendments to § 16.2, Definitions and Acronyms, modifies the definition of "Texas Highway Trunk System" and deletes the definition of a term that is no longer used in the chapter.

Amendments to § 16.56, Texas Highway Trunk System, make several changes to the review and selection of routes in the Trunk System.

Amendments to § 16.153, Funding Categories, updates funding Category 4 to provide clarity.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, § 2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Humberto Gonzalez, Jr., Transportation Planning and Programming Division Director, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and there-

fore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Gonzalez has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be the improved ability to address additional needs of the transportation system resulting from inconsistencies and outdated information in the rules. The proposed changes are needed to keep the Trunk System relevant and better meet the existing and future needs of Texas.

COSTS ON REGULATED PERSONS

Mr. Gonzalez has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Gonzalez has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

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

TAKINGS IMPACT ASSESSMENT

Mr. Gonzalez has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §§16.2, 16.56, and 16.153. The information or comments must be submitted to Rule Comments,

General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Chapter 16 TAC Amendments- Trunk System." The deadline for receipt of the information or comments is 5:00 p.m. on November 9, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §16.2

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.601, 201.602, 201.608

§16.2. Definitions and Acronyms.

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

(1) Chief financial officer--The chief financial officer of the department, or that officer's designee.

(2) Clean Air Act (CAA)--The Clean Air Act of 1970 and Amendments of 1990 (42 U.S.C. §7401 et seq.), including procedures that apply to all transportation plans, programs, and projects as they relate to air quality.

(3) Commission--The Texas Transportation Commission.

(4) Conformity--Clean Air Act requirements that ensure that federal funding and approval are given to transportation plans, programs, and projects that are consistent with the air quality goals established by the State Implementation Plan.

(5) Corridor--A broad geographic band with no predefined size or scale that follows a general directional flow, providing for the movement of people and freight and connecting major sources of transportation trips. It involves a nominally linear transportation service area that may contain a number of streets, highways, rail, utility, and public transportation route alignments.

(6) Department--The Texas Department of Transportation.

(7) District--One of the geographic areas into which the department is divided in order to conduct its primary work activities.

(8) District engineer--The chief administrative officer in charge of a district, or that officer's designee.

(9) Environmental Protection Agency (EPA)--The agency of the federal government with broad responsibilities for environmental protection and enforcement, including air quality, as it relates to this chapter.

(10) Executive director--The executive director of the department or the executive director's designee.

(11) Federal discretionary programs--Programs that provide the U.S. Department of Transportation with discretion to award funds for specific projects outside of the normal transportation fund

formulas. The U.S. Congress may designate the projects that are eligible for discretionary program funds and the scope of discretion may vary depending on the applicable statutory provisions.

(12) Federal Highway Administration (FHWA)--The federal agency primarily responsible for highway transportation.

(13) Federal Railroad Administration (FRA)--The federal agency primarily responsible for railroad transportation.

(14) Federal Transit Administration (FTA)--The federal agency primarily responsible for public transportation.

(15) Governor--The governor of the State of Texas.

(16) Letting--The official act of opening contractors' bids for a proposed highway improvement contract to construct, reconstruct, or maintain a segment of the state highway system, or to construct or maintain a building or other facility appurtenant to a building.

(17) Local transportation entity--An entity that participates in the transportation planning process. The term includes but is not limited to:

(A) a metropolitan planning organization;

(B) a rural planning organization;

(C) a regional tollway authority organized under Transportation Code, Chapter 366;

(D) a regional transportation authority operating under Transportation Code, Chapter 452;

(E) a metropolitan rapid transit authority operating under Transportation Code, Chapter 451;

(F) a rural transit district as defined by Transportation Code, §458.001;

(G) a coordinated county transportation authority operating under Transportation Code, Chapter 460;

(H) a rural rail transportation district operating under Transportation Code, Chapter 172; and

(I) a commuter rail district operating under Transportation Code, Chapter 174.

(18) Metropolitan planning organization (MPO)--The organization or policy board of an organization created and designated under 23 U.S.C. §134 and 49 U.S.C. §5303, as amended, to make transportation planning decisions for the metropolitan planning area and carry out the metropolitan transportation planning process.

~~[(19) Mexican ports of entry--Connections between Mexico and the State of Texas at international bridge crossings of 5,000 vehicles or more average daily traffic.]~~

(19) [(20)] Mobility projects--Transportation projects that add additional mainlanes to an existing highway facility or construct lanes on a new location and have a length of at least one mile, or any projects that otherwise improve transportation facilities for highways, public transportation, or other modes of transportation to decrease travel time and the level or duration of traffic congestion, and to increase the safe and efficient movement of people and freight.

