

# 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 7. BANKING AND SECURITIES

### PART 6. CREDIT UNION DEPARTMENT

#### CHAPTER 91. CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

#### SUBCHAPTER D. POWERS OF CREDIT UNIONS

##### 7 TAC §91.401

The Credit Union Commission proposes amendments to §91.401, Credit Union Ownership of Property.

##### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, would simplify the definition of "premises," delete references to terms that were removed from the rule with the 2015 amendments, change the time for a credit union investing in property to put it into service for credit union business to six years and create a process for requesting an extension of time for consistency with the NCUA regulation, and make organizational and other non-substantive changes for improved readability.

**COST TO REGULATED PERSONS.** This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

**GOVERNMENT GROWTH IMPACT STATEMENT.** In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rule as amended will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

**ENVIRONMENTAL RULE ANALYSIS.** The proposed rule is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

**FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS.** Mike Riepen, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

**PUBLIC BENEFIT/COST NOTE.** Mr. Riepen has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is increased clarity and readability of the rule. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

**IMPACT ON LOCAL EMPLOYMENT OR ECONOMY.** There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES.** Mr. Riepen has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

**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 his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation

of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@ cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

**STATUTORY AUTHORITY.** The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code Sections 124.351.

**STATUTORY SECTIONS AFFECTED.** The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically Finance Code Section 124.351.

*§91.401. Credit Union Ownership of Property.*

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

[(1) Equipment includes all movable furniture, fixtures, and equipment of the credit union, its branch offices, and consolidated credit union service organizations, including automobiles and other vehicles, and any lien on the above.]

(1) [(2)] Immediate family member--a spouse or other family member living in the same household.

(2) [(3)] Premises--any real property where the credit union transacts or will transact business. [include the cost less accumulated depreciation, of land and buildings actually owned and occupied (or to be occupied) by the credit union, its branch offices, and consolidated credit union service organizations. This includes vaults, fixed machinery, parking facilities, and real estate acquired and intended, in good faith, for future expansion. It also includes capitalized leases, leasehold improvements, and remodeling costs to existing premises.]

(3) [(4)] Senior management employee [Management Employee]--the chief executive officer, any assistant chief executive officers (e.g. vice presidents and above) and the chief financial officer.

(b) Restrictions on Ownership of Property. A credit union shall not acquire real property for any purpose other than majority use as premises.

(1) A credit union investing in real property, including a leasehold interest therein, with a good faith intention to use it in future expansion must put the majority of each property into service for credit union business within six years after making the investment.

(2) The Commissioner may extend the six-year period in paragraph (1) of this subsection. To seek an extension, a credit union must submit a written request and fully explain why it needs the extension. The Commissioner will approve or disapprove the request in writing based on safety and soundness considerations.

(c) [(b)] Investment Limitations on Premises. Without the prior written consent of the Department, a credit union may not directly or indirectly invest an amount in excess of its net worth in premises. In support of an application for approval of an additional investment in premises, a credit union shall submit such statements and reports as the Department requires.

(1) When analyzing an application for an additional investment in credit union premises, the Department will consider:

(A) consistency with safe and sound credit union practices;

(B) the reasonableness of the amount of credit union premises and the annual expenditures required to carry them relative to the credit union's net worth and the nature and volume of operations; and

(C) the effect of the investment on future earnings.

(2) The Department will consider denying a request for an additional investment in credit union premises when:

(A) the additional investment would have a material negative effect on the credit union's earnings, capital, or liquidity; or

(B) the credit union has not demonstrated a reasonable need for the additional investment.

(3) The Department may impose appropriate special conditions for an approval of an additional credit union premises investment if it determines that they are necessary or appropriate to protect the safety and soundness of the credit union or to further other supervisory or policy considerations.

[(e) Restrictions on Ownership of Property. A credit union shall not acquire premises for the principal purpose of engaging in real estate rentals or speculation.]

(d) Transactions with insiders.

(1) Without the prior approval of a disinterested majority of the board of directors recorded in the minutes or, if a disinterested majority cannot be obtained, the prior written approval of the commissioner, a credit union may not directly or indirectly:

(A) [(4)] sell or lease an asset of the credit union to a director, committee member, or senior management employee, or immediate family member [members] of such individual; or

(B) [(2)] purchase or lease an asset in which a director, committee member, senior management employee, or immediate family member [members] of such individual has an interest.

(2) All transactions with family members not defined as immediate family members in subsection (a)(1) of this section must be conducted at arm's length and in the interest of the credit union.

[(e) Use requirement for premises. If real property or leasehold interest is acquired and intended, in good faith, for use in future expansion, the credit union must partially satisfy the "primarily for its own use in conducting business" requirement within five years after the credit union makes the investment.]

[(f) Consent to Exceed Limitation. Generally, a credit union need not obtain the Department's approval to invest in premises. However, prior approval is required if the total aggregate investment in premises will exceed the credit union's net worth. A credit union shall submit such statements and reports as the Department may require in support of the higher investment limit.]

[(1) When analyzing an application for an additional investment in credit union premises, the Department will consider:]

[(A) Consistency with safe and sound credit union practices;]

[(B) The reasonableness of the amount of credit union premises and the annual expenditures required to carry them relative to

the credit union's net worth and the nature and volume of operations; and]

[(C) The effect of the investment on future earnings.]

[(2) The Department will consider denying a request for an additional investment in credit union premises when:]

[(A) The additional investment would have a material negative effect on the credit union's earnings, capital, or liquidity; or]

[(B) The credit union has not demonstrated a reasonable need for the additional investment.]

[(3) The Department may impose appropriate special conditions for an approval of an additional credit union premises investment, if it determines that they are necessary or appropriate to protect the safety and soundness of the credit union or to further other supervisory or policy considerations.]

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 December 5, 2025.

TRD-202504437

Mike Riepen

Commissioner

Credit Union Department

Earliest possible date of adoption: January 18, 2026

For further information, please call: (512) 837-9236



## TITLE 16. ECONOMIC REGULATION

### PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

#### CHAPTER 84. DRIVER EDUCATION AND SAFETY

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; Subchapter M, §84.500 and §84.504; Subchapter N, §84.600; and the Program Guides, regarding the Driver Education and Safety (DES) program. These proposed changes are referred to as "proposed rules."

##### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed rules under 16 TAC, Chapter 84, implement Senate Bill (SB) 1366, 89th Legislature, Regular Session (2025), and Texas Education Code, Chapter 1001, Driver and Traffic Safety Education.

The proposed rules are necessary to address the Legislature's driver training instruction changes for the implementation of SB 1366 for the DES program, which mandates that driver training course curriculum includes information relating to the dangers and penalties associated with violating traffic laws in construction and maintenance work zones. The DES Program Guides were amended to May 2026 to reflect the changes mandated by SB 1366 as well. The Program Guides will be published separately in the "In Addition" section of the *Texas Register*.

## ADVISORY BOARD RECOMMENDATIONS

The proposed rules were presented to and discussed by the Driver Training and Traffic Safety Advisory Board at its meeting on November 12, 2025. The Advisory Board did not make any changes to the proposed rules. The Advisory Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

## SECTION-BY-SECTION SUMMARY

The proposed rules amend §84.3, Materials Adopted by Reference, to reflect the change in the new edition dates for the DES Program Guides to "May 2026 Edition".

The proposed rules amend §84.500, Courses of Instruction for Driver Education Providers, to include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as bodily injury, death, and property damage associated with the violation of traffic laws in construction and maintenance work zones be included in driver education course curriculum.

The proposed rules amend §84.504, Driving Safety Courses of Instruction, to include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as bodily injury, death, and property damage associated with the violation of traffic laws in construction and maintenance work zones be included in driving safety course curriculum.

The proposed rules amend §84.600, Program of Organized Instruction, to: (1) clarify that the educational objectives in §84.500 (Courses of Instruction for Driver Education Providers), and the Program Guides apply to exempt entities such as public schools, educational service centers, colleges and universities in their instruction; and (2) include, consistent with SB 1366, that information related to penalties, fines, and inherent dangers such as bodily injury, death, and property damage associated with violation of traffic laws in construction and maintenance work zones be included in their driver education course curriculum.

## FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Senior Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

## LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

## PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be that drivers will be made more aware of the dangers associated with violating traffic laws in construction or maintenance work zones, and the penalties for certain offenses committed in a construction or maintenance work zone. The proposed rules also align the educational objectives for driver training and driving safety courses with SB 1366, and the DES Program Guides to include all required topics.

## PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

All driver training school courses of instruction will have to be altered as to time and content to include information relating to construction or maintenance work zones. Changing the content of their courses could result in a small cost to some providers, but these costs are anticipated to be minimal, if any.

## FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

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

## ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

## GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules expand, limit, or repeal an existing regulation.

The proposed rules expand an existing regulation by adding a new educational objective for driver education and driving safety courses by requiring the inclusion of information relating to construction or maintenance work zones.

7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

## TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules, and the proposed rules 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 rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

## PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at [https://ga.tdlr.texas.gov:1443/form/DES\\_Rule\\_Making](https://ga.tdlr.texas.gov:1443/form/DES_Rule_Making); by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

## SUBCHAPTER A. GENERAL PROVISIONS

### 16 TAC §84.3

#### STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

#### §84.3. *Materials Adopted by Reference.*

(a) The minimum requirements for course content, classroom instruction, in-car, simulation, and range training required by this chapter for a minor and adult driver education course are the standards established in the Program of Organized Instruction in Driver Education and Traffic Safety (POI-DE), May 2026 [~~December 2024~~] Edition, created and distributed by the department, which is adopted into these rules by reference.

(b) The minimum requirements for course content and instruction for a driver education course exclusively for adults are the standards established in the Program of Organized Instruction in Driver Education and Traffic Safety Exclusively for Adults Six-Hour Course (POI-Adult Six-Hour), May 2026 [~~December 2024~~] Edition, created and distributed by the department, which is adopted into these rules by reference.

(c) The minimum requirements for course content and instruction for a driving safety course are the standards established in

the Course of Organized Instruction for Driving Safety, (COI-Driving Safety), May 2026 [December 2024] Edition, created and distributed by the department, which is adopted into these rules by reference.

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 December 8, 2025.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-7750



## SUBCHAPTER M. CURRICULUM AND ALTERNATIVE METHODS OF INSTRUCTION

### 16 TAC §84.500, §84.504

#### STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

#### *§84.500. Courses of Instruction for Driver Education Providers.*

(a) The educational objectives of driver training courses must include promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of driver education and citizens; instruction on law enforcement procedures for traffic stops; human trafficking prevention; litter prevention; anatomical gifts; leaving children in vehicles unattended; distractions; motorcycle awareness; recreational water safety; information relating to the Texas Driving with Disabilities Program; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and consequences of street racing; alcohol awareness and its effect on motor vehicle operation; reducing traffic violations, injuries, deaths, and economic losses; proper child passenger safety seat system use; information relating to penalties, fines, and inherent dangers such as bodily injury, death, and property damage in construction and maintenance work zones; and instilling safe driving habits through education, including Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.

{(a) The educational objectives of driver training courses must include, but not be limited to, promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of driver education and citizens; instruction on law enforcement procedures for traffic stops in accordance with provisions of the Community Safety

Education Act; information relating to human trafficking prevention in accordance with the provisions of the Julia Wells Act (Senate Bill 1831, Section 3, 87th Regular Legislature (2021)); information relating to the Texas Driving with Disabilities Program (Senate Bill 2304, 88th Regular Legislature (2023)); litter prevention; anatomical gifts; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and consequences of street racing; leaving children in vehicles unattended; distractions; motorcycle awareness; alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle; recreational water safety; reducing traffic violations, injuries, deaths, and economic losses; the proper use of child passenger safety seat systems; and motivating development of traffic-related competencies through education, including, but not limited to, Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.}]

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

#### *§84.504. Driving Safety Courses of Instruction.*

This section contains requirements for traditional classroom driving safety courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Courses of instruction must not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course must be submitted by the driving safety provider and approved prior to being offered.

