

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 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 4. SCHOOL LIBRARY PROGRAMS SUBCHAPTER A. STANDARDS AND GUIDELINES

13 TAC §4.2

The Texas State Library and Archives Commission (commission) proposes amendments to §4.2, concerning School Library Programs: Collection Development Standards.

BACKGROUND. The proposed amendments are necessary to implement Senate Bill (SB) 13, 89th Regular Session (2025), which amended portions of the Texas Education Code, Subchapter B, Chapter 33, related to school libraries.

House Bill 900, 88th Regular Session (2023) amended Education Code, §33.021, to require the commission, with approval by majority vote of the State Board of Education (SBOE), to develop and adopt standards for school library collection development that a school district shall adhere to in developing or implementing the district's library collection development policies. The commission adopted these standards at 13 Texas Administrative Code §4.2 on December 14, 2023.

SB 13 added definitions in new §33.020 (Definitions) and added or clarified requirements in §33.021 (Library Standards) for the school library collection development standards. Therefore, the commission finds it necessary to amend §4.2 to comply with the statutes as amended. In addition, SB 13 added new §§33.023-33.027, relating to parental access to a library catalog and access by the parent's child to certain library materials, parental access to student library records, local school advisory councils, acquisition of library materials, and the challenge or appeal of library materials. Because portions of these new statutes relate to existing provisions of the school library collection development standards, the commission finds it necessary to amend additional portions of §4.2 to ensure the collection development standards are consistent with the statutes.

The commission originally considered draft amendments to §4.2 at its August 1, 2025, meeting. At that meeting, the commission approved forwarding the draft to the members of the SBOE designated to work with the commission on the draft standards. After the August 1 meeting, Texas State Board of Education Appointee on Library Collection Standards Julie Pickren provided SBOE's official feedback to commission staff. Representatives of the commission met with SBOE Chair Aaron Kinsey and SBOE Member Pickren to discuss the draft standards on

October 2, 2025. After that meeting, the commission made additional changes to the standards. The standards now proposed reflect input of the SBOE while adhering to standards for the efficient promulgation of state agency rules, including avoiding the duplication of existing statutory language. These standards as proposed for amendment remain a baseline on which school districts may build and further specify procedures and requirements to suit local needs.

EXPLANATION OF PROPOSED AMENDMENTS.

A proposed amendment to subsection (a) adds the term "library" before "materials" for consistency with the term as defined by Educ. Code, §33.020(3). An amendment to this subsection also adds the statutory citation for the definition of "library materials" to enable individuals to locate and review the full statutory definition. If Educ. Code, §33.030(3) is amended in the future, the rule will remain up-to-date and no amendments to the rule language will be necessary.

A proposed amendment to paragraph (c)(6) adds "catalog" to clarify that the access plan must, at a minimum, allow efficient parental access to both the school district's physical and online library catalogs.

Proposed amendments to subparagraph (c)(7)(B) separate the subparagraph into clauses to provide greater clarity in the subparagraph's requirements and reinforce that each item stands alone as an individual requirement. An amendment to clause (i) updates the statutory reference for the definition of "harmful material" to Educ. Code, §33.020(1) as added by SB 13. Another proposed amendment updates the reference to *Board of Education v. Pico*, 457 U.S. 853 (1982) consistent with Educ. Code, §33.021(d)(2)(A)(iii) as amended by SB 13. Other amendments to §4.2(c)(7)(B) add new requirements added to Educ. Code, §33.021 for a school district's collection development policy- that the collection development policy must prohibit the possession, acquisition, and purchase of library material containing indecent or profane content and library material that refers a person to an Internet website containing content prohibited by the rule. Finally, proposed amendments update and correct punctuation throughout the subparagraph.

A proposed amendment to subparagraph (c)(7)(D) adds library mobile applications and any other library catalog a student may access to the scope of the collection development standards as required by SB 13.

A proposed amendment to subparagraph (c)(7)(H) adds the requirement that a collection development policy must demonstrate a commitment to compliance with the Children's Internet Protection Act as required by SB 13.

A proposed amendment to subsection (d) adds a requirement to consider recommendations of a local school library advisory

council (LSLAC) if a district has established one when evaluating materials for inclusion in a school library. SB 13 authorized school districts to establish LSLACs but does not require school districts to establish one. The proposed amendment also includes the statutory citation for LSLACs, which includes the membership of LSLACs.

Proposed amendments to subsection (e) change "legal guardian" to "person standing in parental relation" consistent with SB 13 and add that a person residing in the school district may request reconsideration of a specific item in their school district's library catalog as established by SB 13. Additional amendments to this subsection update the reference to the form used to request reconsideration of an item and define "reasonable timeframe" for review and final decision on reconsideration to mean no longer than 90 days after the date the request for reconsideration is received, as established by SB 13. Finally, a proposed amendment to the subsection requires that a school district prohibit students enrolled in the district from accessing material that is going through the reconsideration process until the district takes action on the material as established by SB 13.

The commission proposes additional amendments throughout §4.2 to ensure correct grammar and punctuation.

FISCAL IMPACT. Sarah Karnes, Director, Library Development and Networking, has determined that for each of the first five years the proposed amendments are in effect, there are no reasonably foreseeable fiscal implications for the state or local governments as a result of enforcing or administering the rules, as proposed.

PUBLIC BENEFIT AND COSTS. Ms. Karnes has determined that for each of the first five years the proposed amendments are in effect, the anticipated public benefit will be increased transparency in a public school library's collection development policies and processes and consistency across the state. There are no anticipated economic costs to persons required to comply with the proposed amendments.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code, §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The proposed amendments do not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code, §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the proposed amendments will be in effect, the commission has determined the following:

1. The proposed amendments will not create or eliminate a government program;
2. Implementation of the proposed amendments will not require the creation of new employee positions or the elimination of existing employee positions;

3. Implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to the commission;

4. The proposed amendments will not require an increase or decrease in fees paid to the commission;

5. The proposal will not create a new regulation;

6. The proposal will not expand or repeal an existing regulation;

7. The proposed amendments will not increase the number of individuals subject to the proposal's applicability; and

8. The proposed amendments will not affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to their property that would otherwise exist in the absence of government action. Therefore, the proposed amendments do not constitute a taking under Government Code, §2007.043.

REQUEST FOR IMPACT INFORMATION. The commission requests, from any person required to comply with the rule as proposed for amendment or any other interested person, information related to the cost, benefit, or effect of the rule as proposed for amendment, including any applicable data, research, or analysis. Please submit the requested information to rules@tsl.texas.gov no later than 30 days from the date of publication in the *Texas Register*.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed new sections may be submitted to Sarah Karnes, Director, Library Development and Networking Division, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas, 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed under Education Code, §33.021, which requires the commission to adopt standards for school library collection development that a school district shall adhere to in developing or implementing the district's library collection development policies.

CROSS REFERENCE TO STATUTE. Government Code, Chapter 441 and Education Code, Chapter 33.

§4.2. School Library Programs: Collection Development Standards.

(a) Each Texas public school district board or governing body must approve and institute a collection development policy that describes the processes and standards by which a school library acquires, maintains, and withdraws library materials as defined by Education Code, §33.020(3).

(b) A school library collection should include materials that are age appropriate and suitable to the campus and students it serves and include a range of materials. A school library collection should:

(1) Enrich and support the Texas Essential Knowledge and Skills (TEKS) and curriculum established by Education Code, §28.002 (relating to Required Curriculum), while taking into consideration students' varied interests, maturity levels, abilities, and learning styles;

(2) Foster growth in factual knowledge, literary appreciation, aesthetic values, and societal standards;

(3) Encourage the enjoyment of reading, foster high-level thinking skills, support personal learning, and encourage discussion based on rational analysis; and

(4) Represent the ethnic, religious, and cultural groups of the state and their contribution to Texas, the nation, and the world.

(c) A school library collection development policy must:

(1) Describe the purpose and collection development goals;

(2) Designate the responsibility for collection development;

(3) Establish procedures for the evaluation, selection, acquisition, reconsideration, and deselection of materials;

(4) Consider the distinct age groups, grade levels, and possible access to materials by all students within a campus;

(5) Include a process to determine and administer student access to material rated by library material vendors as "sexually relevant" as defined by Education Code, §35.001 consistent with any policies adopted by the Texas Education Agency and local school board requirements;

(6) Include an access plan that, at a minimum, allows efficient parental access to the school district's library catalog and online library catalog; and

(7) Comply with all applicable local, state, and federal laws and regulations. Specifically, a collection development policy must:

(A) Recognize that parents are the primary decision makers regarding their student's access to library material;

(B) Prohibit the possession, acquisition, and purchase of:

(i) harmful material, as defined by Education Code, §33.020(1); [; as defined by Penal Code, §43.24;]

(ii) library material rated sexually explicit material by the selling library material vendor under Education Code, §35.002; [; or]

(iii) library material that is pervasively vulgar or educationally unsuitable as referenced in Board of Education v. Pico [v. Board of Education], 457 U.S. 853 (1982); [;]

(iv) library material containing indecent content or profane content;

(v) or library material that refers a person to an Internet website containing content prohibited under this subsection, including by use of a link or QR code, as defined by Health and Safety Code, §443.001;

(C) Recognize that obscene content is not protected by the First Amendment to the United States Constitution;

(D) Be required for all library materials available for use or display, including material contained in school libraries, classroom libraries, [and] online catalogs, library mobile applications, and any other library catalog a student may access;

(E) Ensure schools provide library catalog transparency, including, but not limited to:

(i) Online catalogs that are publicly available; and

(ii) Information about titles and how and where material can be accessed;

(F) Recommend schools communicate effectively with parents regarding collection development, including, but not limited to:

(i) Access to district/campus policies relating to school libraries;

(ii) Consistent access to library resources; and

(iii) Opportunities for students, parents, educators, and community members to provide feedback on library materials and services; [and]

(G) Prohibit the removal of material based solely on the ideas contained in the material or the personal background of the author of the material or characters in the material; and[-]

(H) Demonstrates a commitment to compliance with the Children's Internet Protection Act (Pub. L. No. 106-554), including through the use of technology protection measures, as defined by that Act.

(d) Evaluation of materials as referenced in this section includes a consideration of the factors described in subsection (b) of this section, consideration of local priorities and school district standards, including recommendations of a local school library advisory council if the district has established one under Education Code, §33.025, and at least two of the following:

(1) Consideration of recommendations from parents, guardians, and local community members;

(2) Consultation with the school district's educators and library staff and/or consultation with library staff of similarly situated school districts and their collections and collection development policies;

(3) An extensive review of the text of item;

(4) The context of a work, including consideration of the contextual characteristics, overall fit within existing school library collection, and potential support of the school curriculum; or

(5) Consideration of authoritative reviews of the items from sources such as professional journals in library science, recognized professional education or content journals with book reviews, national and state award recognition lists, library science field experts, and highly acclaimed author and literacy expert recommendations.

(e) A reconsideration process as referenced in this section should ensure that any parent or person standing in parental relation to [legal guardian of] a student [currently] enrolled in the school district, a person employed by [or employee of] the [school] district, or a person residing in the district may request the reconsideration of a specific item in their school district's library catalog. A reconsideration process should:

(1) Establish a uniform procedure an individual must follow when filing a request;

(2) Require a school district to include a form adopted by the Texas Education Agency to request a reconsideration of an item on the school's public internet website if the school has a public internet website or ensure the form is publicly available at a school district administrative office;

(3) Require that the completed [request for reconsideration] form be distributed to the superintendent or superintendent designee, school librarian, [and] school district board of trustees or governing body at the time of submission;

(4) Include a reasonable timeframe, approved by the school board, for the review and final decision by a committee charged with the review of the item in its entirety. A district should convene a review committee in accordance with criteria established by the district to ensure a thorough and fair process. A reasonable timeframe should take

no longer than 90 days after the date the request for reconsideration is received and take into account:

(A) The time necessary to convene a committee to meet and review the item;

(B) Flexibility that may be necessary depending on the number of pending reconsideration requests; and

(C) Other factors relevant to a fair and consistent process, including informing the requester on the progress of the review in a timely fashion;

(5) Prohibit students enrolled in the district from accessing the material until the district takes action in response to the request for reconsideration [Establish a uniform process approved by the school district board of trustees or governing body for the treatment of any library material undergoing reconsideration];

(6) Include a review and appeal process approved by the school district board of trustees or governing body; and

(7) Provide that if an item has gone through the reconsideration process and remains in the collection, a school district may not be required to reconsider an item within two calendar years of the final decision.

(f) School districts should ensure a professional librarian certified by the State Board for Educator Certification or other dedicated professional library staff trained on proper collection development standards is responsible for the selection and acquisition of library materials.

(g) A school district must develop collection assessment and evaluation procedures to periodically appraise the quality of library materials in the school library to ensure the library's goals, objectives, and information needs are serving its school community and should stipulate the means to weed or update the collection.

(h) A school district's collection development policy should be reviewed at least every three years and updated as necessary.

(i) School districts may add procedures to these minimum requirements to satisfy local needs so long as the added procedures do not conflict with these minimum requirements.

(j) School districts are responsible for ensuring their school libraries implement and adhere to these collection development standards.

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 November 14, 2025.

TRD-202504169

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 463-5460



PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 13. TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM

13 TAC §13.1, §13.2

The Texas Historical Commission (hereafter referred to as the Commission) proposes amendments to §13.1 and §13.2 of Title 13, Part 2, Chapter 13 of the Texas Administrative Code (relating to the Texas Historic Preservation Tax Credit Program). These changes are needed to implement House Bill 4044 introduced by Representative Meyer and passed into law during the 89th Legislative session. These changes address the addition of public institutions of higher education as eligible recipients under certain circumstances.

The proposed amendments include a provision that specifies that an institution of higher education or university system as defined in Section 61.003, Education Code, will not be subject to the depreciation and tax-exempt use provisions as defined in Section 47(c)(2) of the Internal Revenue Code, as laid out in Texas Tax Code §172.102(b). The change applies to eligible costs and expenses incurred on or after the effective date of the act, January 1, 2026, until the amendment expires on January 1, 2035.

FISCAL NOTE. Joseph Bell, Executive Director, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rules.

PUBLIC BENEFIT. Mr. Bell has also determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of the implementation of these rules will be the certified rehabilitation of certain designated historic buildings on public university campuses.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Bell has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. Implementation of this legislation will lead to an increase in fees paid to a state agency through application fees collected in accordance with Texas Government Code §442.005(f) and 13 Texas Administrative Code §13.1(3). During the first five years that the amendments would be in effect, the proposed amendments will positively affect the Texas economy through the creation of construction-related jobs.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Joseph Bell, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code §172.110, of the Texas Tax Code, which authorizes the Commission to adopt rules necessary to implement the Tax Credit for Certified Rehabilitation of Certified Historic Structures.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

§13.1. Definitions.

The following words and terms when used in these rules shall have the following meanings unless the context clearly indicates otherwise:

(1) **Applicant**--The entity that has submitted an application for a building or structure it owns or for which it has a contract to purchase.

(2) **Application**--A fully completed Texas Historic Preservation Tax Credit Application form submitted to the Commission, which includes three parts:

(A) **Part A - Evaluation of Significance**, to be used by the Commission to make a determination whether the building is a certified historic structure;

(B) **Part B - Description of Rehabilitation**, to be used by the Commission to review proposed projects for compliance with the Standards for Rehabilitation; and

(C) **Part C - Request for Certification of Completed Work**, to be used by the Commission to review completed projects for compliance with the work approved under Part B.

(3) **Application fee**--The fee charged by the Commission and paid by the applicant for the review of Part B and Part C of the application as follows:

Figure: 13 TAC §13.1(3) (No change.)

(4) **Audited cost report**--Such documentation as defined by the Comptroller in 34 TAC Chapter 3, Tax Administration.

(5) **Building**--Any edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which is principally to shelter any form of human activity, such as shelter or housing, or to provide working, office, parking, display, or sales space. The term includes, among other examples, banks, office buildings, factories, warehouses, barns, railway or bus stations, and stores and may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Functional constructions made usually for purposes other than creating human shelter or activity such as bridges, windmills, and towers are not considered buildings under this definition and are not eligible to be certified historic structures.

(6) **Certificate of Eligibility**--A document issued by the Commission to the owner, following review and approval of a Part C

application, that confirms the property to which the eligible costs and expenses relate is a certified historic structure and the rehabilitation qualifies as a certified rehabilitation; and specifies the date the certified historic structure was first placed in service after the rehabilitation.

(7) **Certified historic structure**--A building or buildings located on a property in Texas that is certified by the Commission as:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under §442.006, Texas Government Code, or as a State Antiquities Landmark under Chapter 191, Texas Natural Resources Code; §21.6 and §26.3(66) and (67) of this title (relating to Recorded Texas Historic Landmark Designation and Definitions, respectively); or

(C) certified by the Commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a certified local district as per 36 CFR §67.9.

(8) **Certified local district**--A local historic district certified by the United States Department of the Interior in accordance with 36 CFR §67.9.

(9) **Certified rehabilitation**--The rehabilitation of a certified historic structure that the Commission has certified as meeting the Standards for Rehabilitation. If the project is submitted for the federal rehabilitation tax credit, it must be reviewed by the National Park Service prior to a determination that it meets the requirements for a certified rehabilitation under this rule. In the absence of a determination for the federal rehabilitation tax credit, the Commission shall have the sole responsibility for certifying the project.

(10) **Commission**--The Texas Historical Commission.

(11) **Comptroller**--The Texas Comptroller of Public Accounts.

(12) **Contributing**--A building in a historic district considered to be historically, culturally, or architecturally significant according to the criteria established by state or federal government, including those formally promulgated by the National Park Service and the United States Department of the Interior at 36 CFR Part 60 and applicable National Register bulletins.

(13) **Credit**--The tax credit for the certified rehabilitation of certified historic structures available pursuant to Chapter 172 of the Texas Tax Code.

(14) **District**--A geographically definable area, urban, or rural, possessing a significant concentration, linkage, or continuity of sites, building, structures, or objects united by past events geographically but linked by association or history.

(15) **Eligible costs and expenses**--The qualified rehabilitation expenditures as defined by §47(c)(2), Internal Revenue Code, including rehabilitation expenses as set out in 26 CFR §1.48-12(c), incurred during the project, except as otherwise specified in Chapter 172 of the Texas Tax Code, or, for a time period beginning January 1, 2026, until the statute reverts on January 1, 2035, by authorized investment of funds by an institution of higher education or university system as defined by Section 61.003, Education Code, if the other provisions of Section 47(c)(2) are met.

(16) **Federal rehabilitation tax credit**--A federal tax credit for 20% of qualified rehabilitation expenditures with respect to a cer-

tified historic structure, as defined in §47, Internal Revenue Code; 26 CFR §1.48-12; and 36 CFR Part 67.

(17) **Functionally related buildings**--A collection of buildings that were constructed or used to serve and support an overall single purpose during their period of significance. Examples include but are not limited to: a residence and carriage house; a multi-building apartment complex; a multi-building industrial or commercial complex; or buildings constructed as a campus. Buildings within a typical neighborhood or downtown commercial historic district, among other property types, do not count as functionally related buildings with other buildings in the district, unless there is a certain historical attachment other than community development. Functionally related buildings owned by one entity are viewed as a single property while those owned by separate entities are viewed as separate properties.

(18) **National Park Service**--The agency of the U.S. Department of the Interior that is responsible for certifying projects to receive the federal rehabilitation tax credit.

(19) **Owner**--A person, partnership, company, corporation, whether for profit or not, governmental body, an institution of higher education or university system or any other entity holding a legal or equitable interest in a Property or Structure, which can include a full or partial ownership interest. Not all of these owner entities can qualify as an applicant for the credit, based on the requirements listed in Chapter 172 of the Texas Tax Code. A long-term lessee of a property may be considered an owner if their current lease term is at a minimum 27.5 years for residential rental property or 39 years for nonresidential real property, as referenced by §47(c)(2), Internal Revenue Code.

(20) **Phased development**--A rehabilitation project which may reasonably be expected to be completed in two or more distinct states of development, as defined by United States Treasury Regulation 26 CFR §1.48-12(b)(2)(v). Each phase of a phased development can independently support an Application for a credit as though it was a stand-alone rehabilitation, as long as each phase meets the definition of a Project. If any completed phase of the rehabilitation project does not meet the requirements of a certified rehabilitation, future applications by the same owner for the same certified historic structure will not be considered.

(21) **Placed in Service**--A status obtained upon completion of the rehabilitation project as described in Part B of the application, and any subsequent amendments, and documented in Part C of the application. Evidence of the date a property is placed in service includes a certificate of occupancy issued by the local building official and/or an architect's certificate of substantial completion. Other documents will suffice when certificates of occupancy and/or substantial completion are not available for a specific project, including final contractor invoices or other verifiable statements of completion. Alternate documents should be approved by the Commission before submission. Placed in Service documentation must indicate the date that work was completed.

(22) **Project**--A specified scope of work, as described in a rehabilitation plan submitted with Part B of the application and subsequent amendments, comprised of work items that will be fully completed and Placed in Service. Examples of a project may include, but are not limited to, a whole building rehabilitation, rehabilitation of individual floors or spaces within a building, repair of building features, or replacement of building systems (such as mechanical, electrical, and plumbing systems). Partial or incomplete scopes of work, such as project planning and design, demolition, or partial completion of spaces, features, or building systems are not included in this definition as projects. Per §13.6(f) of this title (relating to Application Review Process), the Commission's review encompasses the entire build-

ing and site even if other work items are not included in a submitted project.

(23) **Property**--A parcel of real property containing one or more buildings or structures that is the subject of an application for a credit.

(24) **Rehabilitation**--The process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while retaining those portions and features of the building and its site and environment which are significant.

(25) **Rehabilitation plan**--Descriptions, drawings, construction plans, and specifications for the proposed rehabilitation of a certified historic structure in sufficient detail to enable the Commission to evaluate compliance with the Standards for Rehabilitation.

(26) **Standards for Rehabilitation**--The United States Secretary of the Interior's Standards for Rehabilitation as defined by the National Park Service in 36 CFR §67.7.

(27) **Structure**--A building; see also certified historic structure. "Structure" may be used in place of the word "building," but all tax credit projects must involve rehabilitation of a building as defined in §13.1(5) of this title.

(28) **Tax Credit**--A credit earned against either the state franchise tax or the insurance premium tax per Chapter 172 of the Texas Tax Code and any limitations provided therein.

§13.2. Qualification Requirements.

(a) Qualification for credit.

(1) An Owner is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure if:

(A) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(B) the Owner has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(C) the total amount of the eligible costs and expenses incurred exceeds \$5,000.

(2) A property for which eligible costs and expenses are submitted for the credit must meet Internal Revenue Code §47(c)(2) which includes:

(A) non-residential real property;

(B) residential rental property; or

(C) other property types exempted from parts of Internal Revenue Code §47(c)(2) as described in Chapter 172 of the Texas Tax Code.

(b) **Eligible costs and expenses.** Eligible costs and expenses means those costs and expenses allowed pursuant to Internal Revenue Code §47(c)(2) or as exempted by Chapter 172 of the Texas Tax Code. Such eligible costs and expenses, include, but are not limited to:

(1) expenditures associated with structural components as defined by United States Treasury Regulation §1.48-1(e)(2) including walls, partitions, floors, ceilings, windows and doors, stairs, elevators, escalators, sprinkler systems, fire escapes, components of central air conditioning, heating, plumbing, and electrical systems, and other components related to the operation or maintenance of the building;

(2) architectural services;

(3) engineering services;

- (4) construction management and labor, materials, and reasonable overhead;
- (5) subcontracted services;
- (6) development fees;
- (7) construction period interest and taxes; and
- (8) other items referenced in Internal Revenue Code §47(c)(2).