(20) [(24)] On-system--The system of highways in the state included in a comprehensive plan prepared by the department's executive director under the direction and with the approval of the commission in accordance with Transportation Code, §201.103.

(21) [(22)] Planning organization--A metropolitan planning organization, a rural planning organization, or, for an area that

is not in the boundaries of a metropolitan planning organization or a rural planning organization, a district.

(22) [(23)] Public transportation--Transportation of passengers and their hand carried packages or baggage on a regular or continuing basis by means of surface or water conveyance by a public or private entity that receives financial assistance from the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, the department, or a local political subdivision.

(23) [(24)] Routes--All or a portion of a selected course of travel between two specific geographic locations.

(24) [(25)] Rural planning organization (RPO)--A voluntary organization created and governed by local elected officials with responsibility for transportation decisions at the local level, including an organization established by a council of governments or regional planning commission designated by the governor pursuant to Local Government Code, Chapter 391, to address rural transportation priorities and planning and provide recommendations to the department for areas of the state not included in the boundaries of a metropolitan planning organization.

(25) [(26)] Rural transportation improvement program (RTIP)--A staged, multiyear, intermodal program of transportation projects and public transportation projects developed by the department, in consultation with local officials, for areas of the state outside of the metropolitan planning area boundaries. The RTIP includes a financially constrained plan that demonstrates how the program can be implemented.

(26) [(27)] State Implementation Plan (SIP)--The latest approved version of the state adopted plan promulgated for each nonattainment or maintenance area to achieve or maintain compliance with the national ambient air quality standards required by the federal Clean Air Act.

(27) [(28)] Subarea--A geographic area with no predefined size or scale that is located within the boundaries of a designated metropolitan planning area.

(28) [(29)] Surface Transportation Program (STP)--The funding program established by 23 U.S.C. §133.

(29) [(30)] Texas Commission on Environmental Quality (TCEQ)--The state agency responsible for coordination of natural resources and air quality for the state, including development of the State Implementation Plan.

(30) [(31)] Texas Highway Trunk System--A rural network of ~~four-lane or better~~ divided roadways that consists of ~~four or more lanes and serves~~ will serve as a principal connector of ~~all~~ Texas cities of ~~greater than~~ with over 20,000 population as well as ~~major~~ ports ~~and points~~ of entry on the international border and Texas water ports; ~~not to exceed a total system mileage of 11,500 centerline miles~~.

(31) [(32)] Transportation control measure (TCM)--Any measure used for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions.

(32) [(33)] Transportation management area (TMA)--An urbanized area with a population over 200,000 as defined by the U.S. Bureau of the Census and designated by the U.S. Secretary of Transportation, or any additional area where transportation management area designation is requested by the governor and the metropolitan planning organization and designated by the U.S. Secretary of Transportation.

(33) [(34)] Transportation project--The planning, engineering, right of way acquisition, expansion, improvement, addition, or contract maintenance, other than the routine or contracted routine maintenance of a bridge, highway, toll road or toll road system, or railroad, enhancement of a roadway that increases the safety of the traveling public, air quality improvement initiative, or transportation enhancement activity under 23 U.S.C. §101.

(34) [(35)] Transportation reinvestment zone (TRZ)--An area created and designated by a municipality or county under Transportation Code, §§222.106 - 222.108, to promote and fund one or more transportation projects as authorized under that section.

(35) [(36)] Unified Planning Work Program (UPWP)--The governing planning document, prepared by an MPO on an annual or biennial basis, which identifies the transportation planning work to be undertaken within the metropolitan planning area for the applicable period.

(b) Acronyms. The following acronyms, when used in this chapter, are abbreviations for the associated terms. If an associated term is not defined under subsection (a) of this section, a reference is provided to the section in this chapter in which the term is primarily described.

- (1) CAA--Clean Air Act.
- (2) EPA--Environmental Protection Agency.
- (3) FHWA--Federal Highway Administration.
- (4) FRA--Federal Railroad Administration.
- (5) FTA--Federal Transit Administration.
- (6) MPO--Metropolitan planning organization.
- (7) MTP--Metropolitan transportation plan, as described in §16.53 of this chapter (relating to Metropolitan Transportation Plan).
- (8) RPO--Rural planning organization.
- (9) RTIP--Rural transportation improvement program.
- (10) SIP--State implementation plan.
- (11) SLRTP--Statewide long-range transportation plan, as described in §16.54 of this chapter (relating to Statewide Long-Range Transportation Plan).
- (12) STIP--Statewide transportation improvement program, as described in §16.103 of this chapter (relating to Statewide Transportation Improvement Program).
- (13) STP--Surface transportation program.
- (14) TCEQ--Texas Commission on Environmental Quality.
- (15) TCM--Transportation control measure.
- (16) TIP--Transportation improvement program, as described in §16.101 of this chapter (relating to Transportation Improvement Program).
- (17) TMA--Transportation management area.
- (18) TRZ--Transportation reinvestment zone.
- (19) UPWP--Unified planning work program.
- (20) UTP--Unified transportation program, as described in §16.105 of this chapter (relating to Unified Transportation Program).