##### (1) Driving safety courses.

(A) Educational objectives. The educational objectives of driving safety courses must include promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; instruction on law enforcement procedures for traffic stops; human trafficking prevention; litter prevention; anatomical gifts; leaving children in vehicles unattended; distractions; motorcycle awareness; information relating to the Texas Driving with Disabilities Program; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and consequences of street racing; alcohol awareness and its effect on motor vehicle operation; reducing traffic violations, injuries, deaths, and economic losses; proper child passenger safety seat system use; information relating to penalties, fines, and inherent dangers such as bodily injury, death, and property damage in construction and maintenance work zones; and instilling safe driving habits through education, including Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.

{(A) Educational objectives. The educational objectives of driving safety courses must include, but not be limited to, promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; information relating to human trafficking prevention in accordance with the provisions of the Julia Wells Act (Senate Bill 1831, Section 3, 87th Regular Legislature (2021)); information relating to the Texas Driving with Disabilities Program (Senate Bill 2304, 88th Regular Legislature (2023)); implementation of law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act; the proper use of child passenger safety seat systems; safely operating a vehicle near oversize or overweight vehicles; the passing of certain vehicles as described in Transportation Code §545.157; the dangers and consequences of street racing; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating continuing development of traffic-related competencies.}]

(B) - (H) (No change.)

(2) (No change.)

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

Filed with the Office of the Secretary of State on December 8, 2025.

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Doug Jennings  
General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-7750



## SUBCHAPTER N. PROGRAM INSTRUCTION FOR PUBLIC SCHOOLS, EDUCATION SERVICE CENTERS, AND COLLEGES OR UNIVERSITIES COURSE REQUIREMENTS

### 16 TAC §84.600

#### STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is Senate Bill 1366, 89th Legislature, Regular Session (2025).

§84.600. *Program of Organized Instruction.*

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

(c) Course content, minimum instruction requirements, and administrative guidelines for each phase of driver education classroom instruction, in-car training (behind-the-wheel and observation), simulation, and multicar range must include the instructional objectives established by the department, as specified in §84.500 (relating to Courses of Instruction for Driver Education Providers), this subsection and the POI-DE, and meet the requirements of this subchapter. Sample instructional modules may be obtained from the department. Schools may use sample instructional modules developed by the department or develop their own instructional modules based on the approved instructional objectives. The instructional objectives are organized into the modules outlined in this subsection and include objectives for classroom and in-car training (behind-the-wheel and observation), simulation lessons, parental involvement activities, and evaluation techniques. [In addition, the instructional objectives that must be provided to every student enrolled in a minor and adult driver education course include information relating to litter prevention; anatomical gifts; safely operating a vehicle near oversize or overweight vehicles; distractions, including the use of a wireless communication device that includes texting; motorcycle awareness; alcohol awareness and

the effect of alcohol on the effective operation of a motor vehicle; and recreational water safety.] A student may apply to the Texas Department of Public Safety (DPS) for a learner's license after completing six hours of instruction as specified in Module One of the POI-DE.

(d) - (j) (No change.)

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

Filed with the Office of the Secretary of State on December 8, 2025.

TRD-202504456

Doug Jennings  
General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: January 18, 2026

For further information, please call: (512) 463-7750



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER B. STATE REVIEW AND APPROVAL

##### 19 TAC §67.27

The State Board of Education (SBOE) proposes an amendment to §67.27, concerning eligibility and appointment of instructional materials review and approval (IMRA) reviewers. The proposed amendment would update the requirements for suitability reviewers and the process for the appointment and selection of suitability reviewers.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. House Bill 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised TEC, Chapter 31, including several provisions under SBOE authority.

The IMRA process requires the use of both quality and suitability reviewers. Dedicated suitability reviewers were introduced for the first time as part of IMRA Cycle 2025. The proposed amendment would incorporate feedback gathered during the first year of implementation. Certain language requirements for nominees would be added, and the process for reviewer selection would be clarified, specifically related to timelines.

The SBOE approved the proposed amendment for first reading and filing authorization at its November 21, 2025 meeting.

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

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by clarifying the requirements, timeline, and process for the appointment and selection of suitability reviewers.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Davis has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify the process for nomination and selection of suitability reviewers. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

**PUBLIC COMMENTS:** The SBOE requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins December 19, 2025, and ends at 5:00 p.m. on January 20, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2026 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on December 19, 2025.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §31.003(a), which permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials; TEC, §31.022, as amended by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023; and TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §31.003(a); and §31.022 and §31.023, as amended by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

*§67.27. IMRA Reviewers: Eligibility and Appointment.*

(a) All instructional materials review and approval (IMRA) reviewers must complete an application. The application will include a resume and supervisor, if applicable, or another reference contact information and must request any professional associations, affiliations, and groups in a format approved by the State Board of Education (SBOE) chair. SBOE members shall have access to all completed applications in their respective districts.

(b) The IMRA reviewer application shall be posted to the SBOE website.

(c) An IMRA reviewer may serve as a quality reviewer or as a suitability reviewer.

(d) Quality reviewers.

(1) IMRA quality reviewers must meet one of the following minimum qualification requirements:

(A) educators with three or more years of experience;

(B) district or campus personnel who have taught and/or directly supported the grade level(s) and subject area(s) or course(s) for at least three years;

(C) professors at an accredited institution of higher education in Texas with at least three years or more experience in the subject area(s) or courses; or

(D) persons with evidence of strong content knowledge and experience in the grade level(s) and subject area(s) or course(s).

(2) The Texas Education Agency (TEA) may reject a quality reviewer applicant if the candidate does not meet minimum eligibility as outlined in this section with approval of the SBOE member for which the applicant is a district resident. The member has one week to respond to TEA's decision. If the SBOE member approves applicants who were previously rejected by TEA, those applications shall be reinstated to the applicant pool to be rated.

(3) All eligible quality reviewer applicants shall be evaluated by TEA staff using the applicants' experience and qualifications rated on a scale of 1-3. The best qualified individuals are ranked 1.

(4) Once rated, all eligible quality reviewer applicants are shared with the SBOE member for which the applicant is a district resident.

(5) TEA staff provides all quality reviewer applicants and their applications to the SBOE member for which the applicant is a district resident, and the SBOE member may adjust rankings, veto applicants, and/or identify top candidates.

(6) The SBOE member has two weeks to return applicants and their rankings to TEA staff. If the SBOE member does not submit a response, TEA staff's ranking shall remain unchanged.

(7) IMRA quality reviewers must be approved by the SBOE member for which they are a district resident.

(8) If an individual invited to serve on a quality review panel declines the invitation, the relevant SBOE member will select an alternate from the list of candidates within one week. To the extent an SBOE member fails to select an alternate within one week, the top-ranked applicant is deemed selected.

(9) In the event TEA does not receive enough applications to fill available roles, TEA may:

(A) reduce the size of the review team to no fewer than three reviewers;

(B) postpone the review of materials using the SBOE-approved strategy for prioritizing selection of instructional materials for review; or

(C) modify the review schedule to allow for additional recruitment efforts.

(10) TEA staff shall build quality review panels using top candidates identified from each SBOE district. As final selections are made, TEA may consider the following characteristics to ensure that each individual review panel is balanced and has the necessary qualifications. The guidelines are established to ensure that the work groups are highly qualified, reflect the make-up of the state's educators, and include representation from the following.

(A) Experience: highly qualified educators and others with evidence of strong content knowledge and experience in the subject and/or grade level or bands and/or course(s).

(B) Position: a variety of positions reflected such as parents, classroom teachers, campus- and district-level administrators/specialists, education service center subject area personnel, representatives from higher education, and community members, including employers.

(C) School district size: large, midsize, and small school districts.

(D) Demographics: multiple and different racial and ethnic groups and males and females.

(E) School district/charter school: a variety of local education agencies are represented, including open-enrollment charter schools.

(F) Expertise: if a work group is assigned a grade band, at least one reviewer with experience teaching for each grade level will be prioritized.

(11) TEA staff shall maintain a database of individuals who have served on an IMRA review panel during the review process.

(12) Only if the SBOE member responds affirmatively to a request from TEA will an applicant be exempt from subsection (a) of this section, and only if the applicant has previously served as an IMRA quality reviewer in at least one of the prior two IMRA cycles and received an acceptable performance rating.

~~[(12) Applicants are exempt from subsection (a) of this section if they have previously served as an IMRA quality reviewer and received an acceptable performance rating; however, an SBOE member may waive this provision and require all applicants to resubmit their applications in accordance with subsection (a) of this section.]~~

(e) Suitability reviewers.

(1) Texas residency is a minimum requirement for any IMRA suitability reviewer.

(2) Each SBOE member shall annually nominate a minimum of 40 ~~[20]~~ applicants to serve as suitability reviewers and rank them from most preferred to least preferred.

(3) At least 20% of nominees must be fluent in the Spanish language and ranked separately from most preferred to least preferred.

(4) For the review of instructional materials for languages other than English, members must each nominate and rank at least five reviewers fluent in the languages to be reviewed.

(5) ~~[(3)]~~ A panel for suitability review consists of three reviewers and shall reflect the political affiliation of the membership of the SBOE. No more than one suitability reviewer per panel may be nominated by ~~[from]~~ any one SBOE member ~~[district]~~.

(6) ~~[(4)]~~ TEA staff shall build suitability review panels using top candidates identified from each SBOE district. As final selections are made, TEA may consider the following characteristics to ensure that each individual review panel is balanced and has the necessary qualifications.

(A) Experience: successful participation as a quality or suitability reviewer in a past review.

(B) Demographics: multiple and different racial and ethnic groups and males and females.

(7) ~~[(5)]~~ If an individual invited to serve on a review panel declines the invitation, TEA will then invite the next eligible reviewer from the SBOE member's list. [the relevant SBOE member will select an alternate from the list of candidates within one week. To the extent a member fails to select an alternate within one week, the top-ranked applicant is deemed selected.]

(8) ~~[(6)]~~ If there are not enough suitability reviewers available for a review cycle, TEA shall request more nominations from each SBOE member. To the extent a member fails to nominate additional candidates within one week of being notified by TEA, candidates from other SBOE member districts may be considered.

(9) If TEA still requires additional suitability candidates to complete the review after notifying SBOE members of the need for more nominations and fewer than 14 calendar days remain before the review begins, final reviewer selections shall be made in consultation with the SBOE chair to preserve SBOE authority.

(10) ~~[(7)]~~ If an SBOE member who nominated reviewers no longer holds the office before the start of the annual review, the new SBOE member may nominate different suitability reviewers or adjust their rankings. If the office is vacant, the SBOE chair may nominate different suitability reviewers or adjust their rankings.

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 December 8, 2025.





## CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) proposes new §§127.16, 127.752, 127.753, 127.756, and 127.757, concerning Texas Essential Knowledge and Skills (TEKS) for career development and career and technical education (CTE). The proposed new rules would add new TEKS developed by subject matter experts convened by the Texas State Technical College (TSTC) and Collin College that are needed for completion of career and technical education programs of study.