(c) Ineligible costs and expenses. Eligible costs and expenses as defined in Internal Revenue Code §47(c)(2) do not include the following:

- (1) the cost of acquiring any interest in the property;
- (2) the personal labor by the applicant;
- (3) any cost associated with the enlargement of an existing building;
- (4) site work expenditures, including any landscaping, sidewalks, paving, decks, outdoor lighting remote from the building, fencing, retaining walls or similar expenditures; or

(5) any cost associated with the rehabilitation of an outbuilding or ancillary structure unless it is certified by the Commission to contribute to the historical significance of the property.

(d) Eligibility date for costs and expenses.

(1) Part A of the Texas Historic Preservation Tax Credit Certification Application must be submitted prior to the building being placed in service per §13.1(21) of this title (relating to Definitions). Projects that have been placed in service prior to submission of Part A of the application do not qualify for the program.

(2) While the credit may be claimed for eligible costs and expenses incurred prior to the filing of an application, potential applicants are urged to file Parts A and B of the application at the earliest possible date. This will allow the Commission to review the application and provide guidance to the applicant that will increase the chances that the application will ultimately be approved and the credit received.

(3) For an institution of higher education or university system as defined by Section 61.003, Education Code, eligible costs and expenditures may only be incurred on or after January 1, 2026, and before January 1, 2035, in accordance with Section 172.102(b) of the Tax Code.

(e) Phased development. Part B applications for rehabilitation of the same certified historic structure may be submitted by the same owner only if they describe clearly defined phases of work that align with a cost report that separates the eligible costs and expenses by phase. Separate Part B and C applications shall be submitted for review by the Commission prior to issuance of a certificate of eligibility for each phase.

(f) Amount of credit. The total amount of credit available is twenty-five percent (25%) of the aggregate eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

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 November 14, 2025.

TRD-202504159

Joseph Bell

Executive Director

Texas Historical Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 463-6100



TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

SUBCHAPTER C. ALTERNATIVE RATE METHODS

The Public Utility Commission of Texas (commission) proposes the repeal and replace of 16 Texas Administrative Code (TAC) §24.76 relating to System Improvement Charge. Proposed new §24.76 will implement Texas Water Code §13.183 as revised by Senate Bill (SB) 740, Section 4 during the Texas 89th Regular Legislative Session. Specifically, the proposed rule will overhaul the system improvement charge (SIC) application process by revising the form, manner, and content of information and documentation that a utility must file with the commission. The proposed rules also align §24.76 with the procedural timelines established by SB 740 for SIC applications and specific requirements related to the Office of Public Utility Counsel (OPUC). The proposal also includes several commission-prescribed forms, including the SIC application form required by SB 740, a template notice for utilities to issue to ratepayers when establishing a SIC, two separate Excel filing schedules for SIC applications for water service and sewer service, and an instruction form for the SIC filing schedules.

Growth Impact Statement

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

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will create a new regulation to implement new requirements established by SB 740 (89R);
- (6) the proposed rule will expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

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

Takings Impact Analysis

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

Fiscal Impact on State and Local Government

Emily Sears, Senior Financial Analyst, Financial Review, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Sears has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient and accurate rate recovery for water and sewer utilities. There will not be any probable economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

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

Costs to Regulated Persons

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

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by December 12, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Initial comments must be filed by December 19, 2025. Reply comments must be filed by January 23, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the effects of the proposed rule, including the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the information submitted by commenters and the costs and bene-

fits of implementation in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 58391.

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

In addition to comments on the proposed rule text, the commission requests comments on the following questions concerning the proposed rule and the new procedures established by SB 740, Section 4 (89R):

1. Proposed §24.76(d)(1)(J)(ii) requires a SIC application to include, for each capital project included in the application, either (1) a transaction ledger describing all associated supporting documentation or (2) all supporting documentation. If an applicant elects to provide a transaction ledger, a "sample for audit" must be provided under proposed §24.76(d)(2). Specifically, proposed §24.76(d)(2) describes a process by which, the sample for audit will be determined by the presiding officer based on the recommendation of commission staff that will be determined prior to a sufficiency determination.

a. Should the proposed rule specify one or more alternative methodologies by which a sample or audit may be derived that would either (1) allow an applicant to provide relevant information at the outset of its application or (2) be used by commission staff when determining its sample for audit?

b. If alternative methodologies should be specified by the rule (1) what should those methodologies be based on (i.e., number of assets, dollar amount for assets, number of projects, dollar amount for projects, or a combination thereof) and (2) what should the percentage thresholds be to provide sufficient assurance that the sample for audit adequately supports the eligible plant placed into service detailed in the SIC application?

c. If such an alternative methodology is determined, should it replace the currently proposed sample for audit process or be an additional available option for the sample for audit?

2. SB 740 (89R) Section 4 revised Texas Water code §13.183(c) to require the commission to "enter a final order on a request for a system improvement charge...not later than the 60th day after the date the utility commission determines that a complete application for a system improvement charge has been filed." The commission uses a sufficiency review and recommendation by staff and a subsequent order by the presiding officer as the functional equivalent of a commission determination on "completeness." SB 740 Section 4 does not specify a timeline by which the commission must deem an application "complete" (i.e., sufficient). Similarly, proposed §24.76 does not impose a time limitation for between application filing and the sufficiency determination.

a. Considering all other aspects of the application (i.e. a potential sample for audit, review of supporting documentation, requests for information), should a procedural timeline be added to the proposed rule that governs the time period between an applicant filing a SIC application and the commission's determination of application sufficiency?

b. Should there be a specific timeline associated with the proposed sample for audit under proposed §24.76(d)(2)? If yes, please provide details. Answers to this question may incorpo-

rate any alternative proposals provided in response to Question 1.

3. Proposed §24.76(c)(3)(B) prohibits any assets from being included in a SIC application that have replaced existing plant to provide the same service or level of service. The provision also defines "existing plant" as including plant that is included in the utility's current rates established in the utility's most recent base-rate proceeding and excluding eligible plant that is included in the utility's current SIC for a proceeding in which the utility seeks to amend its SIC. In a previous SIC contested case, the commission requested that parties brief the following threshold policy question "Should the utility be required to offset costs that are no longer needed because of the improvements included in the system improvement charge?" In the commission's preliminary order, the commission stated: "Neither the Texas Water Code nor Commission rules provide for offsetting of costs in the context of a system improvement charge. Whether or not the costs are still needed because of the improvements included in the system improvement charge is irrelevant. Because there is no legal basis for this type of offset, the utility should not be required to offset costs in a proceeding for a system improvement charge. To the extent that a utility is recovering costs in base rates that are rendered unnecessary by improvements included in a system improvement charge, the appropriate inquiry is whether the utility is overearning and therefore whether the Commission should initiate a proceeding under TWC § 13.186(a)." (Docket No. 53109, Preliminary Order at 3 (Aug. 25, 2022))

a. Does the Texas Water Code prevent the Commission from establishing the prohibition in proposed §24.76(c)(3)(B)?

b. If the Texas Water Code does not prevent the Commission from establishing the prohibition under proposed §24.76(c)(3)(B), should the Commission, in lieu of establishing the prohibition, consider revising the methodology for calculating the SIC such that it accounts for retirements (i.e., "offsets"), thus requiring a utility to offset the costs that are no longer needed because of the improvements included in the system improvement charge but that are still being reflected in the utility's base rates? If so, include an explanation and proposal, if any, as to what extent the methodology should be revised.

c. Provide any other context or information that may be relevant to Questions 3a and 3b, including, if necessary, a discussion of the methodologies implemented for similarly expedited electric rate proceedings such as §25.243 (relating to Distribution Cost Recovery Factor (DCRF)) and §25.192(h) (relating to Interim Update of Transmission rates).

4. House Bill 2712 (89R) allows a utility to use a historic, future, or combined future and historic test year. Proposed §24.76(c)(1)(D) limits the cost recovery of a SIC to cost recovery of eligible plant placed into service subsequent to the end of the future test year or combined historic and future test year if the applicant used a test year in a base rate proceeding after September 1, 2026 that includes either only future data or combined historic and future data. The intention of this provision is to prevent overlap between any potential future test year period selected by the utility and the period covered by the SIC.

a. Should proposed §24.76(c)(1)(D) be maintained in the rule?

b. Are there any other considerations that should be addressed in proposed §24.76 to prevent the potential overlap of a future test year period and the period covered by the SIC.

16 TAC §24.76

Statutory Authority

The proposed repeal is proposed under Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; Texas Water Code §13.183 which authorizes the commission to establish alternative ratemaking methodologies for water and sewer service rates such as a SIC and specific content and procedural requirements for a SIC application, including the requirement for the commission to develop a commission-prescribed form;

Cross Reference to Statute: Texas Water Code §13.041(a) and (b), 13.183.

§24.76. System Improvement Charge.

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 November 14, 2025.

TRD-202504165

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 936-7244



16 TAC §24.76

Statutory Authority

The proposed new rule and new forms are proposed under Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; Texas Water Code §13.183 which authorizes the commission to establish alternative ratemaking methodologies for water and sewer service rates such as a SIC and specific content and procedural requirements for a SIC application, including the requirement for the commission to develop a commission-prescribed form;

Cross Reference to Statute: Texas Water Code §13.041(a) and (b), 13.183.

§24.76. System Improvement Charge.

(a) Applicability. This section establishes the requirements for a utility to establish or amend a system improvement charge to ensure timely recovery of infrastructure investment.

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

(1) Eligible plant -- Plant properly recorded in the National Association of Regulatory Utility Commissioners (NARUC) System of Accounts, accounts 304 through 339 for water utility service or accounts 354 through 389 for sewer utility service.

(2) System improvement charge- An additional charge to recover certain costs of service associated with the portion of the cost of a utility's eligible plant that is not already included in the utility's base rates.

(c) System improvement charge (SIC). A utility may apply to establish or amend one or more SICs in accordance with the requirements of this section.

(1) General requirements.

(A) A SIC must be nondiscriminatory and be applied uniformly to each meter size provided in the utility's tariff.

(B) A SIC applies to each meter size provided in the utility's tariff based on the calculation and multiplier under subsection (e) of this section.

(C) A SIC application must include any relevant data, attachments, or supplementary materials filed in their native format and, if applicable, any formula intact.

(D) If the applicant used a test year in a base rate proceeding after September 1, 2026, that includes either only future data or combined historic and future data, a SIC is limited to cost recovery of eligible plant placed into service subsequent to the end of the future test year or combined historic and future test year.

(E) A utility is prohibited from establishing or amending a SIC while it has a comprehensive rate proceeding under TWC §§13.187, 13.1871, 13.18715, or 13.1872 pending before the commission. If a utility with a pending application to establish or amend a system improvement charge files an application to change rates under TWC §§13.187, 13.1871, 13.18715, or 13.1872, or the commission initiates a rate change review under TWC §13.186, the utility will be deemed to have withdrawn its application to establish or amend a system improvement charge and the presiding officer must dismiss the application.

(2) Eligibility for and timing of SIC application.

(A) A utility may have a SIC in effect for water service, sewer service, or both.

(B) A utility that is applying to establish or amend multiple SICs in a calendar year must do so in a single application.

(C) A utility is prohibited from:

(i) having more than one SIC in effect at any given time for each type of service (i.e., water service or sewer service) unless a utility has multiple rate schedules for systems that have not yet been consolidated under a single rate; and

(ii) adjusting its rates under this section more than once each calendar year.

(D) The filing of SIC applications as allowed by this section is limited to a specific quarter of the calendar year, and is based on the last two digits of a utility's certificate of convenience and necessity (CCN) number as outlined below, unless good cause is shown for filing in a different quarter. For a utility holding multiple CCNs, the utility may file an application in any quarter for which any of its CCN numbers is eligible.

(i) Quarter 1 (January-March): CCNs ending in 00 through 27;

(ii) Quarter 2 (April-June): CCNs ending in 28 through 54;

(iii) Quarter 3 (July-September): CCNs ending in 55 through 81; and

(iv) Quarter 4 (October-December): CCNs ending in 82 through 99.

(3) Eligible costs.

(A) A SIC is limited to the cost recovery of eligible plant that is not already included in the utility's rates and eligible plant that has been placed into service after the later of the ending date of the 2019 reporting period reflected in the utility's annual report filed with the commission as required by §24.19 of this chapter or the end of the test year used in the utility's most recent base-rate proceeding.

(B) A utility is prohibited from including any assets in a SIC application that have replaced existing plant to provide the same service or level of service. For purposes of this subparagraph, "existing plant" includes plant that is included in the utility's current rates established in the utility's most recent base-rate proceeding. The term "existing plant" does not include eligible plant that is included in the utility's current SIC for a proceeding in which the utility seeks to amend its SIC.

(d) SIC Application.

(1) An application to establish or amend a SIC must be filed using the form prescribed by the commission. A SIC application must include the following:

(A) the following contact information:

(i) the applicant's primary contact name and title, street and mailing address, business telephone number, business e-mail address, and, if available, web address;

(ii) the authorized representative's name, title, street and mailing address, telephone number, e-mail address, and, if available, web address;

(B) the following disclosures:

(i) the applicant's legal business name, including any assumed names;

(ii) the applicant's Texas Secretary of State registration number;

(iii) the number of active water and sewer connections as of the date the SIC application is filed, itemized by type of service (i.e., water or sewer service) and the total number of connections (i.e., water connections plus sewer connections); and

(iv) the applicant's classification based on the applicant's total number of connections (i.e., Class A, B, C, or D utility);

(C) the following general information regarding the SIC sought by the applicant:

(i) whether the application is for a new SIC or is an amendment to an existing SIC;

(ii) if the application is for an amendment to an existing SIC, the docket control number associated with the previous SIC application;

(iii) whether the applicant is seeking a SIC for water service, sewer service, or both;

(iv) identification of each water and sewer tariff or rate schedule currently in effect, as applicable, for which the applicant is seeking a SIC; and

(v) a copy of each water and sewer tariff or rate schedule identified under clause (iv) of this subparagraph, including each docket control number where each tariff or rate schedule was most recently approved;

(D) the following general information concerning the applicant's last comprehensive base rate proceeding:

(i) the year the applicant's last comprehensive base rate proceeding was initiated;

(ii) the docket control number of the applicant's last comprehensive base rate proceeding;

(iii) if applicable, copies of any final orders issued by the Texas Commission on Environmental Quality (TCEQ) or any other predecessor agency that are relevant to the application (i.e., orders relating to rate proceedings held at the TCEQ or any other predecessor agency);

(E) the following general information concerning each CCN possessed by the applicant:

(i) all of the CCN numbers currently issued to the applicant including a separate identification of which CCN numbers apply to the provision of water service or sewer service, as applicable;

(ii) each CCN that would be affected by the SIC sought by the applicant; and

(iii) whether the applicant has, at the time the application is filed, a pending sale, transfer, or merger (STM) application under §24.239 of this title (relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental) or §24.243 of this title (relating to Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility), including the docket control number associated with the STM application;

(F) the following general information concerning currently effective SIC for water or sewer service, or both, as applicable:

(i) whether the applicant has a SIC in effect as of the date the application is filed;

(ii) each docket control number associated with the applicant's currently effective SIC for water service or sewer service;

(iii) each CCN for which the currently effective SIC is applicable;

(G) the date the SIC application is being filed and a confirmation that the application is being filed in the appropriate filing quarter as specified by subsection (c)(2)(D) of this section;

(H) a description of the eligible plant for which cost recovery is sought through the SIC, including:

(i) each project included in the request;

(ii) the following information, itemized by the applicable NARUC account number:

(I) the cost associated with each project and project component;

(II) a detailed explanation of the benefits of each project and project component, including how each project has improved or will improve service, and any reliability impacts; and

(III) transaction details supporting eligible costs substantiated by the documents specified in subparagraph (J) of this paragraph;

(I) a calculation of the SIC in accordance with subsection (e) of this section and all supporting calculations and assumptions for each component of the SIC;

(J) information to substantiate each claimed eligible cost of the applicant's eligible plant that is not already included in the applicant's rates.

(i) Eligible costs must be substantiated by:

(I) a description of each capital project or addition that correlates with all capital expenditures associated with that project or addition.

(II) evidence to support eligible plant placed into service as needed to support the eligible costs in the manner specified by clause (ii) of this subparagraph; and

(III) external or internal documentation of direct and indirect costs, as applicable. External documentation must be word-searchable and organized by each NARUC Account.

(ii) A SIC application must include, at a minimum, either:

(I) a transaction ledger in list format that includes a description of all associated supporting documentation described by clauses (iii) and (iv) of this subparagraph for each capital project included in the application for use in a sample for audit under paragraph (2) of this subsection; or

(II) all associated supporting documentation described by clauses (iii) and (iv) of this subparagraph for each capital project included in the application.

(iii) External documentation (i.e., cost information from unaffiliated third-parties such as contractors or vendors) includes:

(I) receipts;

(II) invoices;

(III) contracts; or

(IV) other documentation of eligible costs, which may include any other information that may be required by commission staff or the presiding officer.

(iv) Internal documentation (i.e. work orders, affiliate costs, capitalized overhead, timesheet for labor, and interest expenses, etc. (allocated overhead) must be substantiated by:

(I) if available and as applicable, the information listed under clause (iii) of this subparagraph;

(II) a categorized list of allocated overhead expenses with supporting documentation for each category. Such supporting documentation may include:

(-a-) narrative explanations describing the billing methods;

(-b-) expert testimony;

(-c-) policies and procedures developed by the applicant for the recording, billing, or management of allocated overhead;

(-d-) calculations, methodologies, or formulas for determining allocation factors used to apply allocated overhead associated with eligible costs; and

(-e-) affiliate service agreements;

(III) work orders categorized by projects. Each work order must:

- (-a-) clearly specify the nature and scope of the work performed;
- (-b-) provide a detailed breakdown of the total project cost; and
- (-c-) identify the sources of those costs, including specific materials used, labor hours incurred, and equipment installed;

(IV) timesheets for labor categorized by projects. Each timesheet must:

- (-a-) accurately reflect the time employees dedicate to capital projects and must exclude time associated with routine operations and maintenance activities;
- (-b-) distinctly categorize direct labor and indirect labor, and all recorded hours shall be attributed to individual employees; and
- (-c-) apply a consistent methodology for capitalizing labor costs over time; and

(V) any other information that may be required by commission staff or the presiding officer;

(K) information that sufficiently addresses the exclusion of costs for plant provided by explicit customer agreements or funded by customer contributions in aid of construction;

(L) information that sufficiently demonstrates compliance with subsection (c)(3)(B) of this section, including a list of the "existing plant" included and approved in the applicant's most recent base-rate proceeding that have been retired or removed from service, as well as the assets that have replaced such existing plant.

(M) If the applicant used group depreciation in its last comprehensive base rate proceeding, the applicant must provide, for each asset within the group to which the group rate applies:

- (i) the name or number of the asset;
- (ii) a description of the asset;
- (iii) the in-service date of the asset; and
- (iv) all cost information that corresponds to that asset;

(N) a copy of the applicant's most recent annual report filed with the commission as required by §24.19 of this chapter (relating to Water and Sewer Utilities Annual Report), which must be the annual report most recently due for filing;

(O) an affidavit confirming that the application meets the requirements of this section;

(P) notice and proof of notice, provided in the form and manner specified by subsection (f) of this section; and

(Q) as applicable, any other information required by the presiding officer in accordance with paragraph (2) of this subsection.

(2) Sample for audit of eligible plant. This paragraph only applies if the applicant has made the election under paragraph (1)(J)(ii)(I) of this subsection.

(A) Prior to filing its recommendation on sufficiency of the application under paragraph (5)(A) of this subsection, commission staff will file a recommendation on an appropriate sample for audit of eligible plant derived from the information included in the transaction ledger within a time period prescribed by the presiding officer.

(B) After staff submits its recommendation under subparagraph (A) of this paragraph, the presiding officer will determine an appropriate sample for audit, taking into consideration commission staff's recommendation and any other factor that is in the public interest. Staff will request a sample for audit based on the determination of the presiding officer.

(C) Within five working days of commission staff's request for an appropriate sample for audit under subparagraph (B) of this paragraph, intervenors may file comments in response to commission staff's request. The presiding officer is not required to consider the comments of the Office of Public Utility Counsel (OPUC) or other intervenors when determining an appropriate sample for audit.

(D) An applicant must file the supporting documentation described by the transaction ledger that is associated with the sample for audit of eligible plant designated by the presiding officer within a reasonable timeframe.

(E) Commission staff must review the supporting documentation provided by the applicant and must include in its sufficiency recommendation as to whether the supporting documentation sufficiently accounts for all transaction details described by the transaction ledger.

(3) Additional information.

(A) The presiding officer or commission staff may require additional documentation from the applicant to:

(i) supplement the information or disclosures required under paragraph (1) of this subsection;

(ii) if the applicant has made the election under paragraph (1)(J)(ii)(I) of this subsection, provide additional supporting documentation responsive to a sample for audit of eligible plant under paragraph (2) of this subsection and approved by the presiding officer under paragraph (2) of this subsection; or

(iii) address additional issues specific to the application or are in the public interest to do so.

(B) Each party, other than commission staff, may serve no more than 20 requests for information and requests for admission of fact prior to the presiding officer determining an application to be sufficient.

(4) Requests for information. Except as otherwise provided by this section or as determined by the presiding officer, requests for information will be conducted in accordance with §22.144 of this title (relating to Requests for Information and Requests for Admission of Facts).

(A) Except for a request by commission staff, a request must not include subparts or multiple questions.

(B) Requests must be sequentially numbered, regardless of whether the requests are served at the same time or on different parties.

(C) Unless otherwise specified by the presiding officer or other applicable law, a response to a request must be served no later than ten working days after receipt of the discovery request.

(D) An objection to a request must be filed no later than five working days from receipt of the request. A request for which an objection is sustained or is withdrawn in response to an objection does not count towards a party's request limit.

(5) Commission processing of application.

(A) Sufficiency determination.

(i) To be deemed sufficient, an application must include:

(I) all information required by paragraph (1) of this subsection;

(II) if the applicant has made the election under paragraph (1)(J)(ii)(I) of this subsection, supporting documentation responsive to a sample for audit determined by the presiding officer under paragraph (2) of this subsection; and

(III) any additional information requested by the presiding officer or commission staff under paragraph (3) of this subsection.

(ii) The presiding officer will establish a procedural schedule for commission staff to file a recommendation on the sufficiency of an application filed under this section.

(iii) OPUC may file comments on the SIC application 30 days from the date the SIC application is filed.

(I) The commission will electronically provide to OPUC any additional data or information related to the application at no cost.

(II) Any confidential material provided to OPUC by the applicant or the commission that has been designated as confidential by the applicant under commission rules, a commission protective order, under Chapter 552 of the Texas Government Code, or other applicable law must remain confidential and is not subject to disclosure by OPUC without the express written consent of the applicant.

(iv) If commission staff recommends the application be found deficient:

(I) Commission staff must identify each application deficiency in its recommendation.

(II) An applicant will have five working days to file a response, which may include an amendment to the application to cure the deficiency.

(v) If the presiding officer determines the application is deficient, the presiding officer will file a notice of deficiency. The notice of deficiency will:

(I) cite the particular requirements with which the application does not comply; and

(II) include a timeline within which the applicant will have an opportunity to amend its application to cure the deficiencies.

(vi) In the event an application is amended, commission staff must file a recommendation on sufficiency of an amended application within a time period prescribed by the presiding officer.

(vii) An application will not be deemed sufficient by the presiding officer until at least 30 days from the date the initial application is filed.