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 September 24, 2026.

TRD-202604143

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 484-9496



SUBCHAPTER B. TRANSPORTATION PLANNING

43 TAC §16.56

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.601, 201.602, 201.608

§16.56. Texas Highway Trunk System.

Routes to be included in and developed as a part of the Texas Highway Trunk System shall be chosen by the ~~commission as recommended by the~~ executive director, with advice from the commission, based on one or more of the criteria set out in this section. The commission shall review the Texas Highway Trunk System and criteria for inclusion in the system at least every 10 years to ensure the system aligns with the census data obtained from the federal decennial census. To be included in the Texas Highway Trunk System the executive director ~~commission~~ will give consideration to routes:

- (1) maximizing the use of existing four-lane divided roadways, including existing interstate highways;
- (2) minimizing circuitous or indirect routing;
- (3) connecting with ~~principal~~ roadways from adjacent states;
- (4) connecting with Texas water ports ~~principal deep water ports with channel depths of 40 feet or more~~;
- (5) connecting with ~~principal Mexican~~ ports of entry on the international border;
- (6) serving ~~significant~~ military or other national security installations;
- (7) serving national and state parks and ~~tourism or~~ recreational areas;
- (8) comprising the Texas Multimodal Freight Network outside of urbanized areas ~~major truck routes~~;
- ~~[(9) which are within 25 miles or less of cities of 10,000 population or greater;~~
- (9) ~~[(10)]~~ closing gaps in the existing state highway system; and

(10) [(44)] providing system connectivity, including roadways that will be part of future interstate highways, including the I-14, I-27, and I-69 systems.

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 September 24, 2026.

TRD-202604144

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 484-9496



SUBCHAPTER D. TRANSPORTATION FUNDING

43 TAC §16.153

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.601, 201.602, 201.608

§16.153. *Funding Categories.*

(a) Highway program funding categories. The ten-year unified transportation program (UTP) described in §16.105 of this chapter (relating to Unified Transportation Program (UTP)) will contain the following 12 program funding categories for highway related projects:

(1) Category 1 Preventive Maintenance and Rehabilitation - preventive maintenance and rehabilitation on the existing state highway system, including:

(A) Preventive maintenance - minor roadway modifications to improve operations and safety; and

(B) Rehabilitation - installation, rehabilitation, replacement, and maintenance of pavement, bridges, traffic control devices, traffic management systems, and ancillary traffic devices;

(2) Category 2 Metropolitan and Urban Corridor Projects - mobility and added capacity projects along a corridor that improve transportation facilities in order to decrease travel time and the level or duration of traffic congestion, and safety, maintenance, or rehabilitation projects that increase the safe and efficient movement of people and freight in metropolitan and urbanized areas;

(3) Category 3 Non-Traditionally Funded Transportation Projects - transportation related projects that qualify for funding from sources not traditionally part of the state highway fund including state bond financing under programs such as Proposition 12 (General Obligation Bonds), Texas Mobility Fund, pass-through toll financing, unique federal funding, regional toll revenue, and local participation funding;

(4) Category 4 Statewide Connectivity Corridor Projects - mobility and added capacity projects on major state highway system corridors which provide statewide connectivity to and from urban areas and areas of economic activity, as well as the communities along those corridors [between urban areas and corridors], to create a highway connectivity network composed of the Texas Highway Trunk System, National Highway System, and connections from those two systems to [major] ports of entry on the international border [borders] and Texas water ports;

(5) Category 5 Congestion Mitigation and Air Quality Improvement - congestion mitigation and air quality improvement area projects to address attainment of a national ambient air quality standard in the nonattainment areas of the state;

(6) Category 6 Structures Replacement and Rehabilitation - replacement and rehabilitation of deficient existing bridges located on the public highways, roads, and streets in the state, construction of grade separations at existing highway-railroad grade crossings, and rehabilitation of deficient railroad underpasses on the state highway system;

(7) Category 7 Metropolitan Mobility and Rehabilitation (TMA) - transportation needs within the boundaries of designated metropolitan planning areas of metropolitan planning organizations located in a transportation management area;