**BACKGROUND INFORMATION AND JUSTIFICATION:** In accordance with statutory requirements that the SBOE identify by rule the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

During the November 2022 meeting, the SBOE approved a timeline for the review of CTE courses for 2022-2025. Also at the meeting, the SBOE approved a specific process to be used in the review and revision of the CTE TEKS. The CTE-specific process largely follows the process for TEKS review for other subject areas but was adjusted to account for differences specific to CTE.

In 2023, CTE advisory committees convened to make recommendations for the review and refresh of programs of study as required by the Texas Perkins State Plan. Finalized programs of study were published in the fall of 2023 with an implementation date beginning in the 2024-2025 school year. CTE courses to be developed or revised to complete or update programs of study were determined.

At the April 2023 SBOE meeting, the board discussed and approved changes to the TEKS review process, including approving a process for selecting work group members. The changes were implemented beginning with the engineering TEKS review process in 2023. The SBOE completed the review of existing CTE TEKS, the development of new CTE TEKS, and the review of innovative courses to be approved as TEKS-based courses for new engineering programs of study with the adoption of new engineering CTE TEKS in April 2025.

At the April 2024 meeting, Texas Education Agency (TEA) staff shared an overview of additional, upcoming interrelated needs for TEKS review and revision and instructional materials review and approval (IMRA). Staff explained upcoming needs related to development and amendment of CTE courses, made recommendations for completing the work in batches, and recommended including CTE in the next three cycles of IMRA.

At the June 2024 meeting, the board considered next steps related to the adoption of CTE courses that are needed to complete programs of study and a schedule for future CTE TEKS re-

views. The SBOE approved recommendations that TEA present a set of innovative courses with minor edits for consideration for adoption as TEKS-based courses. Additionally, the SBOE authorized TEA to enter into interagency contracts with Collin College, TSTC, and Education Service Center (ESC) Region 4 to develop initial drafts of TEKS for additional CTE courses.

At the June 2025 meeting, the board approved for first reading and filing authorization proposed new TEKS for seven CTE courses developed through interagency contracts with TSTC and ESC Region 4 to complete programs of study in the Business, Marketing, and Finance; Health Science; and Manufacturing Career Clusters.

A discussion item regarding proposed new TEKS for additional CTE courses developed by subject matter experts from TSTC and Collin College through interagency contracts was presented to the SBOE Committee of the Full Board at the September 2025 SBOE meeting, and the subject matter experts were consulted to complete final recommendations for the proposed new courses.

The proposed new sections, which would be implemented in the 2026-2027 school year, would ensure the standards for these career clusters support relevant and meaningful programs of study.

The SBOE approved the proposed new sections for first reading and filing authorization at its November 21, 2025 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that for the first five years the proposal is in effect (2026-2030), there are no fiscal implications to the state. However, in fiscal year 2025 there was a cost to the state of approximately \$285,000 to secure contracts for the development of the proposed new CTE TEKS. In addition, there will be implications for TEA if the state develops professional development to help teachers and administrators understand the revised TEKS. Any professional development that is created would be based on whether TEA received an appropriation for professional development in the next biennium.

There may be fiscal implications for school districts and charter schools to implement the proposed new TEKS, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking

would be in effect, it would create new regulations by proposing new CTE TEKS required to be taught by school districts and charter schools offering the courses.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to add additional course options for students to support relevant and meaningful programs of study. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

**PUBLIC COMMENTS:** The SBOE requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins December 19, 2025, and ends at 5:00 p.m. on January 20, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2026 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on December 19, 2025.

## SUBCHAPTER B. HIGH SCHOOL

### 19 TAC §127.16

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(n), which allows the SBOE to develop by rule and implement a plan designed to incorporate foundation curriculum requirements into the career and technical education (CTE) curriculum required in TEC, §28.002; TEC, §28.002(o), which requires the SBOE to determine that at least 50% of the approved CTE courses are cost effective for a school district to implement; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum

requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002; and TEC, §28.025(b-17), which requires the SBOE to ensure by rule that a student may comply with curriculum requirements under TEC, §28.025(b-1)(6), by successfully completing an advanced CTE course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a) and (b-17).

*§127.16. Occupational Safety and Compliance Lab (One Credit), Adopted 2025.*

(a) **Implementation.** The provisions of this section may be implemented by school districts beginning with the 2026-2027 school year.

(b) **General requirements.** This course is recommended for students in Grades 10-12 as a corequisite course for students participating in a coherent sequence of career and technical education courses. This course must be taken concurrently with a corequisite course and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with the corequisite course to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(c) **Introduction.**

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The goal of the Occupational Safety and Compliance Lab is to provide an opportunity for students to develop safety awareness in conjunction with occupation-specific coursework. Students build a strong foundation in the occupational safety and compliance concepts that are critical to protecting individuals in the workplace, increasing safety and health, and reducing the occurrence of job-related injuries and fatalities.

(3) In Occupational Safety and Compliance Lab, students build foundational knowledge related to the fields of occupational safety, health, and compliance. Students learn about the Occupational Safety and Health Administration (OSHA), which is charged with the tasks of ensuring that employers provide a safe workplace that is free from recognized hazards, promote health and safety in the workplace, and reduce the occurrence of on-the-job injuries, illnesses, and fatalities. Students use safety resources and discover procedures for collaborating with business and industry regarding ways to increase employee safety and health.

(4) Successful completion of the standards may lead to a student earning a 10-hour or 30-hour general industry OSHA card. To earn the OSHA card, the content must be taught by an authorized OSHA outreach training program trainer.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations that foster leadership and career development in the profession.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) **Knowledge and skills.**

(1) The student understands career options and educational requirements in occupational safety and compliance. The student is expected to:

(A) describe the impact of internships, career development, and entrepreneurship opportunities in occupational safety and compliance;

(B) identify and analyze career advancement opportunities in occupational safety and compliance at various levels in an organization such as employee, supervisor, and manager; and

(C) identify and explain requirements to obtain professional credentials such as a Certified Safety Professional (CSP), Associate Safety Professional (ASP), Construction Health and Safety Technician (CHST), Occupational Hygiene and Safety Technician (OHST), Certified Hazardous Materials Manager (CHMM), Certified Environmental Manager (CEM), and Board of Certified Safety Professionals (BCSP) in the fields of occupational safety and health compliance.

(2) The student understands the legal responsibilities of work safety in a hazardous workplace. The student is expected to:

(A) explain and discuss responsibilities of workers and employers to promote safety and health in the workplace;

(B) explain the OSHA general duty clause and the rights of workers to a safe and healthy workplace;

(C) explain and discuss the importance of OSHA standards and requirements for organizations;

(D) explain the role of industrial hygiene in occupational health and safety and describe various types of industrial hygiene hazards, including physical, chemical, airborne, excessive noise, physiological, biological, and ergonomic hazards;

(E) identify types and explain appropriate use of personal protective equipment (PPE) used in industry;

(F) explain the importance of safe walking and working surfaces in the workplace and identify best practices for preventing or reducing slips, trips, and falls in the workplace;

(G) describe types of electrical hazards in the workplace and risks associated with these hazards;

(H) describe control methods to prevent electrical hazards in the workplace;

(I) analyze hazards of handling, storing, using, and transporting hazardous materials;

(J) identify and discuss ways to reduce exposure to hazardous materials in the workplace;

(K) identify workplace health and safety resources, including emergency plans and Safety Data Sheets (SDS);

(L) discuss how emergency plans and SDS are used to make decisions in the workplace;

(M) describe elements of a safety and health program, including management leadership, worker participation, and training;

(N) explain the purpose and importance of written emergency action and fire protection plans;

(O) describe key components of written emergency action and fire protection plans such as evacuation plans and emergency exit routes, list of fire hazards, and identification of emergency personnel;

(P) explain components of a hazard communication program; and

(Q) explain and give examples of safety and health training requirements specified by standard setting organizations such as American Conference of Governmental Industrial Hygienists (ACGIH), American National Standard Institute (ANSI), National Institute for Occupational Safety and Health (NIOSH), and Board of Certified Safety Professionals (BCSP).

(3) The student analyzes the federal and state agencies that create and enforce environmental laws. The student is expected to:

(A) identify the objectives of the U.S. Environmental Protection Agency (EPA);

(B) identify the objectives of the Texas Commission on Environmental Quality (TCEQ);

(C) describe how the EPA and the TCEQ monitor compliance and enforce regulations; and

(D) identify and describe federal environmental acts, including Endangered Species Act (ESA); Safe Drinking Water Act (SDWA); Resource Conservation and Recovery Act (RCRA); Toxic Substances Control Act (TSCA); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund); and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(4) The student investigates common safety measures and processes. The student is expected to:

(A) explain the significance of periodic and effective inspections for hazard control;

(B) describe the processes for reporting a hazard or accident to an immediate supervisor;

(C) explain the value of training programs that promote awareness of safety policies and procedures in the workplace;

(D) select appropriate PPE such as safety glasses, face shields, aprons, and gloves based on workplace requirements;

(E) summarize the purpose of protecting the body from industrial hazards, including eyes, face, head, feet, arms, hands, ears, and torso;

(F) identify and describe specific causes of an incident;

(G) explain the necessity of a comprehensive safety program;

(H) outline principles of housekeeping, including order and cleanliness; and

(I) describe how a disorganized workplace, litter, and debris can create unsafe conditions that lead to accidents and illness in the workplace.

(5) The student demonstrates knowledge of workplace security and violence prevention concepts. The student is expected to:

(A) identify and describe potential types of workplace security events;

(B) identify and describe strategies to enhance workplace security; and

(C) identify and describe strategies to prevent workplace violence.

(6) The student investigates the science of ergonomics in the workplace. The student is expected to:

(A) define ergonomics;

(B) explain how the science of ergonomics is used in various industries such as manufacturing, construction, medical, and energy;

(C) evaluate workplace tasks to identify potential ergonomic problems related to body positions, including posture and awkward positions, and body movements, including repetitive movement, applying extreme force, reaching, pushing, pulling, bending, and weightlifting;

(D) describe primary body systems impacted by ergonomics; and

(E) evaluate workplace conditions that can produce physical fatigue.

(7) The student recognizes and mitigates industrial hygiene and occupational health hazards that lead to injury and illness related to exposure in the workplace. The student is expected to:

(A) explain the role of industrial hygiene in occupational safety;

(B) describe the process to identify hazards using various methods, including reviewing chemical inventories and evaluating potential hazards associated with chemicals found in the workplace;

(C) identify and describe various categories of industrial hygiene hazards;

(D) compare various types of workplace hazards, including biological, chemical, ergonomic, and physical;

(E) identify categories of hazardous substances and describe short- and long-term health effects resulting from exposure to each hazardous substance;

(F) explain industrial hygiene and occupational exposures concepts, including acute and chronic exposures; and

(G) describe essential responsibilities of supervisors, managers, and safety personnel in the prevention of occupational hazards.

(8) The student demonstrates an understanding of hazardous materials safety and handling competencies. The student is expected to:

(A) describe the Occupational Safety Health Administration (OSHA) Hazard Communication Standard, including standards for hazard classification;

(B) interpret and analyze SDS and container labeling requirements;

(C) explain the purpose and importance of proper chemical storage;

(D) describe physical properties of hazardous materials;

(E) identify and describe ways in which hazardous materials enter the body;

(F) explain various strategies to protect from inhalation of harmful airborne substances; and

(G) discuss the significance of safety precautions when handling and using compressed gas in the workplace.