(B) Commission evaluation and final determination. Unless otherwise extended in the manner provided in this subsection, upon finding an application sufficient under subparagraph (A) of this subsection, the presiding officer will set a procedural schedule that will enable the commission to issue a final order in the proceeding within 60 days from the date the application is determined to be sufficient. The commission may extend the deadline for not more than 15 days for good cause.

(i) The procedural schedule must include a deadline for commission staff to file its final recommendation on the application.

(ii) Each party, other than commission staff, may serve no more than 10 requests for information and requests for admission of fact prior to the presiding officer issuing a final proposed order on the application.

(iii) Requests for information under this subparagraph must be issued no later than ten working days from the date the application is determined to be sufficient by the presiding officer.

(iv) Commission staff must include in its recommendation whether the supporting documentation provided as part of the application under paragraph (1)(J)(ii)(I) of this subsection or the supporting documentation provided in response to a sample for audit under paragraph (2) of this subsection, as applicable, adequately substantiates each claimed eligible cost of the applicant utility's eligible plant for each project included in the audit or sample.

(e) Calculation of the SIC. The revenue requirement for the SIC must be calculated using the following formula: $SIC\ RR = (Reconcilable\ Cost * ROR) + Federal\ Income\ Taxes + Depreciation + ad\ valorem\ taxes + other\ revenue\ related\ taxes$. Where:

(1) SIC = the system improvement charge.

(2) $SIC\ RR$ = system improvement charge revenue requirement.

(3) Reconcilable Cost = the original costs of eligible plant placed into service after the later of the ending date of the 2019 reporting period reflected in the utility's annual report filed with the commission as required by §24.19 of this chapter or the end of the test year used in the utility's most recent base-rate proceeding, less:

(A) accumulated depreciation; and

(B) any costs for plant provided by explicit customer agreements or funded by customer contributions in aid of construction.

(4) Accumulated depreciation = depreciation accumulated for eligible plant after the date the eligible plant was placed in service.

(5) ROR = after-tax overall rate of return as defined in paragraph (10) of this subsection.

(6) Federal Income Taxes = current annual federal income tax, as related to eligible costs.

(7) Depreciation = current annual depreciation expense for the eligible plant.

(8) Ad Valorem Taxes = current annual amount of taxes based on the assessed value of the eligible cost.

(9) Other Revenue Related Taxes = current annual amount of any additional taxes resulting from the utility's increased revenues related to the SIC.

(10) The after-tax overall rate of return is one of the following:

(A) if the final order approving the utility's overall rate of return (i.e., the company's weighted-average cost of capital) was filed less than three years before the date that the utility files an application for a SIC, the after-tax rate overall of return is the one approved by the commission in the utility's last base-rate case; or

(B) if the final order approving the utility's overall rate of return (i.e., the company's weighted-average cost of capital) was filed three years or more before the date that the utility files an application for a SIC, the after-tax overall rate of return is the average of the commission's approved rates of return for water and sewer utilities in settled and fully litigated cases over the three years immediately preceding the filing of the SIC.

(11) The SIC must be calculated based on annualized meter equivalents, derived using the most recent month's total customer meter equivalents multiplied by 12. The base SIC must be calculated as the SIC RR divided by annual meter equivalents. The SIC for each meter size must be calculated as the base SIC multiplied by the multiplier for that meter size.

Figure: 16 TAC §24.76(e)(11)

(f) Notice.

(1) General notice requirements.

(A) Upon filing a SIC application with the commission, the applicant must also electronically provide a copy of its application to the OPUC.

(B) On or before the first working day after it files its application, the applicant must issue notice of its SIC application to all affected ratepayers by first class mail or, if the customer has agreed to receive communications electronically, by e-mail. If the applicant has a website, the applicant must also post a copy of the notice on its website accessible to the general public.

(2) Contents of notice. The notice must include, at a minimum, the following:

(A) the docket control number for the utility's SIC proceeding;

(B) information regarding the proposed SIC itemized for each type of service (i.e., water or sewer service, or both), as applicable, including:

(i) a brief description of the investments and costs the utility is seeking recovery for through the proposed SIC;

(ii) the time period for which the utility is seeking the proposed SIC to recover costs;

(iii) the proposed total SIC revenues sought by the utility;

(iv) a description of the proposed SIC as a monthly minimum bill charge for each meter size;

(v) for each customer meter size, an estimated total monthly bill at 5,000 gallons and 10,000 gallons;

(vi) a statement that substantially conforms to the following: "The effective date of the proposed rate change will be the date the commission issues a final order adopting the proposed SIC.";

(C) the intervention deadline;

(D) a brief explanation of how an affected ratepayer can intervene in the SIC proceeding or submit comments as a protestor; and

(E) an explanation of how intervention differs from protesting a rate increase.

(3) Completion of notice and intervention deadline.

(A) Notice is complete on the date that notice is physically or electronically mailed to all customers by the utility. If notice is mailed over multiple days, notice is complete on the last day of mailing.

(B) The intervention deadline is 25 days from the date service of notice is complete.

(4) Proof of notice. Within 15 days from the date notice was complete, the utility must file a proof of notice affidavit with the commission. The affidavit must:

(A) be sworn;

(B) be completed and signed by an officer or managerial employee of the utility that is qualified and authorized to verify and file notice on behalf of the utility;

(C) attest and verify that notice was issued to all affected ratepayers of the utility;

(D) attest and verify that each notice was posted to the utility's website in a manner accessible to the general public and include a hyperlink to the webpages where each notice is posted; and

(E) contain a copy of each notice issued by the utility

(h) Scope of proceeding. The issue of whether eligible costs included in an application for a SIC or an amendment to a SIC are prudent, reasonable, or necessary, will not be addressed in a proceeding under this section.

(i) SIC reconciliation. Costs recovered through a SIC are subject to reconciliation in the utility's next comprehensive rate case.

(1) Any amounts recovered through the SIC that are found to have been unreasonable, unnecessary, or imprudent, plus the corresponding return and taxes, must be refunded with carrying costs.

(2) The utility must pay to its customers carrying costs on these amounts calculated using the same rate of return that was applied to the recovered costs in establishing the SIC until the date the rates approved in the utility's next comprehensive rate case are effective. Thereafter, carrying costs must be calculated using the utility's rate of return authorized in the comprehensive rate case.

(3) A utility that uses group depreciation must perform a new depreciation study in its next comprehensive base rate proceeding.

(j) SIC application expenses. Recovery of expenses associated with a SIC application may be requested and must be reviewed in the utility's next comprehensive base rate case and in accordance with §24.44 of this chapter (relating to Rate-case Expenses Pursuant to Texas Water Code §13.187 and §13.1871).

(k) Requirement to file a rate case. A utility must file a comprehensive rate case under TWC §13.187, 13.1871, 13.18715, or 13.1872 within the following times from the date the commission files an order approving the SIC.

(1) Four years for a utility that was a Class A utility at the time of filing the SIC application.

(2) Six years for a utility that was a Class B utility at the time of filing the SIC application.

(3) Eight years for a utility that was a Class C or Class D utility at the time of filing the SIC application.

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

Filed with the Office of the Secretary of State on November 14, 2025.

TRD-202504166

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 936-7244

◆ ◆ ◆

CHAPTER 25. SUBSTANTIVE RULES
APPLICABLE TO ELECTRIC SERVICE
PROVIDERS
SUBCHAPTER O. UNBUNDLING AND
MARKET POWER
DIVISION 2. INDEPENDENT ORGANIZA-
TIONS

16 TAC §25.368

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.368 relating to Commission Directives to ERCOT. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.1514 as enacted by House Bill (HB) 1500 during the Texas 88th Regular Legislative Session. The new rule will set forth the framework for a commissioner to introduce and the commission to adopt a directive that requires ERCOT to take an official action.

Growth Impact Statement

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

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

Fiscal Impact on Small and Micro-Businesses and Rural Communities

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

Takings Impact Analysis

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

Fiscal Impact on State and Local Government

Jessie Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule

is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be greater transparency in how the commission issues a directive to ERCOT and when the commission requires ERCOT to take an official action. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

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

Costs to Regulated Persons

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

Public Hearing

Commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by December 19, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Comments must be filed by December 19, 2025. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption. All comments should refer to Project Number 57883.

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

Statutory Authority

The new rule is proposed under Public Utility Regulatory Act (PURA) §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which grants the commission complete oversight of ERCOT; §39.1514, which requires the commission to adopt a rule specifying the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order, and the process for the commission to issue directives to ERCOT in an urgent or emergency situation.

Cross Reference to Statute: Public Utility Regulatory Act §14.002; §39.151; and §39.1514.

§25.368. Commission Directives to ERCOT.

(a) Applicability. This section applies to a directive, introduced by a commissioner and adopted by the commission, that requires ERCOT to take an official action, including an action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity. This section does not apply to a directive that the commission is statutorily required to issue, or an order that the commission issues through a commission proceeding, including a review process, that is initiated by ERCOT staff or commission staff.

(b) Scope. This section defines a directive, defines an official action, and establishes what process must be followed for a commissioner to introduce and the commission to adopt a directive that requires ERCOT to take an official action.

(c) Definitions. In this section, the following definitions apply unless the context indicates otherwise:

(1) Directive -- an instruction, introduced by a commissioner and adopted by a majority vote of the commission, that requires ERCOT to take an official action.

(2) Official action -- an action that requires approval by the ERCOT Board of Directors and impacts either the wholesale market or the operation of the grid in the ERCOT region. An official action does not include conducting a study, contracting with a third-party to conduct a study, a verbal update to the commission, a report, or a notification.

(d) Specific types of directives.

(1) Official action that creates a new cost or fee. A directive, introduced by a commissioner, that requires ERCOT to take an official action that will create a new cost or fee must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. An official action that creates a new cost or fee is one that results in:

(A) the creation of a new ancillary service; or

(B) the creation of a new program that imposes a new cost on ERCOT wholesale market participants.

(2) Official action that increases an existing cost or fee. A directive, introduced by a commissioner, that requires ERCOT to take an official action that will increase an existing cost or fee must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. An official action that increases an existing cost or fee is one that results in:

(A) a change in the amount of an existing ancillary service procured by ERCOT that is anticipated to result in a 25% or greater increase to the total annual cost of that ancillary service;

(B) a change to an operating reserve demand curve or ancillary service demand curve that increases the offer floor or the offer cap of the demand curve by 25% or more; or

(C) a change in the budget for a program that increases the costs to load serving entities by 25% or more.

(3) Official action that imposes significant operational obligations. A directive, introduced by a commissioner, that requires ERCOT to take an official action that will impose significant operational obligations must be issued through a written order adopted by a majority vote of the commission in a contested case or rulemaking proceeding. An official action that imposes significant operational obligations

on an entity is one that is anticipated to result in increased commitments through the Reliability Unit Commitment process.

(4) Official action that involves an ERCOT protocol. A directive, introduced by a commissioner, that requires ERCOT to take an official action that involves an ERCOT protocol must be issued through a written order or memorandum that is adopted by a majority vote of the commission in an open meeting. An official action that involves an ERCOT protocol is one that requires ERCOT to:

(A) develop a new ERCOT protocol;

(B) revise an existing ERCOT protocol; or

(C) designate an ERCOT protocol revision with urgent status.

(e) Commission consideration of a directive introduced by a commissioner. At least two days before an open meeting that the commission will consider a directive introduced by a commissioner, the commissioner introducing the directive will file a memorandum introducing the directive and materials relevant to the discussion of the directive, as applicable.

(1) Before the commission considers a directive, members of the public will be provided an opportunity to comment on the directive at an open meeting.

(2) At the commission's discretion, the commission may request written comment from the public on a directive introduced by a commissioner. Written comments from the public related to the directive may be limited to the appropriate process for the commission to issue the directive.

(3) Upon determination of the appropriate process to issue a directive, the commission may direct commission staff to initiate the appropriate process, as applicable.

(f) Urgent or emergency situation. Notwithstanding another provision of this section, the commission may issue a directive verbally to require ERCOT to take an official action in an urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the power grid. A verbal directive may be issued in an emergency meeting under Chapter 551 of the Texas Government Code.

(1) An urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the grid is deemed to have occurred if one of the following circumstances is imminent or likely to occur within 24 hours:

(A) the Texas Department of Public Safety activates a power outage alert for the ERCOT region in accordance with Section 411.301 of the Texas Government Code;

(B) ERCOT declares an energy emergency alert level 3;

(C) ERCOT instructs transmission operators to reduce demand on the power grid through controlled outages; or

(D) the frequency on the power grid falls below 59.8 Hz.

(2) Not later than 72 hours after the urgent or emergency situation ends, the commission will serve a written copy of the directive on ERCOT's general counsel and publicly file a written copy of the directive on its website. The written copy of the directive must include the following information:

(A) the circumstances giving rise to the directive issued by the commission;

(B) the directive issued by the commission to ERCOT;
and

(C) how the directive issued by the commission relates to the urgent or emergency situation.

(3) Upon receipt of the written copy of the directive, ERCOT must publicly publish the directive on its website and notify market participants of the directive.

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 November 14, 2025.

TRD-202504160

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 936-7244



PART 8. TEXAS RACING COMMISSION

CHAPTER 301. DEFINITIONS

16 TAC §301.1

The Texas Racing Commission (TXRC) proposes rule amendments in Texas Administrative Code, Title 16, Part 8, Chapter 301, §301.1. Definitions, concerning definitions in the Texas Rules of Racing. The purpose of this rule amendment is to define the terms "practicing veterinarian" and "unlicensed race event." TXRC is responsible for regulating all aspects of horse racing in Texas regardless of whether that racing involves pari-mutuel wagering as authorized by Texas Occupations Code §2023.001.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Agency Analysis

Government Growth Impact Statement Required by Texas Government Code §2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rule change will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code §2001.022.

Economic Impact Statement Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code §2006.002, is not required.

Regulatory Flexibility Analysis Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code §2006.002, is not required.

Takings Impact Assessment Required by Texas Government Code §2007.043.

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

Local Employment Impact Statement Required by Texas Government Code §2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code §2001.024(A)(6).

Cost-Benefit Analysis Required by Texas Government Code §2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to improve the positive economic impact, health, and safety of licensed horse racing in Texas by reducing the impact of unlicensed racing.

Fiscal Note Analysis Required by Texas Government Code §2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

Legal Review Required by Texas Government Code §2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under §2023.001 of the Texas Occupations Code.

Statutory Authority. The amendments are proposed under Texas Occupations Code §2023.001.

Cross Reference to Statute. Texas Occupations Code §2023.001.

§301.1. Definitions.

(a) Words and terms defined in the Act shall have the same meaning when used in this part unless otherwise defined below.

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

(1) Act--The Texas Racing Act, Subtitle A-1, Title 13, Texas Occupations Code.

(2) Active license--a racetrack license designated by the commission as active.

(3) Age of a greyhound--determined as beginning on the day the greyhound is whelped.

(4) Age of a horse--determined as beginning on the first day of January in the year in which the horse is foaled.

(5) Application documents--documents submitted by an applicant for a license in support of the application.

(6) Application period--a period designated by the Commission for the submission of application documents for a racetrack license.

(7) Association grounds--all real property approved by the Commission for use by an association in the conduct of a race meeting.

(8) Association veterinarian--A veterinarian employed by the association.

(9) Authorized agent--a person appointed in writing by the owner or trainer of a horse or greyhound to represent the owner or trainer at a racetrack.

(10) Backstretch--the straightaway on the side of a track that is opposite to the finish line.

(11) Booking--a contract between an association and a kennel owner for the kennel owner to provide greyhounds to the association for a race meeting and for the association to provide kennel buildings to house the greyhounds.

(12) Branding--the act of a totalisator system imprinting a mutuel ticket with information that identifies the ticket as canceled or cashed and automatically making the appropriate notation in the system's memories.

(13) Canceled ticket--a mutuel ticket that represents a wager that has been canceled and withdrawn from the pari-mutuel pool.

(14) Cashed ticket--a mutuel ticket that is paid for a winning wager.

(15) Chief veterinarian--the chief veterinarian employed by the Commission.

(16) Common pool--a pool in which the wagers received at a receiving location are combined with the wagers received at a sending racetrack.

(17) Condition of a race--a characteristic element of the race, such as the distance, qualifications of animal to enter, purse or stakes, or other special features.

(18) Coupled entry--two or more horses entered in a race that, because of common ties of ownership, are joined to be a single betting interest in that race.

(19) Cushion--the top level of a dirt racetrack.

(20) Dead heat--a race in which two or more race animals finish at the same time.

(21) Double entry--an entry of two or more greyhounds in the same race that have either common ownership or the same trainer and are separate wagering interests.

(22) Encrypted--scrambled or otherwise manipulated audio-visual signals to mask the original video content of the signal to cause the signals to be indecipherable and unrecognizable to any person receiving the signal.

(23) Entry--a horse, or horses in the case of a coupled entry, made eligible to run in a race.

(24) Established weight--the racing weight for a greyhound established in accordance with the Rules.

(25) Exempt institutional investor--an investor who is:

(A) an insurance company as defined by the Securities Act of 1933, §2(13), a bank as defined by that Act, §3(a)(2), a savings and loan association or other institution referenced in that Act, §3(a)(5)(A), or a foreign bank or savings and loan association or equivalent institution;

(B) an investment company as defined by the Investment Company Act of 1940, §3(a), an issuer that would have been deemed an investment company under that Act except for the exclusion in that Act, §3(c)(1), or a business development company as defined by that Act, §2(c)(48);

(C) a small business investment company licensed by the United States Small Business Administration under the Small Business Investment Act of 1958, §301(c);

(D) a plan established and maintained by a state, its political subdivisions, or an agency or instrumentality of a state or its political subdivisions for the benefit of its employees;

(E) an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974;

(F) a trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in subparagraph (D) or (E) of this definition, except trust funds that include as participants individual retirement accounts or H.R. 10 plans;

(G) a business development company as defined by the Investment Advisers Act of 1940, §202(a)(22), or an investment adviser registered under that Act;

(H) an organization described in the Internal Revenue Code, §501(c)(3);

(I) a dealer registered under the Securities Exchange Act of 1934, §15;

(J) a legal entity with a market value of at least \$50 million whose securities are traded on a nationally recognized or foreign securities exchange or interdealer quotation system, such as NASDAQ; and

(K) a legal entity, acting for its own account or the account of other exempt institutional investors, that in the aggregate owns and invests on a discretionary basis at least \$25 million in securities of issuers that are not affiliated with the entity, with the aggregate value of the securities being the cost of the securities, except if the entity reports its securities holdings in its financial statements based on their market value and no current information regarding the cost of the securities has been published, in which case the securities may be valued at market.

(26) Exotic pool--a mutuel pool that involves wagers on more than one entered horse or greyhound or on entries in more than one race.

(27) False start--failure of the starting gate or box doors to open simultaneously.

(28) Foul--an action by a horse or jockey that hinders or interferes with another horse or jockey during the running of a race.

(29) Greyhound race--a contest among greyhounds for purse, stakes, premium, or wager for money, run in the presence of the racetrack officials, including the following:

(A) Hurdle race--a race over a course in which jumps or hurdles are used.

(B) Match race--a race between two or more greyhounds, each the property of different owners, on terms agreed on by the owners and approved by the Commission.

(C) Overnight race--a race for which entries close 96 hours or less before the time set for the first race of the day on which the race is to be run.

(D) Purse race--a race for money or other prize to which the owners of the greyhounds engaged in the race do not contribute an entry.

(E) Race on the flat--a race over a course in which no jumps or other obstacles are placed.

(F) Stakes race--a race in which all money is to be deposited by the owners of the greyhounds engaged in the race, including a race of the day on which the stakes race is to be run.

(30) Groom--an individual employed by an owner or trainer of a racehorse to tend to the physical appearance of the horse and to perform chores in and around the stable.

(31) Growing medium--the substance immediately below the grass on a turf track.

(32) Handle--the total amount of money wagered at a race-track during a particular period.

(33) Horse--an equine of any breed, including a stallion, gelding, mare, colt, filly, or ridgling.

(34) Horse Race--a running contest between horses for entry fees, purse, prize, or other reward, including the following:

(A) Claiming race--a race in which a horse may be claimed in accordance with the Rules.

(B) Derby race--a race in which the first condition of eligibility is to be three years old.

(C) Futurity race--a race in which the first condition of eligibility is to be two years old.

(D) Guaranteed race--a race for which the association guarantees by its conditions a specified purse, which is the limit of its liability.

(E) Handicap race--a race in which the weights to be carried by the entered horses are adjusted by the racing secretary for the purpose of equalizing their respective chances of winning.

(F) Match race--a race between only two horses that are owned by different owners.

(G) Maturity race--a race in which the first condition of eligibility is to be four years of age or older.

(H) Optional claiming race--a claiming race in which there is an option to have horses entered to be claimed for a stated price or not eligible to be claimed.

(I) Progeny race--a race restricted to the offspring of a specific stallion or stallions.

(J) Purse or overnight race--a race for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(K) Stakes race--a race to which nominators of the entries contribute to a purse.

(L) Starter race--an overnight race under allowance or handicap conditions, restricted to horses which have previously started for a designated claiming price or less, as stated in the conditions of the race.

(M) Walkover race--a stakes race in which only one horse starts or all the starters are owned by the same interest.

(N) Weight for age race--a race in which weights are assigned in keeping with the scale of weights in these rules.

(35) In today horse--a horse that is in the body of a race program which is entered into a race on the next consecutive race day.

(36) Inactive license--a racetrack license designated by the commission as inactive.

(37) Kennel area--an area for the boarding or training of greyhounds.

(38) Lead out--an individual who handles a greyhound from the lockout kennel to the starting box.

(39) Locked in the gate--a horse or greyhound that is prevented from leaving the starting gate or box due to the failure of the front door of the gate or box to open simultaneously with the other doors.

(40) Lure--a mechanical apparatus at a greyhound race-track consisting of a stationary rail installed around the track, a motorized mechanism that travels on the rail, and a pole that is attached to the mechanism and extends over the track, and to which a decoy is attached.

(41) Maiden--a horse or greyhound that has never won a race at a recognized race meeting authorized by the Commission or by another racing jurisdiction.

(42) Minus pool--a pool in which there are insufficient net proceeds to pay the minimum price to holders of the winning tickets.

(43) Mutuel field--a group of horses joined as a single betting interest in a race due to the limited numbering capacity of the totalisator.

(44) No race--a race that is canceled after being run due to a malfunction of the starting gate or box or any other applicable reason as determined by the Rules.

(45) Nominator--the person in whose name a horse or greyhound is entered for a race.

(46) Occupational licensee--an individual to whom the Commission has issued a license to participate in racing with pari-mutuel wagering.

(47) Odds--a number indicating the amount of profit per dollar wagered to be paid to holders of winning pari-mutuel tickets.

(48) Off time--the moment when, on signal from the starter, the horses or greyhounds break from the starting gate or box and run the race.

(49) Paddock--the area in which horses or greyhounds gather immediately before a race.

(50) Paper/Program Trainer--a licensed trainer who solely for the purposes of the official race program is identified as the trainer of a horse that is actually under the control of and trained by another person who may or may not hold a current trainer's license in any jurisdiction.

(51) Patron--an individual present on association grounds during a race meeting who is eligible to wager on the racing.

(52) Pecuniary interest--includes a beneficial ownership interest in an association, but does not include bona fide indebtedness or a debt instrument of an association.

(53) Performance--the schedule of horse or greyhound races run consecutively as one program. A greyhound performance

consists of fifteen or fewer races unless approved by the executive secretary.

(54) Photofinish--the system of recording pictures or images of the finish of a race to assist in determining the order of finish.

(55) Place--to finish second in a race.

(56) Post position--the position assigned to a horse or greyhound in the starting gate or box.

(57) Post time--the time set for the arrival at the starting gate or boxes by the horses or greyhounds in a race.