(8) Category 8 Safety - safety related projects both on and off the state highway system including the federal Highway Safety Improvement Program, Railway-Highway Crossing Program, Safety Bond Program, and High Risk Rural Roads Program;

(9) Category 9 Transportation Alternatives - transportation related activities as described in Chapter 11, Subchapter G, of this title (relating to the Transportation Alternatives Set-Aside Program);

(10) Category 10 Supplemental Transportation Projects - transportation related projects that do not qualify for funding in other categories, including landscape and aesthetic improvement, erosion control and environmental mitigation, construction and rehabilitation of roadways within or adjacent to state parks, fish hatcheries, and similar facilities, replacement of railroad crossing surfaces, maintenance of railroad signals, construction or replacement of curb ramps for accessibility to pedestrians with disabilities, and miscellaneous federal programs;

(11) Category 11 District Discretionary - projects eligible for federal or state funding selected at the district engineer's discretion; and

(12) Category 12 Strategic Priority - projects with specific importance to the state including those that generally promote economic opportunity, increase efficiency on military deployment routes or to retain military assets in response to the federal military base realignment and closure reports, and maintain the ability to respond to both man-made and natural emergencies.

(b) Program funding categories for other modes of transportation and transportation infrastructure. The UTP will contain the following program funding categories for aviation, public transportation, rail, and the state's waterways and coastal waters projects:

(1) Aviation Capital Improvement Program - projects based on the anticipated funding levels of the Federal Aviation Administration Airport Improvement Program and the Texas Aviation Facilities Development Program for general aviation airport development in Texas;

(2) Public transportation - projects based on the anticipated funding levels for public transportation including fixed route city bus

service, rural demand response service, special transit service for elderly and persons with disabilities, and intercity bus service from city to city;

(3) Rail - rail related projects including light rail, freight rail, passenger rail, and high-speed rail; and

(4) State waterways and coastal waters - water related projects including lands, easements, and rights of way for the widening, deepening, and expansion of the main channel of the Gulf Intracoastal Waterway (GIWW), including beneficial use projects of dredged material, and other maritime related projects.

(c) Determination of funding allocations. The commission will use a performance-based process to determine, subject to the mandates of state and federal law, the amount of funds to be allocated to each program funding category described in subsection (a) of this section for the appropriate period of time, in order to achieve established performance outcomes. The commission will determine, subject to the mandates of state and federal law and specific requirements contained in other chapters of this title, the amount of funds to be allocated to each program funding category described in subsection (b) of this section for the appropriate period of time.

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 September 24, 2026.

TRD-202604145

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 484-9496



CHAPTER 28. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

The Texas Department of Transportation (department) proposes the repeal of §§28.20 - 28.22, 28.30 - 28.32, 28.40 - 28.47, 28.60 - 28.67, 28.100 - 28.107, 28.110 - 28.117, and 28.120 - 28.127, and new 28.150 - 28.170, all concerning the authority of certain governmental entities to issue permits for the movement of oversize and overweight vehicles.

EXPLANATION OF PROPOSED REPEAL AND NEW SECTIONS

Seven subchapters of Chapter 28 authorize designated governmental entities to issue oversize or overweight (OS/OW) permits on specified roads. Those subchapters contain duplicative provisions that could be consolidated for uniformity and efficiency. The Texas Regulatory Efficiency Office (TREO), in its Regulatory Efficiency Review of the department, recommended several changes to Chapter 28 provisions relating to that authority. This rulemaking updates and streamlines the department's rules, addresses TREO's recommendations, and significantly reduces the rules' word count.

Subchapter C, Port of Brownsville Permits (§§28.20 - 28.22) is repealed.

Subchapter D, Chambers County Permits (§§28.30 - 28.32) is repealed.

Subchapter E, Victoria County Navigation District Permits (§§28.40 - 28.47) is repealed.

Subchapter F, Port Freeport Navigation District Permits (§§28.60 - 28.67) is repealed.

Subchapter H, Port Freeport Navigation District Permits (§§28.100 - 28.107) is repealed.

Subchapter I, Port of Harlingen Authority Permits (§§28.110 - 28.117) is repealed.

Subchapter J, Port of Palacios Permits (§§28.120 - 28.127) is repealed.

New Subchapter K, Issuance of Permits for Oversize or Overweight Vehicles by Other Governmental Entities (§§28.150 - 28.170), provides the authorization and requirements for certain governmental entities to issue permits for the movement of oversize or overweight vehicles carrying cargo on designated roads in accordance with Transportation Code, Chapter 623. The new subchapter consolidates and reorganizes current rules, primarily with no substantive changes.