(9) The student evaluates hazard control functions in various occupational settings. The student is expected to:

(A) identify and describe steps to reduce noise exposure;

(B) explain the noise reduction rating (NRR) developed by the EPA;

(C) explain the purpose and importance of eye washes and emergency showers in the workplace;

(D) identify and describe possible hazards related to heating, ventilation, and air conditioning systems;

(E) identify and describe possible hazards related to indoor air quality, including ventilation and adequate air flow;

(F) identify steps to reduce hazards related to general machine guarding, power hand tools, and tool safety;

(G) identify and describe motor vehicle safety and security management techniques such as accident prevention strategies, driver training programs, and vehicle inspection protocols;

(H) describe steps to reduce hazards related to powered industrial trucks; and

(I) identify and describe possible hazards related to ladders and scaffolds.

(10) The student investigates fire safety and emergency management in occupational safety. The student is expected to:

(A) identify and describe proper storage techniques for flammable or combustible materials;

(B) identify and describe the importance of fire systems inspections, fire confinement, emergency exits, and emergency lighting;

(C) describe the importance and maintenance of portable fire extinguishers;

(D) differentiate between fire and combustion; and

(E) describe classes of fire related to the extinguishing agents.

(11) The student examines special hazard fire suppression systems. The student is expected to:

(A) describe characteristics of fixed wet and dry chemical extinguishing systems;

(B) describe physical characteristics of carbon dioxide, halogenated hydrocarbons, halocarbons, and inert gases in fire suppression systems;

(C) describe design goals for smoke and fire controls and the corresponding management systems; and

(D) explain fire extinguisher operation, inspection, testing, and maintenance procedures and proper use.

(12) The student examines how accidents impact the workplace. The student is expected to:

(A) evaluate the financial impact on an organization resulting from an accident;

(B) explain workplace accident legal compliance, including OSHA accident reporting, OSHA recordkeeping regulations, and worker's compensation claims; and

(C) identify and compare accident categories, including near miss, minor injury, major injury, and catastrophic injury.

(13) The student demonstrates an understanding of accident prevention and the principles of an effective corrective action plan. The student is expected to:

- (A) describe the purpose of corrective actions;
- (B) develop an effective corrective action plan for an organization; and
- (C) write a report documenting an accident.

(14) The student analyzes accidents and accident reports. The student is expected to:

- (A) explain common unsafe actions such as working at unsafe speeds or using unsafe tools;
- (B) describe human, job, and workplace factors that lead to accidents;
- (C) explain the importance of timely reporting workplace accidents;
- (D) complete a standard accident report form;
- (E) write an effective accident report, including a summary of an incident, findings, and recommendations, using factual communication;
- (F) identify and report causal factors of an accident; and
- (G) analyze accident reports of small damage and near misses and describe future prevention of major accidents.

(15) The student understands the process of accident investigations. The student is expected to:

- (A) identify and discuss the purpose and benefits of accident investigations in the workplace;
- (B) identify and discuss the role that workers, supervisors, managers, and safety personnel have in the accident investigation process; and
- (C) identify and describe the phases of an accident investigation.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



## SUBCHAPTER N. LAW AND PUBLIC SERVICE

### 19 TAC §§127.752, 127.753, 127.756, 127.757

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which

requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(n), which allows the SBOE to develop by rule and implement a plan designed to incorporate foundation curriculum requirements into the career and technical education (CTE) curriculum required in TEC, §28.002; TEC, §28.002(o), which requires the SBOE to determine that at least 50% of the approved CTE courses are cost effective for a school district to implement; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002; and TEC, §28.025(b-17), which requires the SBOE to ensure by rule that a student may comply with curriculum requirements under TEC, §28.025(b-1)(6), by successfully completing an advanced CTE course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a), (c), (n), and (o); and 28.025(a) and (b-17).

§127.752. Foundations of Fire Protection (One Credit), Adopted 2026.

#### (a) Implementation.

(1) The provisions of this section may be implemented by school districts beginning with the 2026-2027 school year.

(2) School districts shall implement the employability skills student expectations listed in §127.15(d)(1) of this chapter (relating to Career and Technical Education Employability Skills) as an integral part of this course.

(b) General requirements. This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of this course.

#### (c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Law and Public Service Career Cluster focuses on planning, managing, and providing legal services, public safety, protective services, and homeland security, including professional and technical support services.

(3) Foundations of Fire Protection provides students with an overview of opportunities and foundational knowledge and skills needed for careers in fire service. Students explore the history of fire science and structure of fire departments and are introduced to basic chemistry, physics, and classifications of fires; extinguishing methods; and firefighting equipment. Additionally, the course reviews employment requirements and certification processes for careers in fire science.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations that foster leadership and career development in the profession.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student examines the importance of developing specific, measurable, achievable, realistic, time-bound (SMART) goals and action plans that are aligned with physical ability, age, education, and certification requirements for fire service employment and career advancement. The student is expected to:

(A) identify and explain the process for developing a SMART goal, including identifying a specific goal, establishing measurable benchmarks for the goal, ensuring the goal is achievable and relevant to desired outcomes, and creating a realistic timeline to achieve the goal;

(B) explain benefits of identifying SMART goals, including process, outcome, and performance goals, for fire science professionals and how SMART goals can contribute to career advancement, performance improvement, and operational effectiveness; and

(C) describe tasks for creating an action plan to achieve a SMART goal, including clarifying the goal, brainstorming action steps, prioritizing tasks, setting timelines, anticipating obstacles, and monitoring progress.

(2) The student examines employment requirements for various fire service careers. The student is expected to:

(A) identify employment requirements and job roles and responsibilities for private sector fire service careers, including insurance investigators, fire alarm technicians, fire sprinkler contractors, wildland firefighters, fire protection engineers, refinery firefighters, and industrial firefighters;

(B) identify employment requirements and job roles and responsibilities for various municipal fire service careers, including firefighter, fire inspector, fire marshal, dispatcher, paramedic, emergency medical technician, and public education specialist;

(C) identify employment requirements and job roles and responsibilities for various State of Texas fire service careers, including state fire marshal, fire inspector, arson investigator, wildland firefighter, and education specialist;

(D) identify employment requirements and job roles and responsibilities for various federal fire service careers, including military firefighter, wildland firefighter, heavy equipment operator, fire and explosion investigator, and education specialist; and

(E) describe common employment processes used in selecting public sector firefighters, including applications, written tests, physical agility tests, psychological evaluations, background investigations, interview boards, and medical examinations.

(3) The student understands the role of the Texas Commission on Fire Protection (TCFP). The student is expected to:

(A) describe the firefighter certification process in Texas as required by the TCFP;

(B) differentiate between education, training, and certification requirements established by the TCFP; and

(C) explain the role of the TCFP in the firefighter certification process, including developing training standards, developing certification tests, administering tests, issuing certifications, auditing firefighter continuing education to maintain certification, auditing fire departments, certifying fire training facilities, and maintaining firefighter certification records.

(4) The student recognizes the different types of communication used within the fire service. The student is expected to explain

the five modes of communication used in the fire service, including face-to-face, written, radio, telephone, and electronic communication.

(5) The student understands the use of communication techniques to effectively engage with stakeholders. The student is expected to:

(A) explain and demonstrate key elements of adaptive communication, including active listening, interpersonal intelligence, communication style, and observational skills;

(B) analyze the importance of adaptive communication in the fire service to enhance communication with stakeholders;

(C) describe effective interpersonal skills that support effective teamwork in fire service, including active listening, time management, self-discipline, resilience, and interpersonal intelligence; and

(D) describe conflict resolution strategies, including avoiding, competing, accommodating, compromising, and collaborating, and how they may be applied in fire service team dynamics and operational settings.

(6) The student examines legal obligations and ethical behaviors associated with fire service careers. The student is expected to:

(A) discuss the impact of social media, peer influence, drug use, and criminal history on employability in fire science careers;

(B) identify and analyze the role of each of the four Texas State Fire Service agencies: Texas Commission on Fire Protection (TCFP); Texas State Fire Marshal's Office (SFMO); Texas A & M Forest Service (TFS); and Texas A & M Engineering Extension Service (TEEX);

(C) identify and compare professional codes of ethics relevant to fire service, including the Firefighter Code of Ethics developed by the National Society of Executive Fire Officers (NSEFO) and the Congressional Fire Services Institute (CFSI) and the International Association of Fire Chiefs (IAFC) Fire Service Code of Ethics;

(D) discuss how the legal concept of "Duty to Act" is applied in Texas and impacts fire service professionals; and

(E) describe the Texas Good Samaritan Act as defined in Texas Civil Practice and Remedies Code, §74.151, and explain its relevance to fire service professionals and civil liability protection.

(7) The student examines the evolution of the fire service and explains the impact of fire on the development of fire laws, codes, and standards. The student is expected to:

(A) summarize key milestones and technological advancements and how roles have evolved over time in fire science;

(B) differentiate between local, state, and federal fire laws; model codes; and National Fire Protection Association (NFPA) standards, and explain their roles in regulating fire service operations; and

(C) explain how fire losses have influenced the development of national building and fire codes and NFPA standards.

(8) The student examines firefighting apparatus, personal protective equipment (PPE), appliances, tools, and hoses used by various fire departments. The student is expected to:

(A) identify and describe different types of structural firefighting apparatus used by municipal fire departments, including fire engines, aerial ladder trucks, quint trucks, tiller trucks, and heavy rescue vehicles;

(B) identify and describe different types of wildland firefighting apparatus, including wildland engines, brush trucks, and water tenders;

(C) identify and describe different types of aircraft rescue firefighting apparatus, including rotary blade aircraft and fixed-wing aircraft;

(D) identify and describe structural, wildland, and aircraft firefighting PPE;

(E) identify and explain the purpose of common appliances used by structural firefighters, including wyes, water-thieves, Siamese valves, smooth-bore nozzles, different types of fog nozzles, and hydrant valves;

(F) identify and explain the purpose of common tools used by structural firefighters, including Halligan bars, axes, pike poles, ladders, hydrant wrenches, spanner wrenches, saws, and rescue tools;

(G) identify and explain the purpose of common tools used by wildland firefighters, including the McLeod tool, flapper, Pulaski tool, fire rake, and saws; and

(H) differentiate among various hoses used by structural and wildland firefighters.

(9) The student researches the Community Risk Reduction (CRR) process. The student is expected to:

(A) define CRR;

(B) describe how a Community Risk Assessment (CRA) impacts the development of a CRR plan;

(C) identify and explain the role of key CRR stakeholders, including the lead agency, CRR coordinator, planning group, risk manager, fire chief, and community leaders;

(D) describe the United States Fire Administration's 5 E's strategies for CRR, including education, engineering, enforcement, economic incentives, and emergency response; and

(E) explain how community, state, and federal governments use CRAs.

(10) The student researches the National Incident Management System (NIMS) and Incident Command System (ICS). The student is expected to:

(A) describe the purpose of NIMS, including common terminology, management by objectives, span of control, resource management, command structure, modular organization, incident action planning, integrated communications, and accountability; and

(B) identify and explain components of the ICS structure, including the Incident Commander (IC), finance, logistics, operations, planning, command posts, public information, liaison officers, safety officers, and emergency operations centers.

(11) The student examines common hierarchical structure of a fire department. The student is expected to:

(A) explain the concept of authority having jurisdiction (AHJ);

(B) describe the common hierarchical structure of a fire department; and

(C) describe the roles and responsibilities of the fire chief.

(12) The student examines various support functions within a fire department. The student is expected to:

(A) identify and describe support functions provided by the fire prevention division, including code enforcement, public education, cause and origin investigation, arson and explosion investigation, background investigation, internal affairs investigation, and public information;

(B) identify and describe support functions provided by fire service special operations teams, including hazardous materials response, high-angle rescue, swift water rescue, confined-space rescue, and urban search and rescue;

(C) identify and describe support functions provided by the fire training division, including recruiting, hiring, and training recruits for initial TCFP certification and providing continuing education training;

(D) identify and describe support functions provided by the equipment maintenance division, including vehicle repairs, service, and testing;

(E) describe the core responsibilities of 911 communication centers, including receiving emergency and non-emergency calls, dispatching response units, maintaining contact with dispatched units, and coordinating with other agencies; and

(F) describe the core responsibilities of the Office of Emergency Management.