(58) Practicing Veterinarian- a Veterinarian in good standing with the Texas Board of Veterinary Medical Examiners (TBME) not under the employ of an Association or the TXRC and practicing in the restricted area of a racetrack.

(59) [(58)] Purse--the cash portion of the prize for a race.

(60) [(59)] Race date--a date on which an association is authorized by the Commission to conduct races.

(61) [(60)] Race day--a day in which a numerical majority of scheduled races is conducted and is a part of the association's allocated race days.

(62) [(61)] Race meeting--the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission.

(63) [(62)] Racetrack facility--the buildings, structures and fixtures located on association grounds used by an association to conduct horse or greyhound racing.

(64) [(63)] Racetrack official--an individual appointed by the commission to officiate at a race meeting.

(65) [(64)] Racing judge--the executive racing official at a greyhound track.

(66) [(65)] Reasonable belief--a belief that would be held by an ordinary and prudent person in the same circumstances as the actor.

(67) [(66)] Recognized race meeting--a race meeting held under the sanction of a turf authority.

(68) [(67)] Refunded ticket--a pari-mutuel ticket that has been refunded for the value of a wager that is no longer valid.

(69) [(68)] Rule off--to bar an individual from the enclosure of an association and to deny all racing privileges to the individual.

(70) [(69)] Rules--the rules adopted by the Texas Racing Commission found in Title 16, Part VIII of the Texas Administrative Code.

(71) [(70)] Schooling race--a practice race conducted under actual racing conditions but for which wagering is not permitted.

(72) [(71)] Scratch--to withdraw an entered horse or greyhound from a race after the closing of entries.

(73) [(72)] Scratch time--the closing time set by an association for written requests to withdraw from a race.

(74) [(73)] Show--to finish third in a race.

(75) [(74)] Specimen--a bodily substance, such as hair, blood, urine, saliva, or other bodily tissues taken for analysis from a horse, greyhound, or individual in a manner prescribed by the Commission.

(76) [(75)] Stakes payments--the fees paid by subscribers in the form of nomination, entry, or starting fees to be eligible to participate.

(77) [(76)] Stallion owner--a person who is owner of record, at the time of conception, of the stallion that sired the accredited Texas-bred horse.

(78) [(77)] Starter--a horse or greyhound entered in a race when the doors of the starting gate or box open in front of the horse or greyhound at the time the official starter dispatches the horses or greyhounds.

(79) [(78)] Straight pool--a mutuel pool that involves wagers on a horse or greyhound to win, place, or show.

(80) [(79)] Subscription--money paid to nominate, enter, or start a horse or greyhound in a stakes race.

(81) [(80)] Tack room--a room in the stable area of a horse racetrack in which equipment for training and racing the horses is stored.

(82) [(81)] Totalisator--a machine or system for registering and computing the wagering and payoffs in pari-mutuel wagering.

(83) [(82)] Tote board--a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.

(84) [(83)] Tote room--the room in which the totalisator equipment is maintained.

(85) [(84)] Tout--an individual licensed to furnish selections on a race in return for a set fee.

(86) [(85)] Trial--a race designed primarily to determine qualifiers for finals of a stakes race.

(87) Unlicensed Race Event--a match race, multiple horse race, or timed activity involving two or more horses racing simultaneously, may or may not involve pari-mutuel wagering, and involves any of the following:

(A) owners, trainers, or jockeys receiving purses, compensation, or prizes as part of the performance;

(B) conducted as a spectator event in which spectators are charged for entry onto the event grounds;

(C) horses, owners, or trainers are assessed an entry fee for participation;

(D) advertisement or open marketing as a racing event, including social media, website posts, or printed handouts during the event detailing the race information;

(E) is required to have a mass gathering permit under Texas Health and Safety Code 751.0021.

(88) [(86)] Uplink--an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data emanating from a sending racetrack, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the receiving location.

(89) [(87)] Weigh in--the process by which a jockey is weighed after a race or by which a greyhound is weighed before being placed in the lockout kennel.

(90) [(88)] Weighing in weight--the weight of a greyhound on weighing in to the lockout kennel.

(91) [(89)] Weigh out--the process by which a jockey or greyhound is weighed before a race.

(92) [(90)] Weighing out weight--the weight of a greyhound on weighing out of the lockout kennel immediately before post time for the race in which the greyhound is entered.

(93) [(91)] Win--to finish first in a race.

(94) [(92)] Winner--

(A) for horse racing, the horse whose nose reaches the finish line first, while carrying the weight of the jockey or is placed first through disqualification by the stewards; and

(B) for greyhound racing, the greyhound whose muzzle, or if the muzzle is lost or hanging, whose nose reaches the finish line first or is placed first through disqualification by the judges.

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 November 12, 2025.

TRD-202504130

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION

SUBCHAPTER C. PROCEEDINGS BY STEWARDS AND RACING JUDGES

16 TAC §307.62

The Texas Racing Commission (TXRC) proposes an amendment to §307.62. Disciplinary Hearings.

Purpose and Background: This proposal authorizes hearings to be conducted either by a panel of three stewards or an individual steward and outlines the assignment of cases between the two panels. The proposal also removes references to greyhound racing in the subtitle heading and the text of the rule.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Fiscal Note.

Amy Cook, Executive Director, has determined that for the first five years the proposed rule is in effect: (1) there are no foreseeable implications relating to costs or revenues of state or local governments as a result of enforcing or administering the rule; and (2) there are no estimated reductions in costs to, or increases in revenues of, state or local governments.

Public Benefit and Cost Note.

Amy Cook has determined that for each year of the first five years the proposed rule is in effect, the public benefit will be clearer rules regarding disciplinary hearings by stewards. There is no probable economic cost to persons required to comply with the rule because the change is procedural and removes unused or unnecessary text.

Local Employment Impact Statement.

The Commission has determined that the proposed rule will not affect local economies and therefore no local employment impact statement is required.

Small Business, Micro-Business, and Rural Community Impact Analysis.

The proposed rule does not have an adverse economic effect on small businesses, micro-businesses, or rural communities because it imposes no additional costs and only removes a subsection and renumbers another.

Government Growth Impact Statement.

For the first five years the rule is in effect: (1) the rule does not create or eliminate a government program; (2) implementation does not require the creation or elimination of employee positions; (3) implementation does not require an increase or decrease in future appropriations; (4) the rule does not require an increase or decrease in fees; (5) the rule does not create a new regulation; (6) the rule does not expand, limit, or repeal an existing regulation other than removing an unnecessary subsection and renumbering; and (7) the rule does not positively or adversely affect the state economy.

Takings Impact Assessment.

The Commission has determined that no private real property interests are affected by this proposal and a takings impact assessment is not required.

Regulatory Analysis.

The proposal is not a "major environmental rule" as defined by Texas Government Code,

§2001.0225, and does not require a regulatory analysis.

Statutory Authority.

The amendment is proposed under Texas Occupations Code, §2023.001(a) and

§2023.004, which authorize the agency to regulate all aspects of horse racing and require the Commission to adopt rules for conducting racing and to administer the Texas Racing Act, and §2023.106(b), which requires the Commission to adopt rules specifying the powers and duties of race meeting officials.

Cross-Reference to Statute.

Texas Occupations Code, §2023.001(a), §2023.004, and §2023.106.

§307.62. Disciplinary Hearings.

(a) Authority to Conduct. On their own motion or on receipt of a complaint regarding the actions of an occupational licensee, the stewards [and racing judges] may conduct a disciplinary hearing regarding the licensee's actions.

(1) A disciplinary hearing may be conducted by a steward or a panel of three stewards. In either case, a steward or a panel of three

stewards shall have all the authority and powers granted by this section and the rules.

(2) Matters assigned to a panel of three stewards. The following shall be heard by a panel of three stewards:

(A) alleged violations occurring during the running of a race, including matters affecting the order of finish, interference, riding/crop use, or other on-track conduct;

(B) alleged violations involving the handling, care, custody, safety, or welfare of a horse while on association grounds;

(C) hearings on summary suspensions; and

(D) any matter the presiding steward designates for panel hearing because of its complexity, potential to affect the integrity of racing, anticipated sanction severity, or substantial public interest.

(3) Matters eligible for a single-steward hearing. Unless assigned to a panel under paragraph (2) of this subsection or transferred under paragraph (4) of this subsection, the following may be heard by a single steward:

(A) device, medication and testing-related rule violations, including laboratory positives and associated chain-of-custody or documentation issues;

(B) licensing, credentials, and access-control violations not involving a summary suspension;

(C) entry, scratch, weight, equipment, identification, and similar compliance matters that do not arise from the running of a race; and

(D) other compliance violations of a routine or administrative nature.

(4) Transfer and consolidation. On a steward's own motion or on a party's motion, any single-steward matter may be transferred to a panel of three stewards when warranted by the seriousness, complexity, number of parties, overlapping issues with panel matters, or the interests of uniformity. Related cases may be consolidated before the same forum to promote consistency and efficiency.

(5) Notice of forum. The notice of hearing shall state whether the matter is assigned to a single steward or to a panel of three stewards. A party's motion to transfer should be filed promptly after notice; the presiding steward shall issue a brief written ruling on any transfer motion.

(6) No limitation on authority. Assignment to a single steward or to a panel does not limit the forum's authority to impose any sanction authorized by statute or rule.

(7) If a disciplinary hearing is conducted by a steward, the steward shall:

(A) have exclusive jurisdiction of all the issues at the disciplinary hearing;

(B) comply with §307.63(b) and (d) of this title (relating to Ruling); and

(C) sign the ruling deciding the issue.

(8) A disciplinary hearing conducted by a panel of three stewards is governed by §307.63 of this title.

(b) Notice of Hearing. Except as otherwise provided by the Rules, the stewards [and racing judges] shall provide written notice to a person who is the subject of a disciplinary hearing at least 10 calendar days before the hearing. Notice given under this subsection must state

the nature of the charges against the person and the possible penalties that may be imposed. The stewards [and racing judges] or their designee may hand deliver the written notice of the disciplinary hearing to the licensee who is the subject of the hearing. Alternatively, the stewards [and racing judges] may provide the notice by sending it by both certified mail, return receipt requested, and regular mail to the licensee's last known address as found in the Racing Commission's licensing records. The stewards [and racing judges] may also send the notice by electronic mail provided that the Commission verifies receipt by the licensee. The person may waive his or her right to 10 days notice. Nonappearance of a licensee to whom notice has been provided under this subsection shall be deemed a waiver of the right to a hearing before the stewards.

(c) Rights of the Licensee. At a disciplinary hearing conducted by the stewards [or racing judges], the person who is the subject of the disciplinary hearing has the following rights, all of which the person may waive:

(1) the right to counsel;

(2) the right to present a defense;

(3) the right to make an opening and closing statement;

(4) the right to call witnesses; and

(5) the right to cross-examine witnesses testifying against the person.

(d) Evidence.

(1) Each witness at a disciplinary hearing conducted by the stewards [or racing judges] must be sworn by the presiding steward [or racing judge].

(2) To facilitate participation by licensees, the stewards [and racing judges] may permit witnesses to testify at a disciplinary hearing via telephone if the stewards [or racing judges] make reasonable assurances that the person testifying is who he or she purports to be.

(3) The stewards [and racing judges] shall make a record of a disciplinary hearing.

(4) The stewards [and racing judges] shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the stewards [and racing judges] may disallow evidence that is irrelevant or unduly repetitive of other evidence. The stewards shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The stewards [and racing judges] may admit hearsay evidence if the stewards [and racing judges] determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards [and racing judges]. Hearsay evidence that is not otherwise admissible under the exceptions of the Texas Rules of Evidence is an insufficient basis alone for a ruling.

(e) Burden of Proof. The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Commission rule.

(f) Continuances.

(1) Upon receipt of a notice, a person may request a continuance of the hearing.

(2) For good cause shown, the stewards or racing judges may grant a continuance of any hearing for a reasonable period of time.

(3) The stewards [~~or racing judges~~] may at any time order a continuance on their own motion.

(g) Agreed Settlement. The person who is the subject of the disciplinary hearing may waive the right to a hearing and subsequent appeal and enter into an agreed settlement with the stewards [~~or racing judges~~].

(h) Failure to Appear. The stewards [~~or racing judges~~] may suspend the license of a person who fails to appear at a disciplinary hearing after receiving written notice of the hearing until the matter is adjudicated.

(i) Summary Suspension. If the stewards [~~or racing judges~~] determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, the stewards [~~or racing judges~~] may enter a ruling summarily suspending the license, without a prior hearing. A summary suspension takes effect immediately on issuance of the ruling. If the stewards [~~or racing judges~~] suspend a license under this subsection, the licensee is entitled to a hearing on the summary suspension within seven days after the ruling.

(j) Discovery.

(1) Prior to a disciplinary hearing, upon written request served on the opposing party, a party shall be entitled, subject to the limitations in §2022.103, §2.15 of the Act, to:

(A) the name and address of any witness who may be reasonably expected to testify on behalf of the opposing party, together with a brief summary of the subject matter of each witness's anticipated testimony; and

(B) copies of all documents or other materials in the possession or control of the opposing party that the opposing party reasonably expects to introduce into evidence in either its case-in-chief or in rebuttal. Rebuttal documents, to the extent that they are not immediately identifiable, shall be tendered to the opposing party forthwith upon identification.

(2) A party may obtain discovery only by making a written request for the production of witness lists, documents, and other materials, as provided in paragraph (1) of this subsection.

(3) The stewards [~~and racing judges~~] may exclude from a disciplinary hearing any witnesses, documents, and other materials that were not properly disclosed in accordance with this subsection unless good cause is shown for the failure to disclose them.

(4) Discovery requests under this section shall not be cause for postponement or delay of a disciplinary hearing or of the disposition of the proceedings.

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 November 12, 2025.

TRD-202504133

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699

◆ ◆ ◆

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER C. HORSE RACETRACKS DIVISION 3. FACILITIES FOR LICENSEES

16 TAC §309.282

The Texas Racing Commission (TXRC) proposes rule amendments in Texas Administrative Code, Title 16, Part 8, Chapter 309, §309.282. Living Quarters for Licensees. The purpose of this rule amendment is to address feedback from the State Fire Marshal's Office (SFMO) regarding appropriate fire inspection standards. This rule change enables the standards to be updated over time without additional rule changes and aligns our rules with the expectations of the SFMO including National Fire Protection Act 150 which specifically addresses the horse industry.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Agency Analysis

Government Growth Impact Statement Required by Texas Government Code §2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rule change will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code §2001.022.

Economic Impact Statement Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, anticipates that some licensed racetracks may incur compliance costs to update facilities and procedures to align with the current editions of applicable NFPA standards. The magnitude and timing of any costs will vary materially by facility based on factors such as facility size and layout, existing fire protection systems, construction type and age, the specific NFPA editions currently applicable onsite, and whether compliance is triggered by new construction or substantial renovation. Because these variables are facility-specific, depend upon the processes of other state agencies, and the Commission presently lacks comprehensive data necessary to produce a reasonable statewide estimate, the Commission cannot quantify a probable cost range at proposal.

Request for Cost Information. The Commission requests that affected persons submit facility-level cost information (e.g., vendor quotes, recent invoices, inspection/testing costs, and any expected operational impacts) to inform the adoption preamble and the agency record.

Regulatory Flexibility Analysis Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code §2006.002, is not required.

Takings Impact Assessment Required by Texas Government Code §2007.043.

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

Local Employment Impact Statement Required by Texas Government Code §2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code §2001.024(A)(6).

Cost-Benefit Analysis Required by Texas Government Code §2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to improve the positive economic impact, health, and safety of licensed horse racing in Texas by reducing the impact of unlicensed racing.

Fiscal Note Analysis Required by Texas Government Code §2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

Legal Review Required by Texas Government Code §2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under §2026.001 of the Texas Occupations Code.

Statutory Authority. The amendments are proposed under Texas Occupations Code §2026.001.

Cross Reference to Statute. Texas Occupations Code §2026.001.

§309.282. *Living Quarters for Licensees.*

(a) If an association permits licensees to reside on association grounds, the association shall provide living quarters for the licensees.

(b) The living quarters must be in a permanent structure and be adequate to house the anticipated number of licensees who will be living on association grounds. The association must provide equivalent facilities for men and women licensees.

(c) The living quarters must be in compliance with the Texas State Fire Marshall's Office (SFMO) codes using the appropriate National Fire Protection Association (NFPA) standards and equipped with:

- (1) windows that open;
- (2) heating;
- (3) hot and cold water; and
- (4) showers, toilets, and sinks.

(d) An association may not permit an individual to sleep in the stable areas [area], including barn and tack room areas, if the occupancy creates a violation of the NFPA standards, specifically NFPA 150 covering "Horse Barns." [except:]

{(1) in a facility provided in accordance with this section;}

{(2) in a barn that was constructed after 1990 of fire retardant materials; or}

{(3) in a tack room that was constructed after 1990 of fire retardant materials, provided the tack room has a window that opens.}

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 November 12, 2025.

TRD-202504134

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



CHAPTER 311. OTHER LICENSES

SUBCHAPTER A. LICENSING PROVISIONS

DIVISION 1. OCCUPATIONAL LICENSES

16 TAC §311.1

The Texas Racing Commission (TXRC) proposes rule amendments in Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter A, Division 1, Occupational Licenses, §311.1, Occupational Licenses. The purpose of this rule amendment is to protect the safety and integrity of licensed horseracing by regulating the licensed activity of licensees who participate in unlicensed racing. It is estimated that the number of unlicensed tracks outnumbers licensed tracks by a 10 to 1 ratio in Texas.

Agency Analysis

Government Growth Impact Statement Required by Texas Government Code §2001.022.

Amy F. Cook, Executive Director, has determined that the proposed rule change will not affect the local economy, so the Commission is not required to prepare a local employment impact statement under Government Code §2001.022.

Economic Impact Statement Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of an Economic Impact Statement as detailed under Texas Government Code §2006.002, is not required.

Regulatory Flexibility Analysis Required by Texas Government Code §2006.002.

Amy F. Cook, Executive Director, has determined that the proposed rule amendments will have no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore preparation of a Regulatory Flexibility Analysis as detailed under Texas Government Code §2006.002, is not required.

Takings Impact Assessment Required by Texas Government Code §2007.043.

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

Local Employment Impact Statement Required by Texas Government Code §2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule repeal and rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code §2001.024(A)(6).

Public Benefit and Cost Note.

Amy Cook has determined that for each year of the first five years the proposed rule is in effect, the public benefit will be clearer rules regarding the licensed activity of licensees who participate in unlicensed racing. There is no probable economic cost to persons required to comply with the rule because the change is procedural.

Cost-Benefit Analysis Required by Texas Government Code §2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to improve the positive economic impact, health, and safety of licensed horse racing in Texas by reducing the impact of unlicensed racing.

Fiscal Note Analysis Required by Texas Government Code §2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule change.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Statutory Authority. The amendments are proposed under Texas Occupations Code §2023.001.

Cross Reference to Statute. Texas Occupations Code §2023.001.

§311.1. Occupational Licenses

(a) License Required.

(1) A person other than a patron may not participate in racing at which pari-mutuel wagering is conducted unless the person has a valid license issued by the Commission.

(2) A person holding a TXRC Occupational License may not participate in unlicensed racing as defined in Texas Occupations Code §2023.001 and 2023.003(a), and the Texas Rules of Racing §301.1 of this title (relating to Definitions). A person may not attain a TXRC Occupational License for 90 days after having been found to have participated in an unlicensed racing event.

(3) [(2)] A licensee may not employ a person to work at a racetrack at which pari-mutuel wagering is conducted unless the person has a valid license issued by the Commission.

(4) [(3)] An association may not employ a person who works in an occupation that affords the employee an opportunity to influence racing with pari-mutuel wagering, or who will likely have significant access to the backside or restricted areas of a racetrack, unless the person has a valid license issued by the Commission.

(b) Duration of License.

(1) Except as provided in paragraph (2) of this subsection, an occupation license expires one year after the last day of the month in which the license was issued.

(2) An applicant for the following occupational license types may choose to have a multi-year license which expires on the last day of the month two years or three years after the month in which the license was issued; kennel owner, kennel owner/owner, kennel owner/owner/trainer, kennel owner/trainer, owner, owner/trainer, trainer, veterinarian, jockey, or multiple owner/stable/farm registration license.

(c) License Conditions.

(1) Except as otherwise provided by this section, a license issued by the Commission is a privilege, not a right, and is conditioned on the licensee's compliance with the Act and the Rules.

(2) If the Act or a rule is amended, the continued holding of a license is conditioned on the licensee's compliance with the Act or rule as amended.

(d) Effect of Acceptance. By accepting a license issued by the Commission, a person consents to:

(1) a search by the Commission of the person and the person's possessions at a racetrack to check for violations of the Act or the Rules;

(2) seizure of contraband; and

(3) testing for alcohol and controlled substances in accordance with subchapter D of this chapter.

(e) Unlicensed Racing.

(1) Any licensee or racehorse owned or trained by a licensee participating in an unlicensed race event:

(A) Shall be ineligible for entry or participation in live racing or official works until the 90th day after attending the unlicensed race event; and

(B) Shall be prohibited from accessing any living space or stabling area within a licensed racetrack or training facility during the same period.

(2) Any horse that has participated in an unlicensed race event, or has been housed in proximity to a horse that has, shall be placed on the veterinarian's list by an agency veterinarian and ineligible for removal from the list until the 90th day following participation in the unlicensed race event. A horse that is on the veterinarian's list under this rule, or that has participated in an unlicensed race event within the previous 12 months, must be inspected and cleared by a Commission veterinarian before becoming eligible for entry, live racing, official works, or access to the stabling area of a licensed racetrack or training facility.

(3) Any licensee with knowledge of a horse participating in an unlicensed race event:

(A) Shall disclose the name of the horse to the Commission in order to protect the animal from cruel or inhumane treatment; and

(B) Shall present a health inspection and current negative Coggins test record with a date reflecting a time after the racehorse's participation in the unlicensed race event if the horse is under the licensee's care and the licensee is seeking to enter or participate in live racing. The licensee shall make the horse available for any testing for Reportable Disease if directed by the Texas Animal Health Commission.

(4) While participating in an unlicensed race event, if Commission-licensed jockeys, trainers, or owners are observed to possess or use a prohibited device defined under Texas Racing Act 2021.003(10)(B) or 2021.003(37) the executive director shall declare them ineligible to participate in live racing or official works for a period of 180 days.

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 November 12, 2025.

TRD-202504135

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



SUBCHAPTER B. SPECIFIC LICENSES

16 TAC §311.104

The Texas Racing Commission proposes amendments to §311.104 Trainers. The proposal removes obsolete references to greyhounds and racing judges where appropriate; deletes a section allowing trainers without a license to enter a horse under some circumstances; and makes conforming edits throughout for consistency.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Fiscal Note (Texas Government Code §2001.024(a)(4))

Amy Cook, Executive Director, has determined that for each year of the first five years the proposed amendments are in effect, there will be no significant fiscal implications for state or local governments as a result of enforcing or administering the amendments.

Public Benefit and Cost Note (Texas Government Code §2001.024(a)(5))

For each year of the first five years the amendments are in effect, the public benefit anticipated will be clearer, more consistent trainer licensing and responsibility requirements aligned with current statutory authorities. The Commission does not anticipate additional costs to persons required to comply beyond existing licensing and examination fees already specified in rule.

To the extent the proposal removes a prior discretionary waiver of examination requirements, applicants may incur a one-time \$50 testing fee and time to complete the examinations; these impacts are expected to be minimal.

Local Employment Impact Statement (Texas Government Code §2001.022)

The Commission has determined that the proposal will not adversely affect a local economy; therefore, no local employment impact statement is required.