New §28.150, Purpose and Structure of Subchapter, provides the purpose of the new subchapter and explains that §§28.151 - 28.162 set out the provisions that apply to all of the governmental entities. Section 28.163 and the following sections are provisions that are specific to each governmental entity.

New §28.151, Definition, provides a definition of entity for the purposes of the subchapter.

New §28.152, Maintenance Agreement; Security Bond, requires an entity to enter into a maintenance agreement with the department before it will be authorized to issue permits for the movement of oversize or overweight vehicles. The section authorizes the department to require a \$500,000 surety bond for maintenance of designated roadways that are subject to the movement of those vehicles.

New §28.153, Duties of Entity, provides the entity's obligations for being authorized to issue permits under the new subchapter.

New §28.154, Audits, states that the department will conduct audits to ensure compliance with applicable law.

New §28.155, Revocation of Permit Authority, provides the process for the revocation of the authority granted under this subchapter. This section clarifies that the authority may be revoked if the department determines that the entity issued a permit to a motor carrier whose certificate of registration was suspended or revoked by the Texas Department of Motor Vehicles.

New §28.156, Fees, covers the fees charged by an entity for a permit issued under the new subchapter.

New §28.157, Eligibility for Permit, provides the eligibility requirements for being issued a permit under the new subchapter.

New §28.158, Permit Application Form, provides that a permit application form is subject to the department's approval.

New §28.159, Permit, provides general requirements for the form, use, and validity of a permit issued under the subchapter.

New §28.160, Permit Size and Weight Limits for Axles, provides the maximum size and weight limits for vehicle movement under a permit issued under the subchapter.

New §28.161, Weight Measurements, describes the requirements for scales used for the measurement of weight.

New §28.162, Movement Requirements and Restrictions, sets out the limitations on the movement of vehicles under permits issued under the subchapter.

New §28.163, Port of Brownsville, authorizes the department to enter into an agreement with the Brownsville Navigation District (Port of Brownsville) for the port to issue oversize or overweight permits.

New §28.164, Port Freeport Navigation District, authorizes the department to enter into an agreement with Port Freeport for the port to issue oversize or overweight permits.

New §28.165, Port of Harlingen Authority, authorizes the department to enter into an agreement with the Port of Harlingen Authority for the port to issue oversize or overweight permits.

New §28.166, Port of Palacios, authorizes the department to enter into an agreement with the Port of Palacios for the port to issue oversize or overweight permits.

New §28.167, Victoria County Navigation District, authorizes the department to enter into an agreement with the Victoria County Navigation District for the district to issue oversize or overweight permits. The rule provides that as an exception to the general weight limit set out §28.160(b), the gross weight limit for travel on the designated roads is 140,000 pounds.

New §28.168, Chambers County, authorizes the department to enter into an agreement with Chambers County for the county to issue oversize or overweight permits. The rule provides that as an exception to the general weight limit set out §28.160(b), the gross weight limit for travel on the designated roads is 100,000 pounds.

New §28.169, Hidalgo County Regional Mobility Authority, authorizes the department to enter into an agreement with the Hidalgo County Regional Mobility Authority for the county to issue oversize or overweight permits. The rule provides an exception to the surety bond authority under §28.152(c). Transportation Code, §623.370, requires the authority to file a surety bond with the department and requires the department to set the amount of the bond.

New §28.170, City of Laredo, authorizes the department to enter into an agreement with the City of Laredo for the port to issue oversize or overweight permits. The rule refers to Transportation Code, §623.382, which has requirements that differ from the generally applicable surety bond authority provided by §28.152(c).

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Jace Lee, Maintenance Division Director, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Lee has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be increased clarity, transparency, and consistency in the oversize and overweight permitting process. The simplified rules will make permit requirements easier to understand and navigate, promoting more efficient freight movement, enhancing customer service, and supporting economic activity throughout Texas.

COSTS ON REGULATED PERSONS

Mr. Lee has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Lee has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

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

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the repeal of §§28.20 - 28.22, 28.30 - 28.32, 28.40 - 28.47, 28.60 - 28.67, 28.100 - 28.107, 28.110 - 28.117, and 28.120 - 28.127, and proposed new §§28.150 - 28.170. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Oversize Overweight vehicles." The deadline for receipt of the information or comments is 5:00 p.m. on November 9, 2026. In accordance with Trans-

portation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

SUBCHAPTER C. PORT OF BROWNSVILLE PERMITS

43 TAC §§28.20 - 28.22

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.20. *Purpose.*

§28.21. *Responsibilities.*

§28.22. *Permit Issuance Requirements and Procedures.*

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 September 24, 2026.