(13) The student examines basic principles of fire science, including the chemistry and physics of combustion, methods of heat transfer, and stages of fire development. The student is expected to:

(A) define fire;

(B) identify and list the components of the fire triangle and fire tetrahedron;

(C) describe the physical characteristics of the three states of matter: solid, liquid, and gas;

(D) differentiate between an oxidizing agent and a fuel;

(E) explain the process of pyrolysis and its role in fire development;

(F) define the terms "fuel rich" and "fuel lean" in relation to the flammable range of a gas;

(G) analyze the difference between temperature and heat;

(H) differentiate between ignition temperature and flash point;

(I) define specific gravity and explain its relevance to fire suppression and hazardous materials;

(J) define vapor density and describe its significance in fire and hazardous materials incidents;

(K) describe the stages of fire development, including incipient, growth, free-burning, and decay;

(L) differentiate between flashover and backdraft; and

(M) explain the three primary methods of heat transfer (conduction, convection, and radiation), and describe the role of direct flame contact in fire spread.

(14) The student examines classifications of fire and extinguishing methods. The student is expected to:

(A) identify the five classifications of fire: Class A, B, C, D, and K; and

(B) describe various extinguishing methods for each classification of fire.

(15) The student researches basic components of a municipal water supply system. The student is expected to:

(A) identify the basic components of a municipal water supply system, including water sources, treatment facilities, elevated and in-ground storage tanks, pumps, distribution networks, and fire hydrants;

(B) identify various types of fire hydrants, including dry barrel hydrants and wet barrel hydrants; and

(C) explain the purpose of fire hydrant color coding.

§127.753. Crisis Care (One Credit), Adopted 2026.

(a) Implementation.

(1) The provisions of this section may be implemented by school districts beginning with the 2026-2027 school year.

(2) School districts shall implement the employability skills student expectations listed in §127.15(d)(2) of this chapter (relating to Career and Technical Education Employability Skills) as an integral part of this course.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: at least one credit in a course from the Law and Public Service Career Cluster. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Law and Public Service Career Cluster focuses on planning, managing, and providing legal services, public safety, protective services, and homeland security, including professional and technical support services.

(3) Crisis Care is designed for future first responders to build awareness, psychological preparedness, and resilience for times of personal or community crisis. Students explore various types of acute crises and examine appropriate crisis intervention techniques to assist in de-escalation and recovery. Additionally, students examine specialized crisis care teams and support agencies during emergencies and disasters.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations that foster leadership and career development in the profession.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student examines what constitutes a personal crisis and identifies warning signs of a personal crisis. The student is expected to:

(A) differentiate between a personal crisis, a problem, and an emergency;

(B) describe basic elements of a personal crisis, including a stressful situation, an individual's difficulty coping, and the timing of the intervention;

(C) examine factors that may lead to a personal crisis, including trauma, family conflict, financial instability, community issues, significant life events, and natural disasters;

(D) analyze impacts of various types of personal crises, including mental health, emotional, and trauma-related crises and physical emergencies;

(E) identify and describe warning signs of a personal crisis requiring immediate attention, including threats of physical harm, delusions, hallucinations, extreme withdrawal, not sleeping or eating for several days, verbal abuse, and physical abuse; and

(F) identify and describe indicators of a personal crisis that may require intervention, including expression of intense hopelessness or anger, eating or sleeping difficulties, neglect of personal hygiene, social isolation, and signs of depression, apathy, or anxiety.

(2) The student examines various interventions used to de-escalate a personal crisis. The student is expected to:

(A) explain the key principles of Psychological First Aid (PFA) and how these principles are used to reduce stress and aid in crisis recovery;

(B) describe grounding techniques used in crisis de-escalation, including breathing exercises, sensory awareness and touch, the 5-4-3-2-1 technique, and nature-based calming strategies;

(C) describe communication techniques used in crisis de-escalation, including focusing attention, displaying empathy, asking open-ended questions, reflecting feelings, and summarizing; and

(D) describe how body language, including having an open posture, open hands, or a Duchenne smile and adjusting proximity, influences crisis de-escalation.

(3) The student examines professional resources available to aid in crisis intervention. The student is expected to:

(A) identify the roles and services of local crisis intervention resources such as mental health providers, law enforcement, and community-based organizations;

(B) identify and describe crisis resources provided by the Texas Department of State Health Services (DSHS), including the Health and Human Services Commission (HHSC) Crisis Services Guide and Texans Recovering Together Crisis Counseling and Disaster Behavioral Health Services; and

(C) describe the role of national crisis intervention resources, including the 988 Suicide and Crisis Lifeline, Crisis Text Line, Disaster Distress Helpline (DDH), Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline, and National Alliance on Mental Illness (NAMI).

(4) The student evaluates the effects of acute and chronic exposure to traumatic events on the health and performance of first responders. The student is expected to:

(A) identify and describe potential warning signs of a mental health crisis in first responders, including emotional distress, behavioral changes, relationship strain, cognitive difficulty, and suicidal ideation;

(B) discuss and analyze potential psychological impacts to first responders, including post-traumatic stress disorder (PTSD), chronic stress, anxiety, depression, emotional numbing, and survivor guilt, after exposure to trauma;



(C) describe potential physical impacts to first responders, including burnout, sleep disturbances, fatigue, and a weakened immune system, after exposure to trauma;

(D) explain how trauma-related stress impacts interpersonal relationships and social functioning such as irritability, anger, mood swings, and emotional distancing;

(E) analyze how traumatic events can affect job performance, including impaired decision-making, compassion fatigue, absenteeism, and turnover; and

(F) discuss and analyze potential psychological impacts of a line of duty death (LODD) on first responders, including grief reactions, survivor guilt, intrusive memories, substance abuse, and other maladaptive coping behaviors.

(5) The student examines how public safety agencies use Critical Incident Stress Management (CISM) teams in supporting crisis interventions. The student is expected to:

(A) explain the use of Critical Incident Stress Debriefing (CISD) and critical incident stress defusing techniques in mitigating the impact of stress on first responders after traumatic events;

(B) describe the roles of CISM team members, including peer support personnel, clergy, and mental health professionals;

(C) evaluate the benefits of CISM teams within public safety professions, including psychological support, PTSD mitigation, provision of coping mechanisms, increased resilience, increased job satisfaction, reduced stigma, enhanced teamwork, enhanced communication, and increased confidence;

(D) describe common CISM interventions recognized by the National Fallen Firefighter Foundation (NFFF), including defusing, debriefing, peer counseling, individual crisis intervention, pre-incident briefing, and crisis management briefings; and

(E) explain the importance of supporting the needs of first responder families by demonstrating availability, providing timely support, offering assistance, and maintaining trust.

(6) The student examines the structure and function of a Local Assistance State Team (LAST) provided by NFFF in supporting crisis response. The student is expected to:

(A) describe the composition of a LAST, including mental health professionals, crisis responders, clergy, and survivors of suicide loss; and

(B) discuss and analyze the functions of a LAST, including supporting survivors, administering emotional first aid, providing resource information and referrals, and assisting in funeral planning.

(7) The student examines the role of chaplains within public safety agencies. The student is expected to:

(A) describe qualifications of a public safety agency chaplain, including training in crisis response, endorsement by a recognized religious organization, completion of chaplaincy certification programs, and experience in providing emotional and spiritual support in high-stress environments;

(B) identify and explain support services provided by first responder organizations such as the International Association of Fire Chiefs (IAFC), the Federation of Fire Chaplains (FFC), the International Association of Chiefs of Police (IACP), and the International Conference of Police Chaplains (ICPC);

(C) describe the different roles and responsibilities of public safety agency chaplains, including providing spiritual care to agency members, making hospital visits, and conducting weddings, funerals, and LODD ceremonies; and

(D) explain the role of chaplains during critical incidents or emergencies, including support for public safety agency members, members' families, victims' families, and the community.

(8) The student identifies and examines strategies used by first responders to build resilience and overcome challenges. The student is expected to:

(A) explain the concept of resilience and its role in coping with stress, trauma, and challenges in public safety professions;

(B) describe common characteristics of resilient individuals and evaluate the benefits of resilience for professional performance;

(C) identify internal factors, including mindset and self-awareness, that contribute to resilience;

(D) identify strategies to overcome challenges, including creating a support system, focusing on setting goals, and adapting to change;

(E) discuss how experiencing a crisis can present opportunities to problem-solve, including decision making, critical thinking, creativity, ethical reasoning, adaptability, and build resiliency;

(F) describe the stop, think, observe, and proceed (STOP) method of problem solving; and

(G) describe the identify, develop, evaluate, and assess (IDEA) method of problem-solving, including identifying the problem, developing possible solutions, evaluating options, and assessing the result.

§127.756. Disaster Response (One Credit), Adopted 2026.

(a) Implementation.

(1) The provisions of this section may be implemented by school districts beginning with the 2026-2027 school year.

(2) School districts shall implement the employability skills student expectations listed in §127.15(d)(1) of this chapter (relating to Career and Technical Education Employability Skills) as an integral part of this course.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Law, Public Safety, Corrections, and Security. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Law and Public Service Career Cluster focuses on planning, managing, and providing legal services, public safety, protective services, and homeland security, including professional and technical support services.

(3) Disaster Response includes basic training in disaster survival and rescue skills that improve the ability of citizens to survive until responders or other assistance arrives. Students receive education and training to make communities safer, stronger, and better prepared to respond to public health issues and threats of various disasters, terrorism, and crime.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations that foster leadership and career development in the profession.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student examines the functions of the community emergency response team (CERT) and the CERT's role during disasters. The student is expected to:

(A) analyze and compare roles and functions of CERT members before, during, and after a disaster;

(B) analyze how CERT members respond to various types of hazards commonly present in disasters, including their roles in mitigation, response, and recovery; and

(C) analyze state and local laws that protect first responders, including CERT members, during emergency operations.

(2) The student examines various disaster situations. The student is expected to:

(A) classify types of disasters, including man-made and natural; and

(B) identify common causes of disasters, including accidental causes, weather, and acts of human conflict, including domestic terrorism.

(3) The student researches disasters and associated hazard mitigation. The student is expected to:

(A) identify potential hazards associated with different types of disaster events;

(B) describe strategies used to manage hazards and reduce the impact of disasters; and

(C) summarize measures taken prior to a disaster, during the time of the disaster, and after the disaster occurs to mitigate hazards.

(4) The student develops a disaster and emergency preparedness (DEP) response plan. The student is expected to:

(A) develop a response plan and evacuation route in the case of a fire that includes a meeting location; and

(B) develop a response plan that includes a safe shelter location in the event of severe weather emergencies.

(5) The student examines disaster preparedness recommendations provided by various federal, state, and local agencies. The student is expected to:

(A) identify components of a first aid kit for home and vehicle use as recommended by organizations such as the American Red Cross or American Heart Association;

(B) identify essential tools and supplies for disaster supply kits as recommended by different agencies, including the Federal Emergency Management Agency (FEMA);

(C) identify appropriate food, water, kitchen items, clothing, bedding, documents, and contact numbers for inclusion in disaster kits, as recommended by FEMA and other agencies;

(D) simulate assisting first responders in fire safety, search and rescue, and disaster medical operations in accordance

with standard operating procedures outlined in sponsoring agencies' Emergency Operations Plans (EOPs); and

(E) identify fire safety components of disaster preparedness in the Volunteer Protection Act of 1997.