Small Business, Micro-Business, and Rural Community Impact (Texas Government Code Chapter 2006)

The Commission does not anticipate an adverse economic effect on small businesses, micro-businesses, or rural communities. Accordingly, an economic impact statement and regulatory flexibility analysis are not required under Texas Government Code §2006.002.

Government Growth Impact Statement (Texas Government Code §2001.0221)

For each year of the first five years the proposal is in effect: (1) the amendments do not create or eliminate a government program; (2) they do not require the creation or elimination of employee positions; (3) they do not require an increase or decrease in future legislative appropriations; (4) they do not require an increase or decrease in fees paid to the agency; (5) they do not create a new regulation; (6) they amend existing regulations; (7) they do not change the number of individuals subject to the rule's applicability; and (8) they are not expected to have a positive or adverse effect on the state's economy.

Takings Impact Assessment (Texas Government Code Chapter 2007)

The Commission has determined that the proposal does not affect private real property and does not constitute a taking under Texas Government Code Chapter 2007.

Statutory Authority

The amendments are proposed under Texas Occupations Code §2025.001, which requires the Commission to adopt rules relating to license applications and the financial responsibility, moral character, and ability of applicants; §2025.252, which authorizes the Commission to adopt categories of occupational licenses and specify qualifications by rule; and §2023.004, which requires the Commission to adopt rules for conducting horse racing involving wagering. The amendments affect Texas Occupations Code §§2025.001, 2025.251-2025.254, and 2025.252.

Cross-Reference to Statute

Texas Occupations Code §§2021.002, 2023.004, 2025.001, 2025.251, and 2025.252.

§311.104. *Trainers.*

(a) Licensing.

(1) [A trainer may enter a horse or greyhound in a race without first obtaining a license, but must obtain a license one hour prior to the post time of the first race of the day in which the trainer intends to race the horse or greyhound.] Except as otherwise provided by this section, to be licensed by the Commission as a trainer, a person must:

(A) be at least 18 years old;

(B) submit a minimum of two written statements from licensed trainers, veterinarians, or owners, ~~[or kennel owners,]~~ attesting to the applicant's character and qualifications;

(C) interview with the board of stewards ~~[or judges]~~;

(D) satisfactorily complete a written examination prescribed by the Commission; and

(E) satisfactorily complete a practical examination prescribed by the Commission and administered by the stewards or the steward's designee ~~[or racing judges or designee of the stewards or racing judges]~~.

(2) Examinations.

(A) A \$50 non-refundable testing fee is assessed for administering the written and practical examinations. The fee is due and payable at the time the written examination is scheduled. If the applicant fails the written or practical examination, the applicant will be allowed to retake it once without an additional fee. The applicant must pay a \$50 non-refundable testing fee to schedule an examination after each retest. A minimum of 48 hours advance notice is required to reschedule an examination appointment without loss of the testing fee. An applicant who fails to timely reschedule an examination appointment must pay a new testing fee to reschedule the appointment. A steward ~~[or judge]~~ may waive the additional fee if, in the opinion of the steward ~~[or judge]~~, the applicant shows good cause for the failure to timely reschedule an examination appointment.

(B) The standard for passing the written examination must be printed on the examination. An applicant who fails the written examination may not take the written examination again before the 90th day after the applicant failed the written examination. An applicant who fails the written examination for a second or any subsequent time may not reschedule the written examination for 180 calendar days after the last failure and the applicant must pay an additional \$50 non-refundable testing fee. After successful completion of the written exam an applicant has 365 calendar days to successfully complete the practical exam.

(C) An applicant who fails the practical examination may not reschedule the practical examination again before the 180th day after the applicant failed the practical examination. An applicant who fails the practical examination for a second time may not reschedule another practical examination for 365 calendar days after the day the applicant failed the second practical examination and the applicant must pay an additional \$50 non-refundable testing fee.

(D) The Commission may waive the requirement of a written and/or practical examination for a person who has a current license issued by another pari-mutuel racing jurisdiction. If a person for whom the examination requirement was waived demonstrates an inability to adequately perform the duties of a trainer, through excessive injuries, rulings, or other behavior, the stewards ~~[or racing judges]~~ may require the person to take the written and/or practical examination. If such a person fails the examination, the stewards ~~[or racing judges]~~ shall suspend the person's license for 90 days with reinstatement contingent upon passing the written and/or practical examination.

(3) A trainer must use the trainer's legal name to be licensed as a trainer. A trainer who is also an owner may use a stable name ~~[or kennel name]~~ in the capacity of owner.

(4) To be licensed as an assistant trainer, a person must qualify in all respects for a trainer's license and be in the employ of a currently licensed trainer in good standing. An assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

(b) Absolute Insurer.

(1) A trainer shall ensure the health and safety of each horse ~~[or greyhound]~~ that is in the care and custody of the trainer.

(2) A trainer shall ensure that a horse ~~[or greyhound]~~ that runs a race while in the care and custody of the trainer ~~[or kennel owner]~~ is free from all prohibited drugs, chemicals, or other substances.

(3) A trainer who allows a horse ~~[or greyhound]~~ to be brought to the paddock ~~[or lockout kennel]~~ warrants that the horse ~~[or greyhound]~~:

(A) is qualified for the race;

(B) is ready to run;

(C) is in a physical condition to exert its best efforts; and

(D) is entered with the intent to win.

(c) Health Reports.

(1) A trainer shall immediately notify the Commission veterinarian or designee of unusual symptoms in a horse ~~[or greyhound]~~ that is in the trainer's care and custody.

(2) Not later than one hour after finding a dead horse ~~[or greyhound]~~ on association grounds, a trainer shall notify the stewards ~~[or racing judges]~~ and the Commission veterinarian, or their designee, of the death. In the absence of regulatory personnel, the trainer shall notify security personnel on the association grounds. The horse may not be removed from the grounds until cleared by the Commission Veterinarian.

(d) Owner Suspended. A trainer may not retain a horse ~~[or greyhound]~~ in the trainer's care and custody if the Commission has suspended or revoked the license of the owner of the horse ~~[or greyhound]~~.

(e) An individual who is licensed to work for a trainer is not permitted in the stable ~~[or kennel]~~ area on association grounds unless the licensee is employed by and doing work for a trainer on the association grounds. An individual in the stable ~~[or kennel]~~ area on association grounds who is not in the employ of and doing work for a trainer may be ejected from the stable ~~[or kennel]~~ area on the association grounds.

(f) Restrictions on Racing. A trainer may not enter a horse ~~[race animal]~~ or cause a horse ~~[race animal]~~ to be entered in a race at a racetrack if:

~~[(1) the trainer knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;]~~

~~(1) [(2)]~~ the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

~~(2) [(3)]~~ the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

(g) Trainer Employees.

(1) A horse trainer shall provide a list to the Commission of all of the trainer's employees on association grounds during the period of continuous security service under §309.154(a)(1) ~~[(relating to Stable or Kennel Area)]~~. The list shall include each employee's name, occupation and occupational license number. The trainer shall notify the Commission in writing with 72 hours of initiating or learning of any change.

(2) A trainer may not sign an application as the employer of a licensee that the trainer does not actually employ.

(3) A trainer may not employ an individual who is less than 16 years of age to work for the trainer on an association's grounds.

(4) A trainer may not employ a jockey to prevent the jockey from riding in a race.

(h) **Trainer Absent.** If a trainer must be absent because of illness or any other cause, the trainer shall appoint another licensed trainer to fulfill his or her duties, and promptly report the appointment to the stewards [~~or racing judges~~] for approval. The absent trainer and substitute trainer have joint responsibility for the condition of the horses [~~race animals~~] normally trained by the absent trainer.

(i) **Suspended, Revoked or Ineligible Horse Trainers.**

(1) Upon the suspension, revocation or denial of a trainer's license, the trainer shall notify each owner for whom he or she trains horses of the suspension, revocation or denial.

(2) Except as specifically permitted by the executive director in writing, a person may not assume the responsibilities of a horse trainer who is ineligible to be issued a license or whose license is suspended or revoked if the person:

(A) is related to the trainer by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code.

(B) is related to the spouse of the trainer by blood or by marriage; or

(C) has been an employee of the trainer within the previous year.

(3) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible horse trainer may not:

(A) receive any compensation regarding those horses from the suspended, revoked or ineligible trainer;

(B) pay any compensation regarding those horses to the suspended, revoked or ineligible trainer;

(C) solicit or accept a loan of anything of value from the suspended, revoked or ineligible trainer; or

(D) use the farm or individual name of the suspended, revoked or ineligible trainer when billing customers.

(4) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer is directly responsible for all financial matters relating to the care, custody, or control of the horses.

(5) On request by the Commission, a suspended, revoked or ineligible trainer or a person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer shall permit the Commission to examine all financial or business records to ensure compliance with this section.

(j) **Reporting to Clocker.** When taking a horse onto a racetrack to work, a horse trainer or an assistant of the trainer shall report the horse's name and the distance to be worked to the morning clocker or an assistant clocker or shall instruct the jockey or exercise rider to transmit the information to the clocker or assistant clocker.

(k) **Other Responsibilities.** A trainer is responsible for:

(1) the condition and contents of stalls [~~kennels~~], tack rooms, feed rooms, and other areas which have been assigned by the association;

(2) maintaining the assigned stable [~~kennel~~] area in a safe, clean, neat and sanitary condition at all times;

(3) ensuring that fire prevention rules are strictly observed in the assigned stable [~~kennel~~] area;

(4) training all horses [~~animals~~] owned wholly or in part by the trainer that are participating at the race meeting;

(5) ensuring that, at the time of arrival at a licensed racetrack, each horse [~~animal~~] in the trainer's care is accompanied by a valid health certificate/certificate of veterinary inspection;

(6) using the services of those veterinarians licensed by the Commission to attend horses [~~animals~~] that are on association grounds;

(7) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse [~~animal~~] in the trainer's charge;

(8) immediately reporting to the stewards [~~judges~~] and the official veterinarian if the trainer knows, or has cause to believe, that a horse [~~an animal~~] in the trainer's custody, care or control has received any prohibited drugs or medication;

(9) maintaining a knowledge of the medication record and status of all horses [~~animals~~] in the trainer's care;

(10) ensuring the fitness of a horse [~~an animal~~] to perform creditably at the distance entered;

(11) ensuring that the trainer's horse is properly shod, banded and equipped; and

(12) reporting the correct sex of the horses in his/her care to the Commission veterinarian and the horse identifier.

(l) No licensee shall act as a program trainer, nor shall any owner name a program trainer on the entry form. Any licensee found to be acting as a program trainer and any owner who listed a program trainer is responsible for all violations occurring from participation of any horse [~~or greyhound~~] entered or raced by the licensee. Further, the Commission recognizes that identification of the correct trainer in the program is an important handicapping tool used by the wagering public. Therefore, the Commission identifies the practices of utilizing a program trainer and of acting as a program trainer as being inconsistent with maintaining the honesty and integrity of racing under §307.7 (relating to Ejection and Exclusion) and as a detrimental practice under §311.6 (relating to Denial, Suspension and Revocation of Licenses.)

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 November 12, 2025.

TRD-202504140

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



16 TAC §311.109

The Texas Racing Commission (commission) proposes an amendment to §311.109, concerning Mutuel Employees. The amendment would clarify the licensure requirements for mutuel

department personnel by adding a requirement that applicants complete a commission-approved Background Disclosure Form.

Purpose and Background: The amendment is intended to support the integrity of pari-mutuel operations by ensuring that applicants for a mutuel license provide standardized background information for review by the executive director or designee.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Fiscal Note

Amy Cook, Executive Director, has determined that for each of the first five years the amendment is in effect, there are no significant fiscal implications for state or local government as a result of enforcing or administering the amendment.

Public Benefit and Cost Note

Public Benefit: For each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the amendment is enhanced regulatory oversight and consistency in licensing standards for mutuel employees.

Costs to Regulated Persons: The commission does not anticipate economic costs to persons who are required to comply with the amendment beyond the minimal time required to complete the Background Disclosure Form.

Local Employment Impact Statement

The commission has determined that the amendment will not have an adverse economic effect on local employment; therefore, no local employment impact statement is required.

Small and Micro-Business and Rural Communities Impact Analysis

The commission has determined that the amendment does not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the rule applies to individual license applicants rather than to businesses or communities. Accordingly, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

Government Growth Impact Statement

For the first five years the amendment would be in effect, the commission has determined that: (1) the rule does not create or eliminate a government program; (2) implementation of the rule does not require the creation of new employee positions or the elimination of existing positions; (3) implementation of the rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the rule does not require an increase or decrease in fees paid to the agency; (5) the rule does not create a new regulation; (6) the rule expands an existing regulation only to the extent it clarifies and formalizes an application requirement; (7) the rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the rule does not positively or adversely affect this state's economy.

Takings Impact Assessment

The commission has determined that this amendment does not affect private real property rights and does not impose a burden on private real property. Accordingly, a takings impact assessment is not required.

One-for-One Rule Analysis

The commission has determined that Texas Government Code §2001.0045 does not apply because the amendment does not impose a cost on regulated persons.

Statutory Authority

The amendment is proposed under the Texas Occupations Code, Title 13, Subtitle A-1 (Texas Racing Act), §§2023.004, 2025.001, and 2025.251. Section 2023.004 requires the commission to adopt rules for conducting racing and to administer the subtitle. Section 2025.001 directs the commission to adopt rules relating to license applications and the qualifications of applicants. Section 2025.251 requires an occupational license for a person working in an occupation for which commission rules require a license.

Cross-Reference to Statute: Texas Occupations Code §§2021.002, 2023.002, 2025.253- 2025.259 (related to purpose, general rulemaking and licensing procedures).

§311.109. *Mutuel Employees.*

(a) To be licensed as a mutuel clerk or other employee of the mutuel department of an association, an individual must be at least 16 years old.

(b) In addition to the requirements of §311.3 of this chapter (relating to Information for Background Investigation), applicants for a mutuel license must complete a Background Disclosure Form approved by the executive director.

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 November 12, 2025.

TRD-202504144

Amy Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

SUBCHAPTER B. ENTRIES, SCRATCHES, AND ALLOWANCES

DIVISION 1. ENTRIES

16 TAC §313.103

The Texas Racing Commission (Commission) proposes amendments to §313.103 (Eligibility Requirements) of the Texas Administrative Code. The amendments update entry eligibility requirements by shortening certain workout timeframes and clarifying where qualifying published works and schooling or training races must occur. The proposal is intended to improve equine

safety, ensure current fitness before entry, and promote the orderly conduct of horse racing in Texas.

Purpose and Background: For first-time starters, the proposal shortens the windows for required published workouts before entry from 90 and 60 days to 75 and 35 days and clarifies that published works must occur at a jurisdiction-licensed racetrack, and any schooling or training race used in lieu of published works must occur in Texas. For horses resuming racing, the proposal shortens the timeframe for a qualifying start or published workout before entry from 60 to 45 days, requires a veterinary examination for horses returning after more than 12 months, and requires Executive Director approval if a horse has not raced in 24 months.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Fiscal Note

Amy Cook, Executive Director, has determined that for each year of the first five years that the rules are in effect, there will be no additional estimated cost to the state or to local governments as a result of enforcing or administering the rules; no estimated reductions in costs to the state or to local governments; and no estimated loss or increase in revenue to the state or to local governments.

Public Benefit and Cost Note

Amy Cook has also determined that for each year of the first five years that the rules are in effect, the public benefits expected as a result of enforcing the rules include enhanced equine safety and racing integrity and improved verification of current fitness before entry. The Commission anticipates no probable significant economic cost to persons required to comply with the rules. Any minor scheduling or training costs associated with meeting shortened workout windows are expected to be de minimis.

Local Employment Impact Statement

The Commission has determined that the proposed rules will not affect a local economy and, therefore, a local employment impact statement under Government Code §2001.022 is not required.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities; Regulatory Flexibility Analysis

The Commission has determined that the proposed rules will not have an adverse economic effect on small businesses, micro-businesses, or rural communities.

Accordingly, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required under Government Code §2006.002.

Takings Impact Assessment

The Commission has determined that the proposed rules do not affect private real property and do not burden, restrict, or limit an owner's property rights. Therefore, a takings impact assessment is not required under Government Code §2007.043.

Government Growth Impact Statement

For the first five years the rules are in effect, the Commission has determined that: (1) the rules do not create or eliminate a government program; (2) implementation does not require the creation or elimination of positions; (3) implementation does not require an increase or decrease in future legislative appropriations; (4) the rules do not require an increase or decrease in fees; (5) the rules do not create a new regulation; (6) the rules amend and clarify existing regulations; (7) the rules do not change the number of individuals subject to the rules; and (8) the rules are not expected to positively or adversely affect this state's economy.

One-for-One Rule Analysis

Government Code §2001.0045 does not apply to this rulemaking. The Texas Racing Commission is among the agencies excepted by statute.

Statutory Authority

The amendments are proposed under Texas Occupations Code §§2023.001 and 2023.004, which authorize the Commission to license and regulate horse racing and to adopt rules for conducting racing and administering the Texas Racing Act.

Cross-Reference to Statute: Texas Occupations Code §§2023.001, 2023.003, and 2023.004. No other statutes, articles, or codes are affected by this proposal.

§313.103. Eligibility Requirements.

(a) To be entered in a race, a horse must:

(1) be properly registered with the appropriate national breed registry or be a qualified Texas Bred horse under Texas Racing Act Section 2030.001;

(2) be eligible to enter the race under the conditions of the race; and

(3) if the horse is to start for the first time:

(A) be approved by a licensed starter for proficiency in the starting gate within 90 days of the race entered; and

(B) have two published workouts, one within 75 [90] days and one within 35 [60] days before the race entry recorded at the appropriate racing secretary's office, or one training or schooling race within 60 days with the requirements set forth in §313.505(d) of this chapter (relating to Workout Requirements). The two published works and schooling or training races counting towards a first time starter must take place at a licensed racetrack in Texas. [of the race entered.]

(b) A horse that has been barred in any racing jurisdiction is ineligible to start or be entered in a race without the approval of the stewards.

(c) To be eligible to enter a Texas-Bred race, the horse must be an accredited Texas-bred horse and be registered with the appropriate breed registry.

(d) A horse may not be entered in more than one race scheduled for one race day, unless at least one of the races is a stakes race.

(e) A horse may not start in a stakes race unless:

(1) the nominating, sustaining, entry, and starting fees have been paid in full by cash, cashier's check, certified check, or money order on or before the time specified in the conditions of the race; or

(2) the amount of the applicable fees are on account with the horsemen's bookkeeper at the time the fees are due as specified by the conditions of the race.

(f) Except as otherwise provided by this section for first-time starters, to be eligible to start in a race, a horse resuming racing within a 12 month calendar period must have either started in a race or had a published workout in the 45[60]-day period preceding a race entry.

(1) Horses returning to racing after a 12 month period must have a veterinary examination accompanying the requisite workout requirements.

(2) Horses that have not raced in 24 months before entry require the approval of the Executive Director.

(g) To be entered in a race around a turn for the first time, a quarter horse, paint horse, or appaloosa must:

(1) have a published workout around a turn at a minimum distance of 660 yards in the 45[60]-day period preceding the race entry; and

(2) be approved by the clocker, the outrider and, if the horse is worked from the gate, the starter.

(h) To be eligible to start in a race, a horse must be properly tattooed and/or microchipped and the horse's registration certificate, or certificates if dually registered, showing the tattoo number and/or microchip number of the horse must be on file with the racing secretary before scratch time for the race, unless the stewards authorize the certificate or certificates to be filed at a later 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 November 12, 2025.

TRD-202504146

Amy Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



16 TAC §313.113

The Texas Racing Commission (Commission) proposes new §313.113, relating to Pre-Race Stabling. The proposal would authorize the executive director to require an owner or trainer to stable all horses participating in a race meet on the grounds of the association and/or place all horses in a designated barn the day before and/or the day of the scheduled race, if any horses of the owner or trainer have tested positive for a prohibited substance in any jurisdiction more than once in the past five years.

Fiscal Note. Amy Cook, Executive Director, has determined that for the first five-year period the proposed new rule is in effect there will be no significant fiscal implications for state or local government as a result of enforcing or administering the rule. Any costs to racetrack associations to accommodate pre-race stabling in the limited circumstances described are expected to be minimal and absorbed within existing operations.

Public Benefit and Cost Note. For each of the first five years the rule is in effect, the public benefits expected include enhanced race integrity and equine welfare by reducing the risk of improper medication or other prohibited substances. The only anticipated

cost to persons required to comply with the stabling requirement is the fee associated with stabling a horse at a racetrack which they may incur independent of this rule.

Local Employment Impact Statement. The Commission has determined that the proposal will not affect the local economy; therefore, no local employment impact statement is required.

Small Business, Micro-business, and Rural Communities Impact; Regulatory Flexibility Analysis. The Commission has determined that the proposal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because compliance occurs only when directed by the executive director under specified, limited circumstances and involves customary racing operations. Accordingly, preparation of an economic impact statement and regulatory flexibility analysis is not required.

Government Growth Impact Statement. For each year of the first five years the rule is in effect, the proposal does not create or eliminate a government program; require the creation of new positions or elimination of existing positions; require an increase or decrease in future legislative appropriations; require an increase or decrease in fees; or increase or decrease the number of individuals subject to the rule. The proposal creates a new rule but does not expand, limit, or repeal existing regulations beyond clarifying discretionary authority in specific circumstances.

Takings Impact Assessment. The Commission has determined that the proposal does not affect private real property in a manner that would constitute a taking under Government Code, Chapter 2007.

Regulatory Analysis. The proposed rule is not a major environmental rule and is not subject to Government Code, §2001.0225.

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Statutory Authority. This proposal is made under Texas Occupations Code, §2023.004, which requires the Commission to adopt rules for conducting racing and administering the Texas Racing Act; §2026.001, which requires the Commission to adopt rules relating to the operation of racetracks to preserve and protect public health, welfare, and safety; and §2034.001, which requires the Commission to adopt rules relating to unlawful influences on racing, including the use of prohibited substances, and to require testing.

The proposal implements Texas Occupations Code, Subtitle A-1 (Texas Racing Act).

Cross-Reference to Statute. Texas Occupations Code §§2023.004, 2026.001, and 2034.001.

§313.113. Pre-Race Stabling.

The executive director may require an owner or trainer to stable all horses participating in a race meet on the grounds of the association and/or place all horses in a designated barn, the day before and/or the day of the scheduled race, if any horses of the owner or trainer have tested positive for a prohibited substance, in any jurisdiction, more than once in the past five years.

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 November 12, 2025.

TRD-202504150

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 833-6699



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 3. ADVISORY COMMITTEES, COUNCILS, AND BOARDS

25 TAC §3.8

The executive commissioner of the Texas Health and Human Services Commission (agency), on behalf of the Department of State Health Services (DSHS), proposes new §3.8, concerning Youth Camp Advisory Committee.

BACKGROUND AND PURPOSE

The purpose of the proposal is to improve public access to DSHS advisory committee, council, and board rules by moving all advisory committee, council, and board rules into a single chapter. Section 265.29, concerning Youth Camp Committee, is repealed from 25 TAC Chapter 265, concerning General Sanitation, and proposed as new in 25 TAC Chapter 3, concerning Advisory Committees, Councils, and Boards. The repeal is proposed elsewhere in this issue of the *Texas Register*.

The Youth Camp Advisory Committee provides an important function advising DSHS and the executive commissioner regarding youth camp standards and rules. In DSHS's reports dated June 2023, May 2024, and June 2025, DSHS recommended the Youth Camp Committee continue. The agency agreed with DSHS's recommendation and continued to appoint Youth Camp Committee members, and the Youth Camp Advisory Committee continued meeting. However, in light of the catastrophic events on July 4, 2025, and the focus on emergency plans required by Senate Bill 1 and House Bill 1, 89th Legislature, Second Special Session, 2025, the agency recognizes the importance of establishing the Youth Camp Advisory Committee with an amended composition. The agency believes the amended membership will provide the agency with valuable insights to improve health and safety standards for campers.