TRD-202604146

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER D. CHAMBERS COUNTY PERMITS

43 TAC §§28.30 - 28.32

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.30. *Purpose.*

§28.31. *Responsibilities.*

§28.32. *Permit Issuance Requirements and Procedures.*

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 September 24, 2026.

TRD-202604147

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER E. VICTORIA COUNTY NAVIGATION DISTRICT PERMITS

43 TAC §§28.40 - 28.47

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.40. *Purpose.*

§28.41. *Definition.*

§28.42. *District's Powers and Duties.*

§28.43. *Permit Eligibility.*

§28.44. *Permit Issuance Requirements and Procedures.*

§28.45. *Permit Weight Limits for Axles.*

§28.46. *Movement Requirements and Restrictions.*

§28.47. *Records.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604148

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER F. PORT FREEPORT NAVIGATION DISTRICT PERMITS

43 TAC §§28.60 - 28.67

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.60. *Purpose.*

§28.61. *Definition.*

§28.62. *District's Powers and Duties.*

§28.63. *Permit Eligibility.*

§28.64. *Permit Issuance Requirements and Procedures.*

§28.65. *Permit Weight Limits for Axles.*

§28.66. *Movement Requirements and Restrictions.*

§28.67. *Records.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604149

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER H. HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY PERMITS

43 TAC §§28.100 - 28.107

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.100. *Purpose.*

§28.101. *Definition.*

§28.102. *Authority's Powers and Duties.*

§28.103. *Permit Eligibility.*

§28.104. *Permit Issuance Requirements and Procedures.*

§28.105. *Permit Weight Limits for Axles.*

§28.106. *Movement Requirements and Restrictions.*

§28.107. *Records.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604150

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Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER I. PORT OF HARLINGEN AUTHORITY PERMITS

43 TAC §§28.110 - 28.117

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.110. *Purpose.*

§28.111. *Definition.*

§28.112. *Authority's Powers and Duties.*

§28.113. *Permit Eligibility.*

§28.114. *Permit Issuance Requirements and Procedures.*

§28.115. *Permit Weight Limits for Axles.*

§28.116. *Movement Requirements and Restrictions.*

§28.117. *Records.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604151

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER J. PORT OF PALACIOS PERMITS

43 TAC §§28.120 - 28.127

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.120. *Purpose.*

§28.121. *Definition.*

§28.122. *Authority's Powers and Duties.*

§28.123. *Permit Eligibility.*

§28.124. *Permit Issuance Requirements and Procedures.*

§28.125. *Permit Weight Limits for Axles.*

§28.126. *Movement Requirements and Restrictions.*

§28.127. *Records.*

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

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604152

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048



SUBCHAPTER K. ISSUANCE OF PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES BY OTHER GOVERNMENTAL ENTITIES

43 TAC §§28.150 - 28.170

STATUTORY AUTHORITY

The new sections are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §§623.239, 623.259, 623.288, 623.310, 623.369, and 623.390, which authorize the commission to adopt rules to implement Subchapters L, M, O, P, S, and T, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapters K, L, M, O, P, S, and T.

§28.150. *Purpose and Structure of Subchapter.*

(a) Under Transportation Code, Chapter 623, the commission may authorize certain governmental entities to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads specified in various sections of that chapter. This subchapter provides the authorization and requirements for the issuance of permits by those entities.

(b) The first sections of this subchapter set out provisions that are generally applicable to the grant of authority to issue permits and the duties under that grant of authority. The sections beginning with §28.163 (relating to Port of Brownsville) provide the specific authority granted to each governmental entity and any exceptions to the general requirements that apply to that entity.

§28.151. *Definition.*

In this subchapter, "entity" means a governmental entity that is granted authority to issue a permit under this subchapter.

§28.152. *Maintenance Agreement; Security Bond.*

(a) Before an entity may issue a permit under this subchapter for the movement of a vehicle or vehicle combination that exceeds the size or weight limits specified in Transportation Code, Chapter 621, Subchapters B and C, the entity must enter into an agreement with the department for the maintenance of roads on which a vehicle may travel under a permit issued by the entity.

(b) Maintenance covered under the agreement includes routine and preventive maintenance and other types of maintenance that the department determines necessary, and may include the total reconstruction of a roadway and bridge structures, if the department determines that the reconstruction is necessary to maintain the current level of service.

(c) The department may require the entity to post a surety bond in the amount of \$500,000 for the reimbursement of the department for actual maintenance costs of the designated roads if the revenue collected from permits issued under this subchapter is insufficient to pay for those costs and the entity fails to reimburse the department for those costs.