(6) The student demonstrates knowledge and skills related to fire safety to assist in disaster situations. The student is expected to:

(A) explain the role of CERT members in fire safety and conduct an assessment in response to a simulated fire emergency;

(B) explain safety precautions used in a disaster event, including a buddy system, backup teams, safety equipment, and utility controls;

(C) identify and predict locations of hazardous materials in residential and community settings; and

(D) define and explain the limit, isolate, eliminate, separate (LIES) method for reducing exposure to hazardous materials and potential harm.

(7) The student investigates fire chemistry and the application of fire chemistry in disasters. The student is expected to:

(A) explain how fires start and identify factors that perpetuate fires;

(B) identify the elements that are required for a fire;

(C) identify the fire hazards associated with ordinary combustibles, flammable and combustible liquids, energized electrical equipment, and combustible metals; and

(D) describe and differentiate between the classes of fires.

(8) The student recognizes common firefighting resources and fire suppression techniques. The student is expected to:

(A) identify fire containment techniques and methods used to restrict the spread of smoke and heat;

(B) compare types of fire accelerants and fuels;

(C) select appropriate firefighting resources to fight a fire based on fuel type or other contributing factors;

(D) explain the information commonly provided on fire extinguisher labels;

(E) identify types of fire extinguishers and the components of a portable fire extinguisher;

(F) simulate the use of a portable fire extinguisher using the pull, aim, squeeze, sweep (PASS) technique; and

(G) compare best practices for fire suppression based on local standard operating procedures and precautions.

(9) The student demonstrates knowledge of hazardous materials and related safety standards. The student is expected to:

(A) identify and evaluate the associated risks of characteristics of hazardous materials based on the type of material, including solids, pressurized substances, liquids, and gases;

(B) define and classify types of hazardous materials according to the National Fire Protection Association (NFPA) 704 standards;

(C) explain the NFPA 704 diamond placard used for hazardous material identification;

(D) explain the meaning of different hazardous material placard colors and how each color contributes to hazmat assessment during disaster response; and

(E) explain common acronyms and symbols used by the NFPA.

(10) The student explores first aid assessment and basic treatment techniques used in disaster response and emergency situations. The student is expected to:

(A) simulate the head tilt chin lift method to open an airway of a patient;

(B) identify the primary types of bleeding and main methods for controlling bleeding, including tourniquet application and wound packing;

(C) research and explain the physiological effects of shock on the human body;

(D) explain signs of shock, including clammy skin, rapid pulse, and nausea;

(E) simulate procedures for treating victims of shock;

(F) explain techniques for controlling symptoms of shock such as elevating the feet and covering the patient with a blanket;

(G) explain and demonstrate correct procedures for administering cardiopulmonary resuscitation (CPR); and

(H) explain and demonstrate correct procedures for using an automated external defibrillator (AED) during CPR.

(11) The student investigates how to maintain personal hygiene and sanitation in a disaster situation. The student is expected to:

(A) define and analyze steps to maintain proper hygiene during a disaster, including getting enough sleep, practicing dental care, bathing regularly, and washing hands frequently;

(B) explain how to dispose of bacterial sources and waste products during a disaster; and

(C) test or simulate the use of a water purification system.

(12) The student organizes and establishes disaster medical triage areas. The student is expected to:

(A) define and explain the concept of simple triage and rapid treatment (START) used to prioritize casualties in a disaster;

(B) explain major sub-functions of disaster medical operations, including triage, sanitation, and treatment areas;

(C) select and evaluate a designated triage area based on proximity to an incident;

(D) evaluate a designated triage area for accessibility by transportation vehicles and potential expansion;

(E) assign triage areas for immediate care, delayed care, and morgue operations; and

(F) develop a documentation protocol for triage victims that includes available identifying information, physical description, clothing, injuries, treatment provided, and transfer location.

(13) The student simulates a head-to-toe patient evaluation to identify and document injuries. The student is expected to:

(A) define and summarize indicators of injury observed during a head-to-toe assessment;

(B) distinguish between the severity of various injuries and the appropriate level of treatment needed;

(C) document patient injuries, including location and type of injuries; and

(D) describe common closed-head, neck, or spinal injuries.

(14) The student explores treatment techniques for injuries commonly encountered in disaster situations. The student is expected to:

(A) define terms related to the layers of skin;

(B) classify the severity of burns;

(C) define and identify methods for controlling bleeding and preventing secondary infection;

(D) simulate techniques used for cleaning wounds and the application of dressings and bandages while on an incident scene;

(E) identify treatment options and actions for managing a foreign object impaled in a patient's body; and

(F) define and demonstrate methods for immobilization of joints immediately above and below an injury.

(15) The student examines search and rescue operations. The student is expected to:

(A) assess a rescue scene and formulate a plan of action based on available information;

(B) explain safe techniques for debris removal and victim extrication from below ground entrapments;

(C) create a plan for assigning staff to perform tasks for debris removal and victim extrication;

(D) identify necessary materials for stabilizing various hazards on an accident scene;

(E) describe how to stabilize an object prior to lifting to ensure responder and victim safety; and

(F) simulate a lift to gain access to a victim and troubleshoot possible impediments.

(16) The student researches documentation required during a disaster response by CERT members. The student is expected to simulate the collection and recording of documentation on incident status, location, access routes, identified hazards, and support locations.

(17) The student examines rescuer safety during search and rescue operations. The student is expected to:

(A) classify response activities based on team capabilities and training levels and scope and type of incident;

(B) evaluate an accident scene involving a trapped victim to determine whether a rescue can be safely attempted;

(C) define and use common terminology that supports effective communication and shared understanding at a rescue site; and

(D) determine team member roles based on the scope of an incident, strategic planning, review of resources, and evaluation of actions and results.

(18) The student examines the psychological impact of a disaster on rescuers and victims and principles of psychological first aid. The student is expected to:

(A) describe appropriate communication techniques for crises and disaster response situations;

(B) explain and analyze the emotional responses that can follow a disaster;

(C) identify steps rescuers can take to reduce stressors on disaster survivors and rescuers;

(D) analyze psychological and physiological responses observed in rescuers after a disaster;

(E) describe potential emotional responses experienced by survivors and rescuers and explain emotional response mitigation strategies that aid first responders during an emergency; and

(F) explain goals of on-scene psychological intervention.

(19) The student discusses terrorism and its implications on CERT operations and community preparedness. The student is expected to:

(A) define vocabulary related to terrorism and homeland security; and

(B) identify how to interpret environmental indicators and warning signs of a biological or chemical attack.

§127.757. Emergency Medical Technician-Basic (Two Credits), Adopted 2026.

(a) Implementation.

(1) The provisions of this section may be implemented by school districts beginning with the 2026-2027 school year.

(2) School districts shall implement the employability skills student expectations listed in §127.15(d)(2) of this chapter (relating to Career and Technical Education Employability Skills) as an integral part of this course.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Principles of Law, Public Safety, Corrections, and Security or Disaster Response. Recommended prerequisite: Biology, Medical Terminology, Pathophysiology, and Anatomy and Physiology. Students shall be awarded two credits for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Law and Public Service Career Cluster focuses on planning, managing, and providing legal services, public safety, protective services, and homeland security, including professional and technical support services.

(3) Emergency Medical Technician (EMT)-Basic provides students with the foundational knowledge needed to provide entry-level emergency medical care, life support, and ambulance service. Students are introduced to key concepts, knowledge, and skills needed by EMT-Basics in the areas of communications, assessment, treatment, transportation, and recordkeeping. This introductory course equips students interested in working in public safety, including fire, police, and emergency medical services (EMS), to perform the duties of an EMT-Basic safely and effectively.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations that foster leadership and career development in the profession.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student explores EMS systems and roles and responsibilities of an EMT-Basic. The student is expected to:

(A) describe and explain the EMS systems available to patients;

(B) differentiate the roles, scope of practice, and responsibilities of an EMT-Basic from other pre-hospital care providers such as firefighters and law enforcement;

(C) describe roles and responsibilities of EMT-Basics related to personal safety and the safety of the crew, patient, and bystanders while responding to, operating at the scene of, and transporting from an emergency incident;

(D) summarize key Texas statutes and regulations governing EMS systems, including provisions from 25 Texas Administrative Code (TAC) Chapter 157 (relating to Emergency Medical Care) and Texas Health and Safety Code, Chapter 773; and

(E) research and analyze various methods of accessing an EMS system within a local community.

(2) The student explores medical, legal, and ethical considerations in emergency medical services operations as an EMT-Basic provider. The student is expected to:

(A) describe out-of-hospital (OOH) and do not resuscitate (DNR) directives as described in 25 TAC §157.25 (relating to Out-of-Hospital Do Not Resuscitate (OOH-DNR) Order), and explain local protocol regarding EMS application of DNR directives, including field termination procedures;

(B) define consent and differentiate between expressed and implied consent in emergency situations;

(C) summarize appropriate methods for obtaining patient consent;

(D) determine the conditions necessary for an EMT-Basic to have a duty to act;

(E) explain the importance, necessity, and legal protections of patient confidentiality;

(F) describe actions an EMT-Basic should take to preserve a crime scene; and

(G) identify conditions that require an EMT-Basic to notify local law enforcement officials.

(3) The student develops foundational knowledge of human anatomy and physiology to support emergency medical care. The student is expected to:

(A) define anatomical terms such as medial, lateral, proximal, distal, superior, inferior, anterior, posterior, midline, right and left, mid-clavicular, bilateral, and mid-axillary; and

(B) describe the basic anatomy and physiology of the respiratory, circulatory, musculoskeletal, nervous, and endocrine systems and explain the function of major organs within each system.

(4) The student demonstrates the importance of basic life support and the priority of artificial ventilation and airway protective skills. The student is expected to:

(A) compare signs of adequate and inadequate breathing;

(B) explain the importance of having a suction unit ready for immediate use when managing a patient's airway;

(C) explain and demonstrate proper suctioning techniques to clear a patient's airway of blood, vomitus, and other obstructions to prevent aspiration;

(D) explain and demonstrate proper techniques and devices for securing air flow for patients, including bag-valve-mask, Sellick maneuver, and pocket mask artificial ventilation;

(E) explain and demonstrate the skills of basic airway techniques, including use of oropharyngeal and nasopharyngeal airway adjuncts with a bag-valve-mask;

(F) explain and demonstrate the use of end-tidal capnography (ETCO2) by correctly applying ETCO2 nasal canula and endotracheal tube devices;

(G) interpret ETCO2 waveform and numeric value to assess adequate ventilation of patient's lungs; and

(H) explain and demonstrate proper use of a supraglottic airway device.

(5) The student recognizes that patient assessment serves as the foundation for all treatment decisions for any emergency scene. The student is expected to:

(A) evaluate an emergency scene for potential hazards to responders, patients, and bystanders;

(B) assess an emergency scene by identifying the number of patients, mechanism of injury or nature of illness, and severity of each patient's condition to determine if additional resources are needed;

(C) conduct an initial patient assessment, including forming a general impression, determining responsiveness, and assessing airway, breathing, and circulation;

(D) demonstrate a triage method to determine patient priority at emergency scenes with multiple casualties;

(E) describe and demonstrate methods of assessing patient traumatic injuries, including the rapid trauma assessment;

(F) explain and demonstrate the components of conducting a patient assessment, including documenting medical history of patients with medical complaints or signs and symptoms of medical need;

(G) explain and demonstrate the components of a detailed physical examination of a patient using a systematic head-to-toe approach to identify injuries or conditions not immediately apparent and determine interventions needed and reassess interventions to assure appropriate ongoing continuum of care;

(H) explain the components of common EMS communication systems, including radio procedures, interpersonal communication techniques, and patient care reporting formats;

(I) explain the components of a pre-hospital patient care written report, including documentation of chief complaint, history of present illness, allergies to medications, current medications, treatments provided during transport, and any changes to the patient's condition as a result of those treatments;

(J) describe components of a no transport report, including documentation of chief complaint, history of present illness, and attempts to gain consent from a patient for transport; and

(K) analyze legal considerations related to a patient refusal, including patient decision-making capacity and documentation of associated risks.