SECTION-BY-SECTION SUMMARY

Proposed new §3.8(a) provides the statutory authority for the Youth Camp Advisory Committee (YCAC).

Proposed new §3.8(b) provides the purpose of the YCAC.

Proposed new §3.8(c) lists the tasks performed by YCAC.

Proposed new §3.8(d) explains the reporting requirements.

Proposed new §3.8(e) describes the meeting requirements.

Proposed new §3.8(f) lists the membership composition and appointment terms.

Proposed new §3.8(g) describes how the chairperson, vice-chairperson, and secretary are selected.

Proposed new §3.8(h) explains the required training.

Proposed new §3.8(i) provides the travel reimbursement policy.

Proposed new §3.8(j) provides the abolishment date and formally establishes the YCAC with new membership.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to DSHS;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal existing regulations;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule 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 rule does not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to the rule because it does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, has determined that for each year of the first five years the rules are in effect, the public benefit will be improved access to DSHS advisory committee, council, and board rules located in a single chapter.

Christy Havel Burton has also determined that for the first five years the rule is in effect, there is no anticipated economic costs to persons who are required to comply with the proposed rule

because there are no fees or associated costs in moving the Youth Camp Advisory Committee rule to a new chapter.

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 21 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 25R033" in the subject line.

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.035 and §141.010, which authorize the Executive Commissioner to establish an advisory committee and appoint committee members necessary to assist and advise DSHS and the Executive Commissioner in performing duties related to youth camps, and 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 Chapters 1001 and 141.

The rule affects Texas Government Code §524.0151 and Texas Health and Safety Code Chapter 1001 and §141.010.

§3.8. Youth Camp Advisory Committee.

(a) Statutory authority. The Youth Camp Advisory Committee (YCAC) is established under Texas Health and Safety Code §141.010.

(b) Purpose. The YCAC advises the executive commissioner and Department of State Health Services (DSHS) on the development of youth camp standards and procedures.

(c) Tasks. The YCAC performs the following tasks:

(1) makes recommendations to the executive commissioner regarding the content of the rules adopted to implement Texas Health and Safety Code Chapter 141;

(2) performs any other functions requested by the executive commissioner in the implementation and administration of Texas Health and Safety Code Chapter 141; and

(3) may adopt rules for the conduct of its own activities.

(d) Reporting requirements. The presiding officer must sign and file an annual written report with DSHS and the executive commissioner by January 15, covering the meetings and activities in the previous fiscal year. The report includes:

(1) a list of the meeting dates of the YCAC and any subcommittees;

(2) the members' attendance records;

(3) a brief description of actions taken by the YCAC;

(4) a description of how the YCAC accomplished its tasks;

(5) a description of activities the YCAC anticipates undertaking in the next fiscal year; and

(6) recommended amendments to this section.

(e) Meetings.

(1) Open meetings. The YCAC complies with the requirements for open meetings under Texas Government Code Chapter 551, as if it were a governmental body.

(2) Frequency. The YCAC will meet at least annually and at the call of the DSHS commissioner or the DSHS commissioner's designee.

(3) Quorum. A simple majority of the members of the YCAC who are appointed constitutes a quorum for the purpose of transacting official business.

(f) Membership.

(1) The YCAC is composed of nine voting members appointed by the executive commissioner or the executive commissioner's designee. In selecting voting members to serve on the YCAC, the executive commissioner considers the applicants' qualifications, background, interest in serving, and geographic location. The YCAC consists of:

(A) one member from the general public;

(B) one member from the general public with expertise in specialized program safety, such as archery, firearms, or challenge courses;

(C) one parent of a child who was a camper in the past two years;

(D) one day camp operator;

(E) one camp operator with experience in wilderness or primitive activities;

(F) one residential camp operator operating a youth camp that provides overnight accommodations for 500 or more campers per year;

(G) one residential camp operator operating a youth camp that provides overnight accommodations for 499 or fewer campers per year;

(H) one waterfront safety expert; and

(I) one pediatric psychologist, psychiatrist, or child abuse expert.

(2) Members are appointed for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year. Regardless of the term limit, a member serves until his or her replacement is appointed. This ensures sufficient, appropriate representation.

(A) If a vacancy occurs, the executive commissioner or the executive commissioner's designee will appoint a person to serve the unexpired portion of that term.

(B) Except as may be necessary to stagger terms, the term of each member is six years.

(g) Officers. The YCAC:

(1) must annually elect a chairperson from among its members who will serve as the presiding officer and preside over the YCAC; and

(2) may elect a vice-chairperson and a secretary from among its members.

(h) Required training. Each member must complete training on relevant statutes and rules, including this section; Texas Government Code Chapters 551, 552, and 2110; the Health and Human Services (HHS) Ethics Policy; the Advisory Committee Member Code of Conduct; and other relevant HHS policies. Training will be provided by DSHS.

(i) Travel reimbursement. To the extent permitted by the current General Appropriations Act, a member of the YCAC may be reimbursed for the member's travel to and from meetings if funds are appropriated and available and in accordance with the DSHS Travel Policy.

(j) Abolishment date. The YCAC is abolished and this section expires December 31, 2030.

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 November 17, 2025.

TRD-202504173

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



CHAPTER 265. GENERAL SANITATION

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes amendments to §§265.11, 265.18, 265.23, 265.24, 265.28, and 265.30; the repeal of §265.29, and Subchapter C, consisting of §§265.31 - 265.35; and new §§265.29 and 265.31 - 265.34, concerning Texas Youth Camps Safety and Health.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (SB) 1 and House Bill (HB) 1, 89th Legislature, Second Special Session that amends Health and Safety Code Chapter 141. SB 1 and HB 1 require DSHS to update definitions, add requirements for implementation and submission of emergency plans for emergency preparedness and response, and establish minimum camper and counselor overnight ratios. The bills also add a requirement for youth camps to notify DSHS of structure modifications, submit renewal applications for certain camp

updates, implement DSHS and youth camp operator website information requirements, and create a new youth camp safety multidisciplinary team. The proposal also implements SB 5, 89th Legislature, Second Special Session, which requires DSHS to increase license fees for day and residential youth camps to meet the cost of administering the program.

There will be other rules proposed in future issues of the *Texas Register* associated with the implementation of HB 1 and SB 1.

The proposed repeal of §265.29 is necessary as all DSHS advisory committee, council, and board rules are moving into a single chapter. The proposed new Youth Camp Advisory Committee section is published elsewhere in this issue of the *Texas Register*.

The proposed repeal of §§265.31 - 265.35 are necessary because responsibility for Migrant Labor Housing Facilities was transferred to Texas Department of Housing and Community Affairs (TDHCA) in 2005 in accordance with House Bill 1099, 79th Legislature, Regular Session, 2005. The TDHCA rules are located in Title 10 Texas Administrative Code, Chapter 90.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §265.11, Definitions, adds definitions for broadband service, cabin, floodplain, floodway, and governmental entity.

The proposed amendment to §265.18, Fire Prevention, adds the National Fire Protection Association standard.

The proposed amendment to §265.23, Application and Denial of a New License; Non-transferable, specifies that the emergency plan and the number of campers are required with the application and provides a timeline for deficiency corrections of the emergency plan.

The proposed amendment to §265.24, Application and Denial of a Renewal License, adds requirements for a camp to submit a renewal application for changes to the boundaries or cabins in a youth camp, specifies that the emergency plan and the number of campers are required with the application, and provides a timeline for deficiency corrections of the emergency plan.

The proposed amendment to §265.28, Fees, increases fees to meet the cost of administering the program.

Proposed new §265.29, Youth Camp Safety Multidisciplinary Team, creates a team to propose minimum youth camp standards.

The proposed amendment to §265.30, Waiver; Appeal, adds restrictions from waivers.

The proposed repeal of Subchapter C, §§265.31, 265.32, 265.33, 265.34, and 265.35 remove obsolete rules that no longer apply to DSHS.

Proposed new §265.31, Emergency Preparedness and Response, adds additional information required in camp emergency plans and camper safety training; new requirements for evacuation plans and severe weather; and new requirements for emergency plan confidentiality, parent or guardian notification, emergency communication, and lighting of evacuation routes.

Proposed new §265.32, Minimum Overnight Camper to Counselor Ratios, adds minimum requirements for the ratio of campers to counselors for overnight stays based on the camper's age.

Proposed new §265.33, Online Youth Camp Registry, adds requirements for DSHS to post a list of licensed youth camps on the DSHS website.

Proposed new §265.34, Additional Inspection Required; Parental Complaints, adds requirements for youth camps to provide a link to the DSHS website to more easily report a noncompliant youth camp.

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, there will be an estimated increase in revenue to the state as a result of enforcing and administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of local government.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated increase in costs of \$2,594,265 in fiscal year (FY) 2026, \$2,484,726 in FY 2027, \$2,484,726 in FY 2028, \$2,484,726 in FY 2029, and \$2,484,726 in FY 2030; and an estimated increase in revenue of \$2,692,669 in FY 2026, \$2,692,669 in FY 2027, \$2,692,669 in FY 2028, \$2,692,669 in FY 2029, and \$2,692,669 in FY 2030.

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 create new DSHS employee positions;
- (3) implementation of the proposed rules will require an increase in future legislative appropriations;
- (4) the proposed rules will require an increase in fees paid to DSHS;
- (5) the proposed rules will create a new regulation;
- (6) the proposed rules will expand existing regulations; and
- (7) the proposed rules will not change the number of individuals subject to the rules; and

DSHS has insufficient information to determine the proposed rules' effect on the state's economy.

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

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

DSHS estimates that the number of small businesses, micro-businesses, and rural communities subject to the proposed rules is 380. The projected economic impact for a small business, micro-business, and rural community includes the cost to comply with the new emergency preparedness and response requirements of SB 1, SB 5, and HB 1.

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 children attending day and residential youth camps.

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, are adopted in response to a natural disaster, and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, has determined that for each year of the first five years the rules are in effect, the public benefit will be the safety of children attending a DSHS-licensed youth camp.

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 youth camp licensing fees will increase to meet the cost of administering the program.

The cost to people required to comply with the rules cannot be estimated due to the diversity in the size and type of youth camps regulated. The annual cost of the license can vary from \$750 to \$21,000 depending on the size as reflected by the number of campers enrolled per year, and the cost to comply with the emergency preparedness and response requirements will vary based on whether the camp is a day camp or a residential camp.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 21 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 25R033" in the subject line.

SUBCHAPTER B. TEXAS YOUTH CAMPS SAFETY AND HEALTH

25 TAC §§265.11, 265.18, 265.23, 265.24, 265.28 - 265.34

STATUTORY AUTHORITY

The amendments and new sections are authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the

Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary 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 and new sections affect Texas Government Code §524.0151, and Texas Health and Safety Code §141.008 and Chapter 1001.

§265.11. *Definitions.*

The following words and terms, when used in this subchapter, [shall] have the following meanings, unless the content clearly indicates otherwise.

(1) Act--Texas Youth Camp Safety and Health Act, Texas Health and Safety Code[,], Chapter 141.

(2) Adult--A person at least 18 years of age or older.

(3) Broadband service--Internet service with the capability of providing a:

(A) speed of not less than 100 megabits per second for a download;

(B) speed of not less than 20 megabits per second for an upload; and

(C) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(4) Cabin--A structure used to provide temporary sleeping quarters for campers.

(5) [(3)] Camper--A minor child, younger than [under] 18 years of age, who is attending a youth camp on either a day or boarding basis.

(6) [(4)] Challenge course--Activity designed for educational purposes or team building, which may offer a variety of challenges, including zip lines, high and low rope courses, rappelling, and climbing walls.

(7) [(5)] Commissioner--The commissioner [Commissioner] of the Texas Department of State Health Services.

(8) [(6)] Day camp--A camp that operates during the day or any portion of the day between 7:00 a.m. and 10:00 p.m. for four or more consecutive days and that offers no more than two overnight stays during each camp session. To be eligible to be licensed as a youth camp, the camp's schedule must [shall] be structured so that each camper attends for four hours or more per day for four consecutive days. The term does not include a facility that is required to be licensed with the Health and Human Services Commission.

(9) [(7)] Department--Texas Department of State Health Services.

(10) [(8)] Executive commissioner [Commissioner]--Executive commissioner [Commissioner] of the Health and Human Services Commission.

(11) [(9)] Firearm--Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or a burning substance, or any device readily convertible to that use.

(12) Floodplain--Any area within a 100-year floodplain identified by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Act of 1968 (42 United States Code (U.S.C.) Section 4001 et seq.). This term includes any area

removed from the 100-year floodplain by a letter of map amendment, a letter of map revision based on fill, or a substantially similar administrative process conducted by FEMA.

(13) Floodway--An area identified on the most recent flood hazard map published by FEMA under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.) as a regulatory floodway.

(14) Governmental entity--This state or a state agency or political subdivision of this state.

(15) [(10)] Municipal water supply--A public water supply owned or operated by or for a city or a corporation having the right of administering local government.

(16) [(11)] Pellet gun--Any device designed, made, or adapted to expel a projectile through a barrel by using compressed air or carbon dioxide. This definition includes air guns, air rifles, BB guns, and paintball guns.

(17) [(12)] Permanent structure--Man-made buildings such as dining halls, dormitories, cabins, or other buildings that are constructed to remain stationary.

(18) [(13)] Person--An individual, partnership, corporation, association, or organization. In rules for this subchapter, a person does not include a government or governmental subdivision.

(19) [(14)] Playground--A designated area designed for campers to play freely on equipment as defined in the U.S. Consumer Product Safety Commission Publication Number 325, "Public Playground Safety Handbook," July 2025 ["Handbook for Public Playground Safety," December 2015] as amended.

(20) [(15)] Primitive camp--A youth camp that does not provide either permanent structures or utilities for camper use.

(21) [(16)] Public water system--A public water system, as defined in 30 Texas Administrative Code (TAC) §290.38 (relating to Definitions) [§290.38(74)] is a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water in 30 TAC §290.38 [(30 TAC §290.38(23))]. Such a system must [shall] have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control that [which] are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual must [shall] be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(22) [(17)] Resident camp--A camp that for a period of four or more consecutive days continuously provides residential services to each camper, including overnight accommodations for at least three consecutive nights.

(23) [(18)] Supervised--A person is supervised if the person is within sight, except for infrequent momentary periods such as restroom breaks, and within reasonable hearing distance of a camper's outcry, of an adult with an obligation to report inappropriate or danger-

ous activities or behavior who has been made aware that the obligation is in effect at that time and who has willingly accepted the obligation. This definition is applicable only to rules relating to unsupervised contact with campers.

(24) [(49)] Supervisor/counselor--A person, at least 18 years of age or older, who is responsible for the immediate supervision of campers.

(25) [(20)] Swim test--A formalized test, specific to the body of water utilized, to determine each child's swimming ability. A swim test includes a skill evaluation, or some equivalent method of determining swimming ability, such as the following.[:]

(A) A non-swimmer gets [Non-swimmer: Get] into the shallow water, sits [sit] down, stands [stand] up, and exits [exit] the water.

(B) An intermediate swimmer jumps [Intermediate swimmer: Jump] feet first into water at least twelve inches deeper than the height of the child, levels [: Level] off, swims [swim] 25 feet, turns [turn] around and swims [swim] back, then exits [- Exit] the water.

(C) A swimmer jumps [Swimmer: Jump] feet-first into water at least twelve inches deeper than the height of the child and swims [swim] 75 yards in a strong stroke on the [your] stomach or side (breaststroke, sidestroke, crawl, trudgen, or any combination); then swims [- Then swim] 25 yards on the [your] back (elementary back stroke), floats and rests on the [then float and rest on your] back for one minute, then exits [- Exit] the water.

(26) [(24)] TCEQ--Texas Commission on Environmental Quality.

(27) [(22)] Travel camp--A day or resident camp, lasting for four or more consecutive days, that begins and ends at a fixed location, but may move from location to location on a daily basis.

(28) [(23)] Waterfront--A natural or artificial body of water that includes a lake, ocean, bay, pond, river, swimming pool, or spa, which is the site of any water activity.

(29) [(24)] Waterfront activity--A recreational or instructional activity, occurring in, on, or near a waterfront. Waterfront activity includes swimming, boating, water skiing, scuba diving, rafting, tubing, synchronized swimming, or sailing.

(30) [(25)] Youth camp--A facility or property, other than a facility required to be licensed by the Health and Human Services Commission, that:

(A) has the general characteristics of a day camp, resident camp, or travel camp;

(B) provides supervision and instruction in recreational, athletic, religious, or educational activities;

(C) during a camp session, offers at least two youth camp specialized activities in an outdoor setting;

(D) accommodates at least five minors during each camp session who attend or temporarily reside at the camp, apart from parents or guardians, for all or part of at least four consecutive days;

(E) operates as a youth camp for four consecutive hours or more per day;

(F) operates as a youth camp only during school vacation periods;

(G) operates as a youth camp for no more than 120 days each calendar year; and

(H) is not a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code[:] §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(31) [(26)] Youth camp specialized activity--A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations, and a high level of adult supervision at all times.

(32) [(27)] Youth camp operator--Any person who owns, operates, controls, or supervises a youth camp, whether or not for profit.

§265.18. Fire Prevention.

(a) Fire and safety codes. Facilities at all youth camps, except those described in subsection (d) of this section, must comply with the National Fire Protection Association 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition, other than Sections 1.1.1 and 5.1.1.1. and must [shall] meet local fire and safety codes.

(b) Fire exits in buildings. All buildings where [in which] groups of people live, eat, sleep, or assemble must have [shall be provided with] ready exits for use in case of fire and these exits must [shall] be conspicuously marked.

(c) Storage of flammable or explosive materials. Containers of gasoline, flammables, or explosives must [shall] be plainly marked and stored in a locked area separate and apart from any [and all] permanent and semi-permanent structures used by campers. The presence of flammable or explosive [such] materials must [shall] be kept to a minimum.

(d) Subsection (a) of this section does not apply to a youth camp owned or controlled by a governmental entity. A governmental entity may adopt a policy, rule, ordinance, or order to regulate environmental health and sanitation, electrical distribution system safety, liquefied petroleum gas storage and dispensing safety, or fire protection only if the policy, rule, ordinance, or order does not impose standards more stringent than the standards described under subsection (a) of this section.

§265.23. Application and Denial of a New License; Non-transferable.

(a) License required. A person must [shall] possess a valid youth camp license prior to operating a youth camp.

(1) Submitting an application. A complete [An] application to operate a youth camp must be submitted to and received by the department's Environmental and Sanitation Licensing Branch between January 1 and March 31 of each calendar year, and include [is made by submitting]:

[(A) a completed youth camp application;]

(A) [(B)] an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(B) an emergency plan, as described in §265.31 of this subchapter (related to Emergency Preparedness and Response);

(C) the estimated number of campers attending the camp during the upcoming calendar year;

(D) [(C)] any other requested documents and information; and

(E) [(D)] [paying] the license fee, as described in §265.28 of this subchapter [title] (relating to Fees).

(2) Applications and fees. Applications and fees may be submitted online to <https://vo.ras.dshs.state.tx.us>. ~~[Obtaining an application. A blank application may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Applications may be submitted to the Environmental and Sanitation Licensing Group, Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347.]~~

(3) Qualifying for a youth camp license. Subject to subsection (j) of this section, ~~[the department shall issue]~~ a facility qualifies for a youth camp license if the facility:

(A) meets the definition of a "youth camp," ["Youth camp"] as described in §265.11 ~~[[§265.11(25)]~~ of this subchapter ~~[title]~~ (relating to Definitions); and

(B) is in compliance, or has demonstrated a plan for compliance, with all provisions of the Act and the rules ~~before~~ ~~[prior to]~~ operation as determined by:

(i) submitting a complete application as described in paragraph (1) of this subsection; and

(ii) passing a pre-licensing inspection conducted by the department, using the standard youth camp inspection form that may be found at <https://www.dshs.texas.gov/youthcamp-program/applications-forms-youth-camp-program> ~~[http://www.dshs.state.tx.us/youthcamp/forms.shtm]~~.

(b) Processing applications.

(1) A complete application must ~~[Applications for a new license issued under this chapter shall]~~ be submitted to the Environmental and Sanitation Licensing Branch ~~[Group]~~ at least 90 calendar days ~~before~~ ~~[prior to]~~ camp operations begin. An application is considered incomplete until all required documentation, information, and fees are received. If the application is incomplete, the department issues a deficiency notice, including identification of deficiencies, a deadline for deficiency corrections, and the need for a pre-licensing inspection. ~~[operation.]~~

(2) Upon receipt of an application, the department issues the following documents in accordance with policy, as applicable: ~~[The department shall issue the new license or a written notice that the application is complete or that the application is deficient within the following periods of time. The department shall identify deficiencies in the notice, provide a deadline by which the deficiencies shall be corrected, and inform the applicant of the need for a pre-licensing inspection. Deficiencies may include the failure to provide required information, documents, or fees. An application is not considered complete until all required documentation, information, and fees have been received.]~~

(A) a ~~[Letter of acceptance of application for licensure approving the]~~ license ~~[and authorizing operation]~~ after successfully passing the pre-licensing inspection; ~~[- within 30 days after the date of passing the pre-licensing inspection. The original license may serve as the letter of acceptance.]~~

(B) a letter ~~[Letter]~~ of application deficiency; or ~~[- within 30 days after receipt of a deficient application.]~~

(C) a letter ~~[Letter]~~ of pre-licensing inspection deficiency ~~[- a notice of deficiency will be issued to the camp representative on site]~~ at the conclusion of the pre-licensing inspection ~~[if any deficiencies were noted during the inspection].~~

(i) The camp must ~~[shall]~~ provide proof of all deficiency corrections, except for corrections to the emergency plan, ~~[documentation that all deficiencies have been corrected]~~ within

10 days after the inspection or ~~before~~ ~~[prior to]~~ camp operation, whichever comes first.

(ii) The camp must provide proof of all deficiency corrections for the emergency plan. The proof must be provided within 45 days after the camp received the department letter of pre-licensing inspection deficiency.

(3) In the event that an application for a new license is not processed within 120 days ~~[the timeframe established in paragraph (2)(A) of this subsection]~~, and no good cause exists for the delay, the applicant may ~~[has the right to]~~ request reimbursement of all fees paid in that particular application process so long as a complete application was submitted at least 120 ~~[90]~~ calendar days prior to camp operation. Requests for reimbursement must ~~[shall]~~ be made in writing to the Environmental and Sanitation Licensing Branch ~~[Group]~~. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant must ~~[shall]~~ give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department submits ~~[shall submit]~~ a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner makes ~~[shall make]~~ the final decision and provides ~~[provide]~~ written notification of the decision to the applicant and to the department.

(c) Record availability. All records, except criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication), required by this subchapter must ~~[shall]~~ be made available to the department immediately upon request. Criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication) must ~~[shall]~~ be made available to the department within two business days upon request.

(d) Term of license. The term of a youth camp license is ~~[shall be]~~ one year, beginning on the date of issuance.

(e) License non-transferable. A youth camp license is not transferable and may not be sold, assigned, or otherwise transferred. Any new business entity that acquires the operation of a youth camp through sale, assignment, or other transfer must ~~[shall]~~ obtain a new license.

(f) Ownership change. A new application, fee, pre-licensing inspection, and license is required if there is a change in ownership.