§28.153. *Duties of Entity.*

(a) The entity shall provide or obtain any training necessary for its personnel to issue permits under this subchapter. The department may assist with training on the entity's request.

(b) The entity shall comply with accounting procedures developed by the department for revenue collections and payments made to the department under §28.152 of this subchapter (relating to Maintenance Agreement; Security Bond).

(c) The entity shall maintain records that evidence compliance with this subchapter.

(d) The entity shall provide to the department's Finance Division, in a format approved by the department, monthly and annual reports regarding all permits issued and all fees collected during the period covered by the report.

(e) The entity shall provide law enforcement and the department's personnel access to any of the entity's property to verify compliance with this subchapter.

§28.154. *Audits.*

Annually, or on direction of the executive director, the department will conduct audits of all permit issuance activities of the entity to ensure compliance with applicable law.

§28.155. *Revocation of Permit Authority.*

(a) If the department determines, as a result of an audit, that the entity is not complying with applicable law or determines that the entity

issued a permit to a motor carrier whose certificate of registration was suspended or revoked by the Texas Department of Motor Vehicles, the executive director will issue a notice to the entity allowing 30 days for the entity to correct the issue. If, after the 30-day period, the department determines that the entity has not corrected the issue, the executive director may modify or revoke the entity's authority to issue permits under this subchapter.

(b) The entity may appeal the revocation to the commission in writing. If an appeal is filed, the entity's authority to issue permits under this subchapter remains effective until the commission makes a final decision on the appeal.

§28.156. Fees.

(a) Transportation Code, Chapter 623, governs the amount, deposit, and use of fees collected by an entity under this subchapter. The entity may determine the acceptable methods for the payment of fees.

(b) On termination of the entity's authority to issue permits or the maintenance contract entered into under §28.152 of this subchapter (relating to Maintenance Agreement; Security Bond), the entity shall pay to the department all permit fees collected by the entity, less allowable administrative costs authorized by Transportation Code, Chapter 623.

§28.157. Eligibility for Permit.

(a) An entity may issue a permit under this subchapter only if:

(1) the vehicle or vehicle combination is registered under Transportation Code, Chapter 502; and

(2) the owner of the vehicle or combination is registered as a motor carrier under Transportation Code, Chapter 643 or 645.

(b) An entity may not issue a permit under this subchapter to a person or for a vehicle that is prohibited from being issued a permit under Transportation Code, §623.271.

§28.158. Permit Application Form.

An application for a permit under this subchapter must be in the form approved by the department.

§28.159. Permit.

(a) A permit issued under this subchapter must be in a form approved by the department and must include all information required under Transportation Code, Chapter 623.

(b) The original permit must be carried in the vehicle for which it was issued.

(c) A permit is void:

(1) if a person gives incorrect information on the permit application; or

(2) on noncompliance with or alteration of the permit.

§28.160. Permit Size and Weight Limits for Axles.

(a) The loaded dimensions of a vehicle or vehicle combination moving under a permit issued under this subchapter may not exceed 12 feet wide, 16 feet high, and 110 feet long.

(b) The gross weight of a vehicle or vehicle combination moving under a permit issued under this subchapter may not exceed 125,000 pounds.

(c) Subject to subsection (d) of this section, the maximum permit weight for an axle or axle group is the lesser of the weight computed by multiplying 650 pounds times the total number of inches of the width of tires on the axle or group or the following applicable weight:

- (1) single axle - 25,000 pounds;
- (2) two-axle group - 46,000 pounds;
- (3) three-axle group - 60,000 pounds;
- (4) four-axle group - 70,000 pounds;
- (5) five-axle group - 81,400 pounds; or
- (6) trunnion axles - 60,000 pounds if:

(A) the trunnion configuration has two axles;

(B) there are a total of 16 tires for the trunnion configuration; and

(C) the trunnion axle, as shown in the following diagram, is 10 feet in width.

Figure: 43 TAC §28.160(c)(6)(C)

(d) A permit may be issued for the maximum weight authorized under subsection (c) of this section for an axle group only if:

(1) the distance between the centers of the axles in the group is at least four feet; and

(2) for two or more consecutive axle groups, the distance between the center of the last axle of a group to center of the first axle of the immediately following group is at least 12 feet.

(e) A permit issued under this subchapter does not authorize the vehicle to exceed manufacturer's tire load rating.

(f) To exceed a weight limit set in this section, a person must apply to the Texas Department of Motor Vehicles for the applicable oversize or overweight permit under Transportation Code, Chapter 623.

§28.161. Weight Measurements.