(6) The student explores the signs, symptoms, and pathophysiology of medical emergencies. The student is expected to:

(A) describe signs and symptoms of diabetic, cardiac, respiratory, neurological, and integumentary system emergencies and emergencies related to heat and cold exposure, bites, stings, and poisoning;

(B) describe the medical care for patients experiencing diabetic, cardiac, respiratory, neurological, and integumentary system emergencies and emergencies related to heat and cold exposure, bites, stings, and poisoning;

(C) identify common medications administered by an EMT-Basic and identify the steps for assisting a patient with self-administration of prescribed medications;

(D) identify common respiratory emergencies, including asthma, chronic obstructive pulmonary disease (COPD), and anaphylaxis;

(E) describe appropriate emergency medical care for respiratory distress, including the administration of oxygen, prescribed inhalers, and nebulized medications;

(F) identify cardiovascular emergencies, including heart attack, stroke, and cardiac arrest, and describe signs and symptoms of cardiovascular disease;

(G) describe and demonstrate standard placement protocols for applying 4-lead and 12-lead electrocardiogram (ECG) electrodes to a patient for cardiac monitoring;

(H) explain the purpose and procedures for transmitting a 12-lead ECG to a receiving hospital using appropriate communication equipment and procedures;

(I) simulate the administration of prescribed nitroglycerin for chest pain, following proper dosage, indications, and contraindications;

(J) explain the function and demonstrate the proper use of an automated external defibrillator (AED) for a cardiac arrest scenario;

(K) identify signs and symptoms of altered mental status associated with a patient taking diabetic medications;

(L) list steps in emergency medical care for a hypoglycemic patient, including the administration of oral glucose;

(M) identify the signs and symptoms of an allergic reaction, including respiratory distress, hives, and swelling;

(N) describe emergency care procedures for allergic reactions, including airway assessment and administration of a prescribed epinephrine auto-injector;

(O) identify the signs and symptoms of poisoning or overdose and ways poisons enter the body;

(P) explain emergency medical care for suspected poisoning, including indications, contraindications, and procedures for administering activated charcoal;

(Q) identify, assess, and record patient vital signs, including pulse, respiratory rate, blood pressure, and oxygen saturation;

(R) describe and demonstrate proper techniques for lifting and moving patients;

(S) list signs and symptoms of water-related emergencies and describe complications and medical care of near-drowning victims;

(T) define behavioral emergencies and explain their impact on patient care, scene safety, and EMS response;

(U) identify medical and legal considerations in psychological emergencies and describe common causes of psychological crises;

(V) describe emergency medical care for a patient experiencing behavioral distress, including assessment and de-escalation techniques;

(W) describe safe restraint techniques for violent or combative patients;

(X) list common pre-delivery pregnancy signs and symptoms related to medical complications that require immediate attention by a physician; and

(Y) identify practical steps to stabilize pregnant patient who exhibits signs and symptoms related to medical complications that require immediate attention by a physician.

(7) The student explores mechanisms of injury and pathophysiology of traumatic injury across body systems. The student is expected to:

(A) describe how shock affects major body systems, including the cardiovascular, respiratory, and renal systems, and demonstrate emergency medical care appropriate for a patient exhibiting signs and symptoms of shock;

(B) describe and demonstrate emergency care for controlling external bleeding, including the use of direct pressure, pressure points, and tourniquets;

(C) identify signs and symptoms of internal bleeding and describe appropriate emergency medical care;

(D) identify signs and symptoms of internal bleeding based on mechanism of injury;

(E) identify types of soft tissue injuries, including open, closed, and burn-related injuries;

(F) describe emergency care for closed soft tissue injuries, including contusions, hematomas, and crush injuries;

(G) describe and demonstrate proper techniques for dressing wounds, bandaging, and applying splints and tourniquets;

(H) identify bones of the musculoskeletal system and describe functions of each bone group;

(I) identify the difference between open fractures and closed fractures and explain how each type of fracture affects the implementation of musculoskeletal care;

(J) demonstrate proper immobilization of a painful, swollen, and deformed extremity using appropriate splinting techniques;

(K) analyze functional relationship between the skeletal and nervous systems;

(L) evaluate specific mechanisms of cervical spine injury; and

(M) describe and apply stabilization techniques for cervical spine injuries to a patient in a simulated setting.

(8) The student analyzes medical emergencies involving ill or injured infants and children. The student is expected to:

(A) differentiate emergency response care for infants, children, and adults based on anatomical and physiological differences;

(B) describe and demonstrate proper techniques of foreign body airway obstruction removal in children and infants;

(C) describe and demonstrate proper medical assessments, bag-valve-mask ventilations, and oxygen delivery for infants and children; and

(D) describe emergency care procedures for managing seizures, respiratory emergencies, hypoperfusion, and cardiac arrest in infants and children.

(9) The student describes the safe operation of an ambulance and related emergency response procedures. The student is expected to:

(A) describe state laws related to the operation of an ambulance;

(B) define cleaning, disinfection, high-level disinfection, and sterilization according to infection control standards;

(C) describe procedures for cleaning and disinfecting patient care equipment and preparing an ambulance for the next emergency response;

(D) identify the types and uses of personal protective equipment (PPE) required for an EMT-Basic in various emergency response scenarios;

(E) explain the purpose and fundamental components of patient extrication in emergency situations;

(F) distinguish between simple and complex access methods used during vehicle entrapment and describe considerations for patient safety;

(G) describe the roles and responsibilities of an EMT-Basic during a hazardous materials incident;

(H) describe the actions and sequential steps an EMT-Basic should take when responding to a hazardous materials call in accordance with safety protocols;

(I) identify the criteria used to identify a multiple-casualty incident;

(J) describe the criteria used to initiate disaster operations in response to large-scale emergencies; and

(K) explain and demonstrate triage principles used during a mass casualty incident and describe the components of an established triage system.

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 December 8, 2025.

TRD-202504471

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: January 18, 2026

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

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## TITLE 22. EXAMINING BOARDS

### PART 11. TEXAS BOARD OF NURSING

#### CHAPTER 213. PRACTICE AND PROCEDURE

##### 22 TAC §213.13

The Texas Board of Nursing (Board) proposes amendments to §213.13, relating to Complaint Investigation and Disposition. The amendments are being proposed under the authority of the Occupations Code §301.151.

**BACKGROUND.** The Board's Enforcement Department underwent an internal audit, with the final report issued on May 21, 2025. The audit found that portions of Board Rule 213.13 are outdated and do not align with current enforcement practices and procedures. The proposed amendments address the complaint submission requirements, as the audit identified that some of the information currently required may not be available to complainants, resulting in procedures that conflict with the rule. The amendments also revise the complaint priority system, as the agency has determined that enforcement personnel will no longer use priority level four when designating complaints, necessitating a rule change. Finally, the amendments clarify the timeline notification requirements to ensure consistency with current standards, as recommended in the audit report.

**SECTION-BY-SECTION SUMMARY OVERVIEW.** Proposed amendments to §213.13 are primarily intended to modernize and clarify existing language to reflect current agency processes for receiving and investigating complaints.

In subsection (a), the Board proposes to amend the rule to specify that complaints may be submitted in writing or by the agency's online complaint portal, reflecting the current means by which most complaints are received. The subsection also updates language identifying additional data to be collected to initiate or conduct an investigation, including the nurse's license number, contact information, patient identifiers, witness information, and the date and time of the incident. These additions clarify the type of information necessary for staff to begin investigative work and ensure that the rule reflects current operational practice. Proposed subsection (a) consolidates the requirements of current subsections (a) and (b). The proposed amendments remove language requiring additional information that may be unnecessary to undertake an investigation.

In proposed subsection (b), the language is updated with three defined levels of complaint priority based on the seriousness of the conduct and potential risk to clients or the public. Priority 4 is removed from the language as that priority is not currently being used by the agency.

The Board proposes to divide current subsection (d) into proposed subsections (c), (d), and (e) for clarity and to better reflect the structure of Texas Occupations Code §301.457. The Board proposes to amend subsection (c) to specify that, within 30 days after receipt of a complaint, staff will complete a preliminary investigation to determine the identity of the person named or described in the complaint, if not known, and process the complaint to determine priority scheduling, which establishes a schedule for case completion. This addition incorporates a step already followed in practice and improves clarity regarding early-stage complaint processing.

The Board proposes amendments to subsection (d) to ensure consistency with Texas Occupations Code §301.457. It provides that parties to the complaint will be notified of the expected timeline of the investigation as soon as practicable and that any change to the timeline will be documented in the case file and communicated to all parties. This addition promotes transparency and aligns the rule with statutory notice requirements.

These proposed amendments remove the language of current subsection (e), which requires background checks on the party identified in the complaint. While the background checks are conducted as part of agency procedure, they are not conducted at this stage in the investigatory process.

Proposed subsections (e) and (f) substantively retain their existing structure with only minor revisions to remove obsolete text. These provisions define when an investigation is considered complete and require staff to provide summary data to the executive director for cases extending beyond expected timelines.

Overall, the proposed amendments remove outdated language, incorporate modern complaint submission and investigation practices, and ensure compliance with current statutory requirements governing notification and investigative procedures.

**FISCAL NOTE.** Dr. Kristin Benton, RN, DNP, Executive Director, has determined that for each year of the first five years the proposed new sections will be in effect, there will be no anticipated change in the revenue to state government as a result of the enforcement or administration of the proposal.

**PUBLIC BENEFIT/COST NOTE.** Dr. Benton has also determined that for each year of the first five years that the proposed rules are in effect, the anticipated public benefit will be the adoption of rules that notice licensees and the public of the Board's investigative processes.

There are no new anticipated costs of compliance associated with the proposal. The proposed amendments do not impose any requirement or condition on board regulated entities. The Board does not anticipate any new costs of compliance resulting from the proposal. Further, the Board is not required to comply with the requirements of Tex. Gov't Code. §2001.0045(b) because the proposed amendments are not anticipated to result in new costs of compliance and are necessary to protect the health, safety, and welfare of the residents of this state.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES.** The Government Code §2006.002(c) and (f) require, that if a proposed rule may have an economic impact on small businesses or micro businesses or rural communities, state agencies must prepare, as part of the rulemaking process, an economic impact statement that assesses the potential impact of the proposed rule on these businesses and communities and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Section 2006.002(c-1) requires that the regulatory analysis "consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses" are feasible. Therefore, an agency is not required to consider alternatives that, while possibly minimizing adverse impacts on small and micro businesses, would not be protective of the health, safety, and environmental and economic welfare of the state.

The Government Code §2006.001(1) defines a micro business as a legal entity, including a corporation, partnership, or sole proprietorship that: (i) is formed for the purpose of making a profit; (ii) is independently owned and operated; and (iii) has not more than 20 employees. The Government Code §2006.001(2) defines a small business as a legal entity, including a corporation, partnership, or sole proprietorship, that: (i) is formed for the purpose of making a profit; (ii) is independently owned and operated; and (iii) has fewer than 100 employees or less than \$6 million in annual gross receipts. Each of the elements in §2006.001(1) and §2006.001(2) must be met for an entity to qualify as a micro business or small business. The Government Code §2006.001(1-a) defines a rural community as a municipality with a population of less than 25,000.