(g) Name change. If a camp changes its name during operation, but does not change location or ownership, then a new license certificate may be issued if requested by email to youthcamps.reg@dshs.texas.gov. A ~~[using the form designated by the department, available at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>, accompanied by a]~~ nonrefundable fee of \$20 will be assessed.

(h) Location change. A new application, fee, pre-licensing inspection, and license is required if there is a change in physical camp location.

(i) Duplicate license. A duplicate license may be issued if requested by email to youthcamps.reg@dshs.texas.gov. A [using the form designated by the department; available at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>, accompanied by a] nonrefundable fee of \$20 will be assessed.

(j) Denials.

(1) The department may deny an application for licensing to applicants [these] who fail to meet the standards established by the Act and this subchapter. In making this determination, the department considers [shall consider] any violation by the applicant of the Act or this subchapter, including employment of [whether the youth camp employs] an individual who was convicted of an act of sexual abuse, as defined by Texas Penal Code §21.02 [of the Texas Penal Code], that occurred at the camp. When the department proposes to deny an application, the department gives [it shall give] notice of the proposed action in writing and provides [shall provide] information on how to request an administrative hearing. The applicant must submit [shall make] a written request for a hearing within 30 days from the date of [on] the department's notice letter [sent by the department]. The hearing is [shall be] conducted in accordance with the Act; [; the Administrative Procedure Act;] Texas Government Code[;] Chapter 2001, the Administrative Procedure Act; and the formal hearing procedures in Chapter 1 of this title (relating to Miscellaneous Provisions) [of the department at 25 Texas Administrative Code, §1.21 et seq].

(2) A letter of denial of licensure may be issued within 60 days after the receipt of application if the applicant does not meet the requirements of subsection (a)(3)(A) of this section.

(3) A letter of denial of licensure may be issued if the applicant does not meet the requirements of subsection (a)(3)(B) of this section:

(A) within 60 days following the first scheduled date of camp operations if a pre-licensing inspection has not been completed; or

(B) within 60 days following the first scheduled date of camp operations if the camp does not pass the pre-licensing inspection.

(4) A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(k) Refunds.

(1) If the applicant does not meet the requirements of subsection (a)(3)(A) of this section, the application may be denied and the license fee, less a handling fee of \$50, may be refunded. If an application is denied because the facility does not meet the requirements of subsection (a)(3)(A) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (a)(3)(B) of this section, the application may be denied and the license fee may not be refunded.

§265.24. Application and Denial of a Renewal License.

(a) Renewal of a youth camp license. A youth camp operator [person] holding a license issued under this chapter must submit a complete renewal application to operate a youth camp. A renewal application must be submitted: [the Act shall renew the license annually before the license expires.]

(1) annually to the department's Environmental and Sanitation Licensing Branch between January 1 and March 31 of each calendar year; and

(2) no later than the 30th day after the date the youth camp operator:

(A) alters the boundaries of a youth camp;

(B) completes construction of one or more new cabins located on the premises; or

(C) completes any renovation to one or more new cabins located on the premises of the camp that:

(i) increases or decreases the number of beds in an affected cabin; or

(ii) alters the method of ingress or egress to an affected cabin.

(b) Renewal notice. At least 60 days before a license expires, the department, as a service to the licensee, may send a renewal notice to the licensee or registrant to the last [known] address provided by [of] the licensee. The [It remains the responsibility of the] licensee is responsible for renewing [to keep the department informed of the licensee's current address and to take action to renew] the license whether the licensee receives the department's notice or not [they have received the notification from the department]. The renewal notice states [shall state]:

(1) [the type of] license type requiring renewal;

(2) [the] time period allowed for renewal; and

(3) the amount of the renewal fee.

(c) Renewal requirements. Renewal applications and fees must [shall] be received by [submitted to] the department before [prior to] the license's annual expiration date.

(1) Submitting an application. A complete renewal application must be submitted to the department and include [is made by submitting]:

(A) a completed youth camp renewal application;

(B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(C) an emergency plan, including any updated emergency plan, as described in §265.31 of this subchapter (relating to Emergency Preparedness and Response);

(D) the estimated number of campers attending the camp during the upcoming calendar year;

(E) [(C)] any other requested documents and information; and

(F) [(D)] [paying] the renewal license fee as described in §265.28 of this subchapter [title] (relating to Fees).

(2) Applications and fees. Applications and fees may be submitted online to <https://vo.ras.dshs.state.tx.us>. [Obtaining an application. A blank renewal application may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Renewal applications may be submitted to the Environmental and Sanitation Licensing Group, Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347.]

(3) Qualifying for renewal of a youth camp license. Subject to subsection (k) of this section, the department issues [shall issue] a renewal license if the facility:

(A) meets the definition of a "youth camp," ["Youth camp"] as described in §265.11 [§265.11(25)] of this subchapter [title] (relating to Definitions); and

(B) is in compliance with all provisions of the Act and the rules before [prior to] operation as determined by:

(i) submitting a complete renewal application as described in this subsection;

(ii) passing a pre-licensing inspection conducted by the department, if required; and

(iii) complying with all final orders resulting from any violations of this subchapter before the application for renewal is submitted.

(d) Processing renewal applications.

(1) A complete application [Applications] for a license renewal issued under this subchapter must [shall] be received by the department's Environmental and Sanitation Licensing Branch before [Group prior to] the expiration date of the license or 45 days before [prior to] camp operation, whichever is earlier.

(A) An application is considered incomplete until all required documentation, information, and fees are received.

(B) If the application is incomplete, the department issues a deficiency notice, including identification of deficiencies, a deadline for deficiency correction, and the need for a pre-licensing inspection.

(C) If a camp is subject to pre-licensing inspection, a renewal license is issued after the inspection is completed and compliance with the Act and this subchapter is confirmed.

(2) Upon receipt of an application, the department issues the following documents in accordance with policy, as applicable: [The department shall issue the renewal license or a written notice that the renewal application is complete or that the renewal application is deficient within the following periods of time from the date of receipt of the renewal application. The department shall identify deficiencies in the notice and provide a deadline by which the deficiencies shall be corrected in order for the department to renew the license or to schedule the pre-licensing inspection if required. Deficiencies may include the failure to provide required information, documents, or fees, or the failure to schedule or successfully pass the pre-licensing inspection if required. An application is not considered complete until all required documentation, information, and fees have been received. If a camp is subject to pre-licensing inspection, the time period for issuing a letter of acceptance of application for license renewal begins upon successfully passing inspection.]

(A) a license; [Letter of acceptance of application for license renewal approving the license and authorizing operation - within 30 days. The original license may serve as the letter of acceptance.]

(B) a letter [Letter] of renewal application deficiency; or [- within 30 days after receipt of a deficient renewal application.]

(C) a letter [Letter] of pre-licensing inspection deficiency [- a notice of deficiency will be issued to the camp representative on site] at the conclusion of the pre-licensing inspection [if any deficiencies were noted during the inspection].

(i) The camp must [shall] provide proof of all deficiency corrections, except for corrections to the emergency plan, [documentation that all deficiencies have been corrected] within 10 days after the inspection or before [prior to] camp operation, whichever comes first.

(ii) The camp must provide proof of all deficiency corrections for the emergency plan. The proof must be provided within 45 days after the camp received the department letter of pre-licensing deficiency.

(3) In the event that a timely and complete application for license renewal is not processed within timeframe established in department policy [paragraph (2)(A) of this subsection], and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process. Requests for reimbursement must [shall] be made by email to youth-camps.reg@dshs.texas.gov. [in writing to the Environmental and Sanitation Licensing Group.] Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant must [shall] give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department submits [shall submit] a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner makes [shall make] the final decision and provides [provide] written notification of the decision to the applicant and to the department.

(e) Late renewal. If a license is not renewed within one year after the expiration date, the license cannot [may not] be renewed. A new license may be obtained by submitting a new application in compliance with §265.23 of this subchapter [title] (relating to Application and Denial of a New License; Non-transferable). If the license is renewed after its expiration date, the renewed license expires [shall expire] on the date the license would have expired if the license had [it] been renewed timely.

(f) Non-renewal. The department may refuse to renew a license if the applicant has not complied with all final orders resulting from any violations of these sections. Eligibility for license renewal may be reestablished by meeting all conditions of the orders and complying with the requirements of this section. The department may not renew the license of a youth camp that has not corrected deficiencies identified in a final order before the application for renewal is submitted. Corrections must [Evidence of corrections, such as photography or documentation satisfactory to the department, shall] be submitted to and approved by the department's Environmental and Sanitation Licensing Branch before [Business Filing and Verification Unit prior to] submitting the renewal application [to the Business Filing and Verification Section of the Consumer Protection Division].

(g) Application determination affecting license expiration. If a license holder submits a [makes] timely and complete license renewal [sufficient] application [for the renewal of a license], the existing license does not expire until the application has been finally determined by the department. If a license holder submits a late or incomplete application and the application is denied, the existing license does not expire until the last day to request a [for seeking] review of the agency order or a later date granted [fixed] by order of the reviewing court.

(h) Reapplication for license upon denial or revocation. A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(i) Opportunity for a hearing. When the department proposes to deny an initial or renewal application, the department gives ~~[it shall give]~~ notice of the proposed action in writing and ~~provides [shall provide]~~ information on how to request an administrative hearing. The applicant must submit [shall make] a written request for a hearing within 30 days from the date of ~~[on]~~ the notice letter ~~[sent by the department]~~.

(j) Pre-licensing inspections. A youth camp applying for a license renewal may be subject to a pre-licensing inspection. Youth camps must [shall] be in compliance with all provisions of the Act and the rules ~~before [prior to]~~ operation.

(k) Denials.

(1) The department may deny a renewal application for licensing to applicants ~~[those]~~ who fail to meet the standards established by the Act and this subchapter. ~~The [In making this determination, the]~~ department ~~considers [shall consider]~~ any violations by the applicant ~~[youth camp]~~ of the Act or ~~[and]~~ this subchapter, including employment ~~of [whether the youth camp employs]~~ an individual who was convicted of an act of sexual abuse, as defined by Texas Penal Code §21.02 ~~[of the Texas Penal Code]~~, that occurred at the camp. When the department proposes to deny ~~[Prior to denying]~~ a renewal application ~~[license]~~, the department gives notice of the proposed action in writing and provides information on how to request an administrative ~~[shall give the applicant an opportunity for a]~~ hearing. The hearing ~~is [shall be]~~ conducted in accordance with the Act; ~~[; the Administrative Procedure Act;]~~ Texas Government Code~~[;]~~ Chapter 2001, the Administrative Procedure Act; and the formal hearing procedures in Chapter 1 of this title ~~(relating to Miscellaneous Provisions)[of the department at 25 Texas Administrative Code §1.21 et seq.]~~.

(2) A letter of denial of license renewal may be issued within 60 days of the receipt of application if the applicant does not meet the requirements of subsection (c)(3)(A) of this section.

(3) A letter of denial of license renewal may be issued within 60 days following the first scheduled date of camp operations if the applicant does not meet the requirements of subsection (c)(3)(B) of this section.

(l) Refunds.

(1) If the applicant does not meet the requirements of subsection (c)(3)(A) of this section, the renewal application may be denied and the renewal license fee, less a handling fee of \$50, may be refunded. If an applicant is denied because the facility does not meet the requirements of subsection (c)(3)(A) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (c)(3)(B) of this section, the renewal application may be denied and the renewal license fee may not be refunded.

§265.28. Fees.

(a) All applicable fees must be paid to the department before the department issues a license.

(b) For all initial and renewal applications, the department is authorized to collect subscription and convenience fees, to recover costs associated with electronic application and renewal application processing.

(c) ~~[(a)]~~ The ~~[schedule of]~~ annual fees, not including subscription and convenience fees, are ~~[is]~~ as follows:

(1) initial license day youth camp:

- (A) 99 or less campers per year--\$950;
- (B) 100 to 999 campers per year--\$1,150;

- (C) 1,000 to 1,999 campers per year--\$2,000;
- (D) 2,000 to 4,999 campers per year--\$2,600; and
- (E) 5,000 or more campers per year--\$4,000;

(2) renewal license day youth camp:

- (A) 99 or less campers per year--\$750;
- (B) 100 to 999 campers per year--\$950;
- (C) 1,000 to 1,999 campers per year--\$1,750;
- (D) 2,000 to 4,999 campers per year--\$2,250; and
- (E) 5,000 or more campers per year--\$3,500;

(3) initial license residential youth camp:

- (A) 99 or less campers per year--\$2,150;
- (B) 100 to 499 campers per year--\$2,500;
- (C) 500 to 999 campers per year--\$6,500;
- (D) 1,000 to 1,999 campers per year--\$12,000;
- (E) 2,000 to 4,999 campers per year--\$15,000;
- (F) 5,000 to 9,999 campers per year--\$18,000; and
- (G) 10,000 or more campers per year--\$21,000;

(4) renewal license residential youth camp:

- (A) 99 or less campers per year--\$1,900;
- (B) 100 to 499 campers per year--\$2,250;
- (C) 500 to 999 campers per year--\$5,500;
- (D) 1,000 to 1,999 campers per year--\$10,000;
- (E) 2,000 to 4,999 campers per year--\$13,500;
- (F) 5,000 to 9,999 campers per year--\$16,500; and
- (G) 10,000 or more campers per year--\$19,500.

~~[(1) initial license day youth camp--\$250;]~~

~~[(2) initial license residential youth camp--\$750;]~~

~~[(3) renewal license day youth camps operating less than 10 days per year--\$50;]~~

~~[(4) renewal license day youth camps operating 10 or more days per year--\$150;]~~

~~[(5) renewal license residential youth camps operating less than 10 days per year--\$100; and]~~

~~[(6) renewal license residential youth camps operating 10 or more days per year--\$450;]~~

(d) ~~[(b)]~~ Miscellaneous fees are as follows:

- (1) duplicate license fee--\$20;
- (2) camp name change during operation--\$20; and
- (3) non-sufficient fund fee--\$20.

(e) Late fees will be assessed for applications received after March 31 as follows:

- (1) initial late fee--\$500; and
- (2) renewal late fee--\$250.

~~[(e) Applicants may submit applications and renewal applications for a license under these sections electronically through texas.gov]~~

at www.texas.gov. The department is authorized to collect fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through texas.gov.]

(f) [(d)] An applicant or licensee whose license fee payment is returned for [whose payment for the application and initial license fee is returned due to] any reason, including insufficient funds, account closed, or payment stopped, must pay [shall be allowed to reinstate the application by remitting to] the department [a money order or check for guaranteed funds in] the amount of the [application and initial] license fee [plus the Non-Sufficient Fund Fee] within 30 days after the date of [receipt of] the department's notice. An application is incomplete until the fee is [has been] received and cleared through the appropriate financial institution.

[(e)] An applicant whose license has been approved and whose payment for the license fee is returned due to any reason including insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the license fee plus the Non-Sufficient Fund Fee within 30 days after the date of receipt of the department's notice. Failure to comply with this subsection renders the application and the license approval invalid.]

[(f)] A license holder whose payment for the renewal fee is returned due to any reason including insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the renewal fee plus the Non-Sufficient Fund Fee within 30 days after the date of receipt of the department's notice. Failure to comply shall result in non-renewal of the license. If a renewal license has already been issued, it shall be invalid.]

[(g)] Upon return unclaimed of the department's notice, as set out in subsections (e) - (e) of this section, the department shall mail the notice to the applicant or license holder by certified mail. If a money order or check for guaranteed funds is not received by the department's cashier within 30 days after the postmarked date on the certified mailing, the approval granted, or license issued shall be invalid.]

(g) [(h)] The department may notify the applicant or the license holder [holder's owner] that the person has failed to comply with this section and that any [approval granted or] license issued is invalid.

(h) [(i)] Initial application or renewal fees are [shall be] refunded only if the fee amounts paid exceed [are in excess of] the correct fee amount or if there is a double payment. The department does [shall] not refund fees if the applicant fails [application was abandoned due to the applicant's failure] to respond to a written request from the department within 90 days [to a written request from the department].

(i) [(j)] All fees must [shall] be submitted online at <https://vo.ras.dshs.state.tx.us>. [in the form of personal checks, certified checks, money orders, or checks from state agencies, municipalities, counties, or other political subdivisions of the state made payable to the department.]

§265.29. Youth Camp Safety Multidisciplinary Team.

(a) The Youth Camp Safety Multidisciplinary Team (YCSMT) is composed of at least one representative from:

- (1) the department;
- (2) the Texas Division of Emergency Management (TDEM);
- (3) the Texas Department of Insurance (TDI), State Fire Marshal's Office;

(4) the Texas Parks and Wildlife Department (TPWD);

(5) the Texas Water Development Board (TWDB);

(6) the Texas A&M Forest Service (TAMFS); and

(7) the Texas Department of Public Safety (DPS).

(b) The commissioner or the commissioner's designee serves as the chair of the team.

(c) The YCSMT meets regularly to develop proposed minimum standards for youth camps. The YCSMT presents the proposed minimum standards to the executive commissioner as recommendations for adoption.

§265.30. Waiver; Appeal.

(a) The department may grant a waiver from the requirements of this chapter to a program that meets the conditions described in Texas Health and Safety Code (HSC), §141.0025(a). The program seeking the waiver must [shall] provide proof to the department that the program meets the conditions described in HSC [Health and Safety Code,] §141.0025(a) before the department may grant a waiver. To ensure [that] the program continues to be eligible for a waiver, the department may require the program to resubmit proof of meeting the conditions described in HSC [Health and Safety Code,] §141.0025(a) no more frequently than one time per calendar year or as part of an investigation described in subsection (c) of this section.

(b) A waiver granted by the department under subsection (a) of this section is valid until the waiver is revoked for cause by the department. Examples of cause for revocation include [but are not limited to]:

(1) the failure to ensure the health, safety, or welfare of persons at the program; or

(2) the failure to report abuse or neglect occurring at the program as required by Texas Family Code[,] Chapter 261.

(c) The department may conduct an investigation in response to an allegation that there is cause to revoke a program's waiver or that a program no longer meets the conditions described in HSC [Health and Safety Code,] §141.0025(a).

(d) A person who operates a program for which an application for a waiver under this section has been denied or for which a waiver under this section has been revoked may appeal the action in the manner provided for appeal of contested cases under Texas Government Code[,] Chapter 2001. When the department proposes to deny or revoke a waiver granted under this section, it must [shall] give notice of the proposed action in writing and must [shall] provide information on how to request an administrative hearing. The program must [shall] make a written request for a hearing within 30 days from the date on the notice letter sent by the department.

(e) The department will not grant a waiver from the requirements provided in HSC §141.0091 or HSC Chapter 762.

§265.31. Emergency Preparedness and Response.

(a) A youth camp operator must develop an emergency plan that:

(1) specifies areas where campers and camp staff are to gather in an emergency event that requires evacuation from any location within the premises of the camp;

(2) establishes procedures for responding to an emergency event, including:

(A) a lost camper;

(B) a fire on the premises;

(C) a severe injury, severe illness, serious accident, or death of one or more campers, visitors, camp staff, or camp volunteers that occurs:

- (i) on camp premises; or
- (ii) while under the supervision of camp staff;

(D) an aquatic emergency if the camp borders a watercourse, lake, pond, or any other body of water;

(E) an epidemic;

(F) an unauthorized or unknown individual present on the camp's premises;

(G) a transportation emergency; and

(H) any other applicable natural disaster, including flood, hurricane, tornado or wildfire; or emergency event;

(3) establishes procedures to identify and account for each camper affected by the emergency event;

(4) establishes procedures to notify and communicate with:

(A) local emergency management services, including the designated emergency management director or coordinator by the political subdivision where the camp is located;

(B) camp administrative and medical services staff; and

(C) the parents or legal guardians of each camper identified under paragraph (3) of this subsection; and

(5) designates a camp emergency preparedness coordinator.

(b) A youth camp operator must develop an emergency evacuation plan for:

(1) evacuating campers who are at a camp within a floodplain on issuance of a flash flood or flood warning;

(2) evacuating campers on issuance of an evacuation order by the emergency management director or coordinator for the county or, if applicable, the municipality in which the camp is located, due to wildfire, hurricane, or other disaster; and

(3) sheltering campers in place on issuance of:

(A) a tornado warning; or

(B) an order to shelter in place issued by the emergency management director or coordinator for the county or, if applicable, the municipality in which the camp is located.

(c) A youth camp operator must:

(1) implement the emergency evacuation plan developed under subsection (b)(1) of this section on issuance by the National Weather Service (NWS) of a flash flood or flood warning for an area of the camp; and

(2) implement the emergency evacuation plan developed under subsection (b)(3) of this section on issuance by the NWS of a tornado warning for an area of the camp.

(d) A youth camp operator must send a copy of an emergency evacuation plan developed under subsection (b) of this section to:

(1) the emergency management director or coordinator for the municipality (for camps located in a municipality); and

(2) the emergency management director or coordinator for the county.

(e) A youth camp operator must provide a copy of the camp's emergency plan not later than the 10th business day following the date the department approves the emergency plan or, if the department determines the plan is deficient under §265.23 of this subchapter (relating to Application and Denial of a New License; Non-transferable) or §265.24 of this subchapter (relating to Application and Denial of a Renewal License), the youth camp must provide a copy of the camp's revised and approved emergency plan to:

(1) the designated emergency management director or coordinator for the municipality (for camps located in a municipality); and

(2) the designated emergency management director or coordinator for the county.

(f) In developing the youth camp's emergency plan, a youth camp operator may consult with an emergency management director or coordinator described in subsection (d) of this section.

(g) A youth camp operator must:

(1) provide the most recent version of a youth camp's emergency plan submitted under this section to the parent or legal guardian of:

(A) a camper who is participating in a camp session; or

(B) a camper who is registered to participate in a future camp session;

(2) notify the parent or legal guardian of a camper described by paragraph (1) of this subsection if any area of the camp is located within a floodplain; and

(3) ensure the parent or legal guardian signs and submits to the operator a statement acknowledging receipt of the notice required under paragraph (2) of this subsection.

(h) A youth camp operator must:

(1) maintain an operable radio providing real-time weather alerts issued by the NWS or a similar professional weather service at the camp;

(2) install and maintain at the camp an emergency warning system:

(A) alerting all campers and camp occupants of an emergency; and

(B) including a public address system operable without reliance on an internet connection;

(3) monitor safety alerts issued:

(A) by the NWS or a similar professional weather service; and

(B) by local river authorities, if applicable to the camp, or through other local emergency notification systems; and

(4) certify the operator's compliance with this subsection.

(i) The youth camp operator or a youth camp staff member must conduct a mandatory safety orientation, not more than 48 hours after each youth camp session begins. The safety orientation:

(1) notifies each camper of the camp's boundaries and any hazards present on the camp premises;

(2) instructs each camper on behavioral expectations in an emergency event; and

(3) provides each camper developmentally appropriate instruction on the appropriate actions and procedures to follow in an emergency event, in accordance with the camp's emergency plan required under this section.

(j) At least once a year, a youth camp operator must:

(1) provide each youth camp staff member and volunteer a copy of the camp's most recent emergency plan;

(2) ensure each staff member and volunteer successfully completes training on the camp's emergency plan in compliance with any minimum standards and required hours established by department rule;

(3) instruct each staff member and volunteer on the proper procedures to follow in an emergency under the plan; and

(4) maintain written records documenting each staff member's and volunteer's successful completion of the training required under this subsection.

(k) A youth camp operator must:

(1) post the proper evacuation route described in the youth camp's emergency plan in a conspicuous place in each cabin on the youth camp premises; and

(2) ensure each evacuation route on the camp premises is illuminated at night.

(l) A youth camp operator must notify the department as described in §265.24 of this subchapter of any modification to:

(1) a structure intended to facilitate youth camp activities;
or

(2) the location of a camp activity on the camp's premises.