Weight measurements must be made using scales that are certified by the Texas Department of Agriculture or, for international transportation, certified by the Texas Department of Agriculture or accepted by the United Mexican States.

§28.162. Movement Requirements and Restrictions.

(a) Movement of a vehicle under a permit issued under this subchapter is prohibited:

(1) when visibility is less than 2/10 of a mile; or

(2) on a road on which:

(A) the surface is hazardous due to weather conditions;

or

(B) maintenance or construction work is being performed.

(b) A vehicle for which an oversize permit is issued under this subsection may be moved only during daylight.

(c) A vehicle for which only an overweight permit is issued under this subsection may be moved at any time.

(d) The maximum speed for a vehicle moving under a permit is issued under this subsection is set by Transportation Code, Chapter 623, for that type of permit.

§28.163. Port of Brownsville.

In accordance with Transportation Code, Chapter 623, Subchapter K, and subject to the requirements of this subchapter, the department may enter into an agreement with the Brownsville Navigation District (Port of Brownsville) for the port to issue permits for the movement of oversize or overweight vehicles carrying cargo on the roads designated by Transportation Code, §623.219(a)(1).

§28.164. Port Freeport Navigation District.

In accordance with Transportation Code, Chapter 623, Subchapter K, and subject to the requirements of this subchapter, the department may enter into an agreement with Port Freeport to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads designated by Transportation Code, §623.219(b).

§28.165. Port of Harlingen Authority.

In accordance with Transportation Code, Chapter 623, Subchapter K, and subject to the requirements of this subchapter, the department may enter into an agreement with the Port of Harlingen Authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads designated by Transportation Code, §623.219(a)(2)(B), (C), (D), and (E).

§28.166. Port of Palacios.

In accordance with Transportation Code, Chapter 623, Subchapter K, and subject to the requirements of this subchapter, the department may enter into an agreement with the Port of Palacios to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads designated by Transportation Code, §623.219(b-1).

§28.167. Victoria County Navigation District.

(a) In accordance with Transportation Code, Chapter 623, Subchapter L, and subject to the requirements of this subchapter, the department may enter into an agreement with the Victoria County Navigation District to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads designated by Transportation Code, §623.232.

(b) Notwithstanding §28.160(b) of this subchapter (relating to Permit Size and Weight Limits for Axles), the gross weight for travel on the designated roads may not exceed 140,000 pounds.

§28.168. Chambers County.

(a) In accordance with Transportation Code, Chapter 623, Subchapter M, and subject to the requirements of this subchapter, the department may enter into an agreement with Chambers County, Texas to issue permits for the movement of oversize and overweight vehicles and loads on the roads designated by Transportation Code, §623.252(b)(1).

(b) Notwithstanding §28.160(b) of this subchapter (relating to Permit Size and Weight Limits for Axles), the gross weight for travel on the designated roads may not exceed 100,000 pounds.

§28.169. Hidalgo County Regional Mobility Authority.

(a) In accordance with Transportation Code, Chapter 623, Subchapter S, and subject to the requirements of this subchapter, the department may enter into an agreement with Hidalgo County Regional Mobility Authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on roads designated by Transportation Code, §623.363 and for movement on:

(1) the state-owned roads designated by Transportation Code, §623.363;

(2) US 281/Military Highway from Spur 29 to FM 1015;

(3) FM 1015 from US 281/Military Highway, south to the Progreso International Bridge;

(4) FM 2557 from US 281/Military Highway to Interstate 2;

(5) FM 3072 from Veterans Boulevard ("I" Road) to Cesar Chavez Road;

(6) US 281 (Cage Boulevard) from Spur 600 to Anaya Road; and

(7) U.S. Highway 83 Business from South Pleasant view Drive to South Bridge Avenue.

(b) Notwithstanding §28.152(c) of this subchapter (relating to Maintenance Agreement; Security Bond), the department will set the amount of the surety bond required to be posted by Hidalgo County Regional Mobility Authority under Transportation Code, §623.370.

§28.170. City of Laredo.

(a) In accordance with Transportation Code, Chapter 623, Subchapter T, and subject to the requirements of this subchapter, the department may enter into an agreement with the City of Laredo to issue permits for the movement of oversize and overweight vehicles and loads on the state-owned roads designated by Transportation Code, §623.382.

(b) A surety bond required of the City of Laredo under §28.152(c) of this subchapter (relating to Maintenance Agreement; Security Bond), is for the maintenance of roadways described only by Transportation Code, §623.382(a). The bond may not be in an amount of less than \$500,000.

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 September 24, 2026.

TRD-202604153

James Kirk

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 8, 2026

For further information, please call: (512) 416-3048

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