(m) On receiving notification of a modification described by subsection (l) of this section, the department may require the youth camp operator to update the youth camp's emergency plan.

(n) The department must store in a digital database each emergency plan submitted to the department under this section and provide access to that database to:

(1) TDEM; and

(2) each member of the Youth Camp Safety Multidisciplinary Team (YCSMT) created under §265.29 of this subchapter (relating to Youth Camp Safety Multidisciplinary Team).

§265.32. Minimum Overnight Camper to Counselor Ratios.

The minimum camper to counselor ratios for overnight stays at youth camps are as follows.

(1) For campers from four to five years of age--one counselor for every five campers.

(2) For campers from six to eight years of age--one counselor for every six campers.

(3) For campers from nine to 14 years of age--one counselor for every eight campers.

(4) For campers from 15 to 17 years of age--one counselor for every 10 campers.

§265.33. Online Youth Camp Registry.

The department will post, maintain, and update on the department's internet website a list of each youth camp with an active license issued under this subchapter.

§265.34. Additional Inspection Required; Parental Complaints.

(a) A youth camp operator's public-facing website must include a prominent, clearly marked link to the department's complaint website where campers, parents, camp staff, and volunteers can report noncompliance with the subchapter.

(b) The department will investigate each youth camp complaint filed with the department to ensure the youth camp operator is properly implementing the camp's approved emergency plan submitted as required under §265.31 of this subchapter (relating to Emergency Preparedness and Response).

(c) A department investigation under this section must include an inspection to ensure the youth camp's compliance with this subchapter. The inspection will be performed in the same manner as a compliance inspection, as described in §265.25 of this subchapter (relating to Inspections).

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 November 17, 2025.

TRD-202504176

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



25 TAC §265.29

STATUTORY AUTHORITY

The repeal section is authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary 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 repeal affects Texas Government Code §524.0151, and Texas Health and Safety Code §141.008 and Chapter 1001.

§265.29. Youth Camp 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 November 17, 2025.

TRD-202504174

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



SUBCHAPTER C. MIGRANT LABOR HOUSING FACILITIES

25 TAC §§265.31 - 265.35

STATUTORY AUTHORITY

The repeal sections are authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary 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 repeals affect Texas Government Code §524.0151, and Texas Health and Safety Code §141.008 and Chapter 1001.

§265.31. *General Provisions.*

§265.32. *Definitions.*

§265.33. *Site and Physical Facilities.*

§265.34. *Procedures for Applications for Licenses to Operate Migrant Labor Housing Facilities.*

§265.35. *Hearings.*

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504175

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



25 TAC §265.36

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes new §265.36, concerning Prohibited Operation of Cabins within Floodplains.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (SB) 1, 89th Legislature, Second Special Session, 2025, that amends Texas Health and Safety Code Chapter 141. SB 1 requires DSHS to prohibit licensure of youth camps within floodplains unless they meet certain requirements.

SECTION-BY-SECTION SUMMARY

Proposed new §265.36, Prohibited Operation of Cabins within Floodplains, adds new requirements for floodplain safety.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in

effect, there will be no increase in revenue to the state as a result of enforcing and administering the rule as proposed. Enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of local government.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

(2) implementation of the proposed rule will not affect the number of DSHS employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to DSHS;

(5) the proposed rule will create a new regulation;

(6) the proposed rule will expand existing regulations; and

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

DSHS has insufficient information to determine the proposed rule's effect on the state's economy.

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

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

DSHS estimates that the number of small businesses, micro-businesses, and rural communities subject to the proposed rule is 380. The projected economic impact for a small business, micro-business, and rural community includes the cost to comply with the new emergency preparedness and response requirements of SB 1.

DSHS determined that alternative methods to achieve the purpose of the proposed rule for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of children attending day and residential youth camps.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas, is adopted in response to a natural disaster, and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the safety of children attending a DSHS-licensed youth camp.

Christy Havel Burton has also determined that for the first five years the rule is in effect, persons who are required to comply with the proposed rule may incur economic costs.

The cost to people required to comply with the rule cannot be estimated due to the diversity in the location and size of youth camps regulated.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 21 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 26R033" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary 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 new section affects Texas Government Code §524.0151, and Texas Health and Safety Code §141.008 and Chapter 1001.

§265.36. Prohibited Operation of Cabins within Floodplains.

A youth camp must not operate a cabin located within a Federal Emergency Management Agency (FEMA) identified 100-year floodplain, unless:

(1) each cabin located within a floodplain is a result of the cabin's proximity to a lake, pond, or other still body of water that:

(A) is not connected to a stream, river, or other watercourse; or

(B) is dammed; or

(2) each cabin is at least 1,000 feet from a floodway; and

(3) the youth camp operator installs and maintains an emergency ladder capable of providing access to the cabin's roof.

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 November 17, 2025.

TRD-202504178

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



25 TAC §265.37

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes new §265.37, concerning Redundant Internet Connections Required.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (SB) 1 and House Bill (HB) 1, 89th Legislature, Second Special Session, 2025, that amends Texas Health and Safety Code Chapter 141. SB 1 and HB 1 set the requirements for youth camp safety and health in relation to redundant internet connections.

SECTION-BY-SECTION SUMMARY

Proposed new §265.37, Redundant Internet Connections Required, adds new requirements for youth camp operators to provide and maintain internet services through broadband service that connects to the Internet using end-to-end fiber optic facilities and a secondary Internet connection through a broadband service distinct from the first.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, there will be no increase in revenue to the state as a result of enforcing and administering the rule as proposed. Enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of local government.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

(2) implementation of the proposed rule will not affect the number of DSHS employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to DSHS;

(5) the proposed rule will create a new regulation;

(6) the proposed rule will expand existing regulations; and

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

DSHS has insufficient information to determine the proposed rule's effect on the state's economy.

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

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

DSHS estimates that the number of small businesses, micro-businesses, and rural communities subject to the proposed rule is 380. The projected economic impact for a small business, micro-business, and rural community includes the cost to comply with the provision of end-to-end fiber and additional broadband requirements of SB 1 and HB 1.

DSHS determined that alternative methods to achieve the purpose of the proposed rule for small businesses, micro-businesses, or rural communities would not be consistent with the requirements of SB 1 and HB 1.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas, is adopted in response to a natural disaster, and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the safety of children attending a DSHS-licensed youth camp.

Christy Havel Burton has also determined that for the first five years the rule is in effect, persons who are required to comply with the proposed rule will incur economic costs.

The cost to people required to comply with the rule cannot be estimated due to the diversity in the location of youth camps regulated.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 21 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 26R034" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary 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 new section affects Texas Government Code §524.0151, and Texas Health and Safety Code §141.008 and Chapter 1001.

§265.37. Redundant Internet Connections Required.

A youth camp operator must provide and maintain for a youth camp:

(1) internet services through a broadband service that connects to the internet using end-to-end fiber optic facilities; and

(2) a secondary internet connection through a broadband service distinct from the service described under paragraph (1) of this section.

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504179

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: December 28, 2025

For further information, please call: (512) 231-5727



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 306. BEHAVIORAL HEALTH DELIVERY SYSTEM

SUBCHAPTER C. TEXAS CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS

26 TAC §§306.101, 306.103, 306.105, 306.107, 306.109, 306.111

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §306.101, relating to Purpose; §306.103, concerning Application; §306.105, concerning Definitions; §306.107, concerning Certification Eligibility; §306.109, concerning Application Process; and §306.111, concerning Certification Standards.

BACKGROUND AND PURPOSE

The purpose of the proposal is to add definitions for terms used in the subchapter and provide further clarification for certification

requirements for Texas Certified Community Behavioral Health Clinics (T-CCBHCs).

SECTION-BY-SECTION SUMMARY

The proposed amendment to §306.101 updates language to improve reader understanding.

The proposed amendment to §306.103 updates language to improve reader understanding.

The proposed amendment to §306.105 adds definitions for outpatient mental health treatment services and outpatient substance use treatment services and clarifies language in other definitions. Definitions are in line with current processes and ensure integration of mental health and substance use treatment services consistent with the goals of the T-CCBHC initiative. The proposed amendment also updates other language to improve reader understanding.

The proposed amendment to §306.107 prohibits T-CCBHC applicants from denying or limiting services to people within the local service area based on a person's housing situation. This rule aligns with federal CCBHC criteria. The proposed amendment clarifies the services T-CCBHC applicants must deliver directly or through an agreement with another entity, including mental health rehabilitative services. The amendment adds the conditions that must exist for a T-CCBHC that is not an LMHA or LBHA to provide mobile crisis outreach services. These rules are needed to ensure the integration of mental health and substance use treatment services and that HHSC can adequately monitor provision of mobile crisis outreach services. The amendment adds the requirements for T-CCBHC applicants to be enrolled as a Medicaid provider. This rule aligns with federal CCBHC criteria. The proposed rule amendment clarifies the requirements of T-CCBHC governing boards and advisory committees. The proposed amendment also requires T-CCBHC applicants to be licensed as a Chemical Dependency Treatment Facility. This amendment is in line with Texas Administrative Code Title 26, Chapter 564. The proposed amendment updates rule language to improve reader understanding.

The proposed amendment to §306.109 clarifies that if T-CCBHC applicants do not meet all eligibility requirements listed on the application for certification, HHSC considers the applicant ineligible and denies the application. However, the proposed rule also allows the applicant to re-submit a new application to HHSC after the date HHSC denies the application. The proposed amendment requires an applicant to meet all eligibility requirements listed on the application. These rules support quality service delivery and administrative processes among T-CCBHC applicants for HHSC to successfully certify applicant organizations. The proposed amendment changes the time period for denial of an application by HHSC based on termination of an applicant's contract, license, or certification from three years to within four years. This is to align with the proposed amendment in §306.111 to increase certification approval as a T-CCBHC from three to four years. The proposed amendment also updates other language to improve reader understanding.

The proposed amendment to §306.111 requires T-CCBHCs to annually report its quality measures to HHSC to remain certified. This amendment is in line with current processes and derived from federal CCBHC criteria, from which T-CCBHC criteria are modeled. The proposed amendment also changes T-CCBHC certification approval from three years to four years. This amendment supports maintaining high quality reviews of applicants us-

ing existing staff resources. The proposed amendment updates other language to improve reader understanding.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because participation in the certification described in the proposed rule amendments is optional.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Trina Ita, Deputy Executive Commissioner of Behavioral Health Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be expanding provider organizations delivering and improving quality of integrated mental health, substance use disorder, and primary care screenings. There is no anticipated cost for compliance with the proposed rules since there is no requirement to alter current business practices, and there are no new fees imposed.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs because governmental and non-profit organizations have the option, but not requirement, to become T-CCBHCs. Thus, no organization is required to comply with the rule because the organization may choose not to become T-CCBHC certified. Individuals and for-profit organizations are not eligible for T-CCBHC certification.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R095" 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, and Texas Health and Safety Code §531.001 which provides HHSC with authority to oversee community mental health services.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code §531.001.

§306.101. Purpose.

This ~~[The purpose of this]~~ subchapter explains ~~[is to describe]~~ the process and requirements for an applicant to be certified ~~[by the Texas Health and Human Services Commission]~~ as a Texas Certified Community Behavioral Health Clinic ~~by the Texas Health and Human Services Commission~~.

§306.103. Application.

This ~~[The provisions of this]~~ subchapter applies to an applicant and a Texas Certified Community Behavioral Health Clinic as these terms are ~~[apply to applicants]~~ defined in §306.105 of this subchapter (relating to Definitions).

§306.105. Definitions.

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

(1) Applicant--An entity applying or reapplying for certification as a Texas Certified Community Behavioral Health Clinic (T-CCBHC).

(2) Application--A form that an applicant submits to the Texas Health and Human Services Commission to apply for or renew the applicant's [form submitted by an applicant for T-CCBHC] certification as a T-CCBHC [and recertification].

(3) Community needs assessment--A method to identify the needs of the community and to describe how the applicant can meet those needs [systematic approach to identifying community needs and

determining program capacity to address the needs of the population being served]. This [The needs] assessment is objective and includes feedback [input] from people receiving services, program staff, and other key community members [stakeholders].

(4) Crisis stabilization--Services to address a mental health or substance use crisis~~;~~ including suicide crisis response and services capable of addressing crises related to substance use].

(5) Family-centered--A way to plan, deliver, and evaluate services that involves participation between families, caregivers, and professionals [Developmentally appropriate and youth guided care that recognizes active participation between families and caregivers and professionals as a cornerstone to the planning, delivery, and evaluation of services].

(6) Governmental entity--A state agency or a political subdivision of Texas [the state], such as a city, county, hospital district, hospital authority, or state entity.

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

(8) LBHA--Local behavioral health authority. An entity designated [as the local behavioral health authority] by HHSC under Texas [in accordance with] Health and Safety Code [;] §533.0356(a) as the local behavioral health authority.

(9) LMHA--Local mental health authority. An entity designated [as the local mental health authority] by HHSC under Texas [in accordance with] Health and Safety Code [;] §533.035(a) as the local mental health authority.

(10) Outpatient mental health treatment services--Mental health services a T-CCBHC directly provides to adults and youth consisting of:

(A) medication management or physician evaluation and medication services;

(B) individual counseling or psychotherapy;

(C) group counseling or psychotherapy; and

(D) family counseling or psychotherapy.

(11) Outpatient substance use treatment services--Substance use treatment services a T-CCBHC directly provides to adults and youth consisting of:

(A) individual substance use counseling;

(B) group substance use counseling; and

(C) substance use education services.

(12) ~~[(10)]~~ Person--An individual receiving services under this subchapter.

(13) ~~[(11)]~~ Person-centered--Approaches that focus on a person's strengths and personal goals giving the person the chance to improve their quality of life, make choices, and have control. This method helps a person explore the person's preferences, needs, and wants while addressing medical and non-medical needs to support the person in reaching the person's full potential. [Care that is strengths-based, trauma informed, and focuses on individual capacities, preferences, and goals that gives the person the opportunity to optimize their self-defined quality of life, choice, control, and self-determination through meaningful exploration and discovery of unique preferences, needs, and wants while ensuring medical and non-medical needs are met via means that are exclusively for the benefit of the person and supports them to reach their full potential.]

(14) [(42)] T-CCBHC--Texas Certified Community Behavioral Health Clinic. An entity HHSC certifies under [certified in accordance with] this subchapter.

§306.107. Certification Eligibility.

An applicant must meet the criteria in this section for certification.

(1) Staffing requirements.

(A) Staffing plans must reflect the findings of the applicant's community needs assessment.

(B) The applicant's staff [Staff] members must have [;] and be current [currently active] with [;] all necessary [state-required] licenses and accreditations required by the state to provide the [to deliver] required services.

(C) Staff members must be trained to serve the needs of the clinic's patients [patient population] as identified through the community needs assessment and in compliance with Section 223(a)(2)(A) of the Protecting Access to Medicare Act of 2014.

(D) Staff must be trained in a person-centered and family-centered approach.

(2) Availability and accessibility of services.

(A) An applicant may not refuse [The applicant cannot deny] or limit services if a person cannot [based on a person's inability to] pay for the services.

(B) An applicant may not refuse or limit services to any person in the local service area based on where the person lives, the person's housing situation, or if the person does not have a permanent address. An applicant may coordinate care and transfer services to an appropriate provider for a person who lives outside the applicant's local service area.

(3) Care coordination.

(A) An [The] applicant must coordinate care across settings and providers to make sure that [ensure seamless] transitions are seamless for a person receiving [for the person across the full spectrum of] health services [including acute, chronic, and behavioral health].

(B) A [The] T-CCBHC must have:

(i) a health information technology system that includes an electronic health record; and [must have]

(ii) a plan [in place] focusing on ways to improve care coordination using health information technology.

(4) Scope of services.

(A) An [The] applicant must directly provide [or, with HHSC approval, arrange for the provision of] the following services:

(i) crisis [mental health] services, including:

(I) 24-hour mobile crisis outreach services, except as required under subparagraph (D) of this paragraph;

(II) crisis intervention services; [;] and

(III) crisis stabilization services [safety monitoring];

(ii) mental health and substance use screening, assessment, and diagnosis, including risk assessment for possible harm to self or others;

(iii) person-centered treatment planning, and family-centered treatment planning, when appropriate [or similar processes, including risk assessment and crisis planning]; and

(iv) outpatient mental health treatment services and outpatient substance use treatment services. [;]

(B) An applicant must provide the following services either directly or by agreement with another entity:

(i) [(v)] outpatient [clinic] primary care screening and monitoring of [key] health indicators and health risks [risk];

(ii) [(vi)] mental health targeted case management as defined in 1 TAC [Texas Administrative Code, Title 4, Part 45;] §353.1403 (relating to Definitions);

(iii) mental health rehabilitative services as defined in 1 TAC §353.1403;

[(vii) psychiatric rehabilitation services;]

(iv) [(viii)] peer specialist services, as defined in 1 TAC §354.3013 (relating to Services Provided), and family partner supports; and

(v) [(ix)] [intensive,] community-based mental health and substance use care for members of the armed forces and veterans.

[(B) Crisis mental health services must be provided regardless of a person's place of residence, homelessness, or lack of a permanent address.]

(C) A T-CCBHC that is not an LMHA or LBHA must make an agreement with an LMHA or LBHA in the applicant's local service area to provide mobile crisis outreach services. This agreement must include shared protocols for coordination. HHSC may grant permission for a T-CCBHC to provide mobile crisis outreach services directly if the T-CCBHC has a dedicated, long-term funding source that is not time limited, and a government entity oversees the mobile crisis outreach services.

(5) Quality and other reporting.

(A) A T-CCBHC must report encounter data, clinical outcomes data, quality data, and other data that HHSC may request [requests].

(B) A T-CCBHC must have health information technology systems that allow reporting on data and quality measures.

(6) Organizational authority.

(A) An [The] applicant must be:

(i) a non-profit or governmental entity; [or]

(ii) an entity operated under the authority of the Indian Health Service, an Indian tribe, or tribal organization, pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act and Education Act (25 U.S.C 5301, *et seq.*); [(25 U.S.C. 450 *et seq.*);] or

(iii) an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act (25 U.S.C 1601, *et seq.*) [(25 U.S.C. 1604 *et seq.*)].

(B) An [The] applicant must operate [be operational] as an entity listed under subparagraph (A) of this paragraph for at least [a minimum of] two years in Texas before applying for T-CCBHC certification.

(C) An [The] applicant's T-CCBHC must have a governing board. [The governing board must:]

(i) The governing board must:

(I) [(i)] have [be comprised of] at least 51 per-cent of its members be [families, consumers, and] people with lived experience of a mental health or substance use need or family mem-bers of people receiving [in recovery from] behavioral health services [conditions]; or

(II) [(ii)] create [establish] an advisory commit-tee that meets the requirements of subclause (I) [clause (i)] of this clause that gives feedback [subparagraph and provides meaningful in-put] to the governing board about the T-CCBHC's: [policies, processes, and services-]

- (-a-) community needs;
- (-b-) goals and objectives;
- (-c-) service development;
- (-d-) quality improvement and activities;
- (-e-) fiscal and budgetary priorities; and
- (-f-) governance.

(ii) The governing board must consider feedback provided by an advisory committee described in clause (i)(II) of this subparagraph in its decision-making processes.

(D) An applicant must:

- (i) be enrolled as a Medicaid provider;
- (ii) be credentialed and contracted with at least one managed care organization; and
- (iii) have a Chemical Dependency Treatment Facil-ity license under Chapter 564 of this title (relating to Chemical De-pendency Treatment Facilities) to deliver adult and youth outpatient substance use treatment.

§306.109. Application Process.

[(a)] To [An applicant must submit a completed HHSC appli-cation to] be considered for certification or recertification, an applicant must fill out and submit a complete application by using the applica-tion [using application information] and instructions [provided] on the HHSC website.

[(b)] HHSC prioritizes review and approval of LMHA and LBHA T-CCBHC applications as appropriate-]

(1) [(e)] HHSC reviews an application based on the certi-fication [in accordance with the T-CCBHC] eligibility requirements in §306.107 of this subchapter (relating to Certification Eligibility) and may deny an application for certification for good cause, including if:

(A) [(1)] the application is missing any required infor-mation; [the application is incomplete in any aspect;]

(B) [(2)] the applicant did not submit the application following HHSC's application instructions or published notice; [the ap-plication is not submitted in accordance with HHSC's application in-structions or published notice;]

(C) [(3)] the application has [contains] false infor-mation;

(D) [(4)] HHSC, any other agency in Texas or in another state, or federal agency has terminated the applicant's contract, license [license], or certification for cause within [at any point in] the four [three] years before the date the applicant submitted [preceding] the application [submission date];

(E) [(5)] the applicant is excluded or debarred from con-tracting with the State of Texas or the federal government;

(F) [(6)] the applicant has an outstanding Medicaid pro-gram audit exception or other unresolved financial liability owed to the State of Texas; or

[(7) the applicant is ineligible to enroll as a Medicaid provider for reasons relating to criminal history records as set forth in state rules; or]

(G) [(8)] the applicant terminated a provider agreement in a "federal health care program," [federal health care program] as defined in 42 U.S.C §1320a-7b(f) [42 U.S.C. §1302a-7b(f)], while an adverse action or sanction was in effect.

(2) HHSC gives priority to reviewing and approving appli-cations from LMHAs and LBHAs when appropriate.

(3) If an applicant does not meet all eligibility requirements listed on the application, HHSC considers the applicant ineligible and denies the application. The applicant can apply again by submitting a new application to HHSC after the date HHSC denies the application.

(4) [(d)] If an applicant meets all eligibility requirements listed on the application, the [An] applicant must submit supporting documentation and participate in interviews, as requested by HHSC, [conducted interviews] to confirm the applicant meets each certification criterion in §306.107 of this subchapter.

(5) [(e)] The applicant must submit the [Applicants must submit appropriate documentation in response to no more than two requests from HHSC for supplemental] information to HHSC within a timeframe agreed on [upon] by the applicant and HHSC. The time-frame agreed on may not be more than [not to exceed] 60 calendar days after [from] the date HHSC requests the information [of HHSC's first request].

§306.111. Certification Standards.

(a) To keep [In order to maintain] certification, a T-CCBHC [T-CCBHCs] must work [coordinate] with other T-CCBHCs [that deli-ver services] in the same geographic service area to make sure they do [ensure services are] not duplicate services [duplicated] for people who receive [persons receiving] services from more than one T-CCBHC.

(b) A T-CCBHC must keep [certification does not replace Texas regulations regarding provision of services or contract re-quirements. T-CCBHCs must maintain] all required licenses during [throughout] the certification period. If any required licenses are revoked and [Any regulatory license revocations, of either facility or professional licenses, that result in] a T-CCBHC is [being] unable to operate in [within the State of] Texas, the certification will be void [preclude the T-CCBHC from continuing as certified].

(c) T-CCBHC certification is approved for four [three] years, subject to the limits [parameters] outlined in §306.109(1) [§306.109(e)] of this subchapter (relating to Application Process).

(d) A T-CCBHC [T-CCBHCs] may reapply for certification if eligible as outlined in [accordance with] §306.109 of this subchapter.

(e) To prevent a gap [ensure prevention of a lapse] in certifica-tion, a T-CCBHC [T-CCBHCs] must submit an application, as defined in §306.105(2) of this subchapter (relating to Definitions), to be con-sidered for recertification. A T-CCBHC [Applications] must submit an application between [be submitted no earlier than] 180 calendar days and [before the expiration of certification, but not later than] 60 calen-dar days before the date the current [expiration of] certification expires.

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504171

Karen Ray
Chief Counsel
Health and Human Services Commission
Earliest possible date of adoption: December 28, 2025
For further information, please call: (512) 458-0775