These proposed rules cannot reasonably be expected to result in any costs of compliance for small businesses, micro businesses, or rural communities. As such, the Board is not required to prepare an economic impact statement and regulatory flexibility analysis.

**GOVERNMENT GROWTH IMPACT STATEMENT.** The Board is required, pursuant to Tex. Gov't Code §2001.0221 and 34 Texas Administrative Code §11.1, to prepare a government growth impact statement. The Board has determined for each year of the first five years the proposed amendments will be in effect: (i) the proposal does not create or eliminate a government program; (ii) implementation of the proposal does not require the creation of new employee positions or the elimination of existing employee positions, as the proposal is not expected to have an effect on existing agency positions; (iii) implementation of the proposal does not require an increase or decrease in future legislative appropriations to the Board, as the proposal is not as the Board intends to shift necessary resources to comply with the statutory mandate; (iv) the proposal does not require an increase or decrease in fees paid to the Board; (v) the proposal references new statutory requirements for the Board to follow in investigations but does not add additional requirements for licensees; (vi) the proposal does not expand or repeal an existing regulation; (vii) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and (viii) the proposal does not have an effect on the state's economy.

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

**REQUEST FOR PUBLIC COMMENT.** Comments on this proposal may be submitted to James W. Johnston, General Counsel, Texas Board of Nursing, 1801 Congress Avenue, Suite 10-200, Austin, Texas 78701, or by e-mail to dusty.johnston@bon.texas.gov, or faxed to (512) 305-8101. Comments must be received no later than thirty (30) days from the date of publication of this proposal. If a hearing is held, written and oral comments presented at the hearing will be considered.

**STATUTORY AUTHORITY.** These rule sections are proposed under the authority of Texas Occupations Code §301.151.

**CROSS REFERENCE TO STATUTE.** The following statutes are affected by this proposal: Texas Occupations Code §§301.151, 301.457.

§213.13. *Complaint Investigation and Disposition.*

(a) Complaints shall be submitted to the Board in writing or by the agency's online complaint portal and should contain at least the following information: Nurse/Respondent Name, [License Number, Social Security Number, Date of Birth, Employer, Dates of Occurrence(s),] Description of Facts or Conduct, Location of Incident, and [Witnesses, Outcome,] Complainant Identification (Name, Mailing Address, Email Address, and Telephone Number). Additional data to be collected in order to initiate or conduct an investigation includes Nurse/Respondent License Number, Nurse/Respondent Contact Information, Patient(s) Identifier(s), Witness Information, and Date and Time of Incident. [; and Written Instructions For Providing Information to the Board. Complaints may be made on the agency's complaint form.]

{(b)} A preliminary investigation shall be conducted to determine the identity of the person named or described in the complaint.}

(b) [(e)] Complaints shall be assigned a priority status:

(1) Priority 1--those indicating that credible evidence exists showing a guilty plea, with or without an adjudication of guilt, or conviction of a serious crime involving moral turpitude; a violation of the NPA involving actual deception, fraud, or injury to clients or the public or a high probability of immediate deception, fraud or injury to clients or the public;

(2) Priority 2--those indicating that credible evidence exists showing a violation of the NPA involving a high probability of potential deception, fraud, or injury to clients or the public; and

(3) Priority 3--those indicating that credible evidence exists showing a violation of the NPA. [involving a potential for deception, fraud, or injury to clients or the public; and]

{(4)} Priority 4--all other complaints.}

(c) [(d)] Not later than the 30th day after a complaint is received, the staff shall complete a preliminary investigation to determine the identity of the person named or described in the complaint, if not known, and process the complaint to determine priority scheduling, which establishes a schedule for case completion. [place a time line for completion, not to exceed one year, in the investigative file and notify all parties to the complaint.]

(d) In compliance with Texas Occupations Code §301.457, parties to the complaint will be notified of the expected timeline of the investigation as soon as practicable. Any change in timeline [time line] must be noted in the file and all parties notified of the change not later than seven days after the change was made.

(e) For purposes of this rule, completion of an investigation in a disciplinary matter occurs when:

(1) staff determines insufficient evidence exists to substantiate the allegation of a violation of the NPA or [;] Board's rules [; or a Board order]; or

(2) staff determines sufficient evidence exists to demonstrate a violation of the NPA or [;] Board's rules [; or a Board order] and files [drafts proposed] formal charges.

{(e)} Staff shall conduct a criminal background search of the party described in the complaint.}

(f) The staff shall provide summary data of complaints extending beyond the complaint timeline [time line] to 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 December 5, 2025.

TRD-202504433

James W. Johnston

General Counsel

Texas Board of Nursing

Earliest possible date of adoption: January 18, 2026

For further information, please call: (512) 305-6879



## CHAPTER 217. LICENSURE, PEER ASSISTANCE AND PRACTICE

### 22 TAC §217.24

The Texas Board of Nursing (Board) proposes amendments to §217.24, relating Telemedicine Medical Service Prescriptions. The amendments are being proposed under the authority of the Occupations Code §301.151.

**BACKGROUND.** The proposed amendments to §217.24 reflect changes required by House Bill 1700, which amended Texas Occupations Code §111.004. Specifically, the bill specifies the informed consent documentation that is required when licensees perform telehealth service or telemedicine medical service. The proposed amendments ensure that a written record is maintained of informed consent when nursing services are provided by video or telephone.

**SECTION-BY-SECTION SUMMARY OVERVIEW.** Proposed amendments to §217.24 are primarily intended to comply with the requirements of new legislation.

In Subsection (a), the Board defines "telehealth service" and "telemedicine medical service" based on the relevant sections of Texas Occupations Code §111.001.

In proposed Subsection (b), the Board specifies that standards of care are the same regardless of the format of telehealth or telemedicine medical service, as required by HB 1700.

Subsection (c) specifies the requirements for documentation of informed consent prior to telehealth or telemedicine medical service. These requirements include signature by the patient, parent, or legal guardian, disclosure of complications, risks, hazards for treatment methods, nursing license numbers, and practice location. A nurse is also required to confirm the identity of the patient taking part in telehealth or telemedicine medical service, verify their health history, and inform the patient regarding risks of electronic and digital communications in the provision of care.

Subsection (d) required telehealth and telemedicine medical service records regarding informed consent must be retained for seven years.

Subsection (e) was not amended except for adding a title to clarify the content relates to issuance of prescriptions. Subsections (f), (g), (h) and (i) substantively retain their existing structure, except for amendments to Texas Medical Board rules citations, which were recently recodified by the agency.

**FISCAL NOTE.** Dr. Kristin Benton, RN, DNP, Executive Director, has determined that for each year of the first five years the proposed new sections will be in effect, there will be no anticipated change in the revenue to state government as a result of the enforcement or administration of the proposal.

**PUBLIC BENEFIT/COST NOTE.** Dr. Benton has also determined that for each year of the first five years that the proposed rules are in effect, the anticipated public benefit will be ensuring the public, participating in telehealth service or telemedicine medical service is appropriately informed of the potential risks of participating in said service.

There may be costs to licensees and/or their employers in drafting and/or implementing informed consent procedures for telehealth service or telemedicine medical service. However, the Board is not required to comply with the requirements of Tex. Gov't Code. §2001.0045(b) because the proposed amendments are necessary to implement legislation and to protect the health, safety, and welfare of the residents of this state.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES.** The Government Code §2006.002(c) and (f) require, that if a proposed rule may have an economic impact on small businesses or micro businesses or rural communities, state agencies must prepare, as part of the rulemaking process, an economic impact statement that assesses the potential impact of the proposed rule on these businesses and communities and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Section 2006.002(c-1) requires that the regulatory analysis "consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses" are feasible. Therefore, an agency is not required to consider alternatives that, while possibly minimizing adverse impacts on small and micro businesses, would not be protective of the health, safety, and environmental and economic welfare of the state.

The Government Code §2006.001(1) defines a micro business as a legal entity, including a corporation, partnership, or sole proprietorship that: (i) is formed for the purpose of making a profit; (ii) is independently owned and operated; and (iii) has not more than 20 employees. The Government Code §2006.001(2) defines a small business as a legal entity, including a corporation, partnership, or sole proprietorship, that: (i) is formed for the purpose of making a profit; (ii) is independently owned and operated; and (iii) has fewer than 100 employees or less than \$6 million in annual gross receipts. Each of the elements in §2006.001(1) and §2006.001(2) must be met for an entity to qualify as a micro business or small business. The Government Code §2006.001(1-a) defines a rural community as a municipality with a population of less than 25,000.

The Board does not anticipate that any rural communities will be affected by the proposal. The Board anticipates few, if any, individual licensees will qualify as a small or micro business under §2006.001 and, therefore, be affected by the proposal. However, for those that may, the Board has determined that the proposal is necessary to protect the health, safety, and economic welfare of the state.

The purpose of the proposal is to implement the statutory requirements of Texas Occupations Code §111.004. In particular, the provisions of the proposal that may result in the cost of compliance are based upon the statutory mandates that require the same. The legislature has already determined that these requirements and associated costs are necessary to ensure that individuals participating in telehealth service or telemedicine medical service have documentation of appropriate informed

consent on file. The proposal does not impose any additional costs other than those already imposed by the legislature. As a result, the Board has determined that there are no additional regulatory alternatives to the proposed new requirements that will sufficiently protect the health, safety, and economic interests of Texas consumers and the welfare of the state.

**GOVERNMENT GROWTH IMPACT STATEMENT.** The Board is required, pursuant to Tex. Gov't Code §2001.0221 and 34 Texas Administrative Code §11.1, to prepare a government growth impact statement. The Board has determined for each year of the first five years the proposed amendments will be in effect: (i) the proposal does not create or eliminate a government program; (ii) implementation of the proposal does not require the creation of new employee positions or the elimination of existing employee positions, as the proposal is not expected to have an effect on existing agency positions; (iii) implementation of the proposal does not require an increase or decrease in future legislative appropriations to the Board; (iv) the proposal does not require an increase or decrease in fees paid to the Board; (v) the proposal references new statutory requirements for licensees to follow when performing telehealth or telemedicine medical service; (vi) the proposal does not expand or repeal an existing regulation; (vii) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and (viii) the proposal does not have an effect on the state's economy.

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

**REQUEST FOR PUBLIC COMMENT.** Comments on this proposal may be submitted to James W. Johnston, General Counsel, Texas Board of Nursing, 1801 Congress Avenue, Suite 10-200, Austin, Texas 78701, or by e-mail to dusty.johnston@bon.texas.gov, or faxed to (512) 305-8101. Comments must be received no later than thirty (30) days from the date of publication of this proposal. If a hearing is held, written and oral comments presented at the hearing will be considered.

**STATUTORY AUTHORITY.** These rule sections are proposed under the authority of Texas Occupations Code §111.004(c) and §301.151.

**CROSS REFERENCE TO STATUTE.** The following statutes are affected by this proposal: Texas Occupations Code §§111.001, 301.151.

§217.24. Telehealth Service and Telemedicine Medical Service in Nursing [Telemedicine Medical Service Prescriptions].

(a) Definitions.

(1) "Telehealth service" shall have the meaning defined by Texas Occupations Code §111.001(3).

(2) "Telemedicine medical service" shall have the meaning defined by Texas Occupations Code §111.001(4).

(b) The same standards discussed in this rule are applicable to telehealth service and telemedicine medical service regardless of whether the patient interaction occurs in a video format or an audio-only format.

(c) Informed consent for either telehealth service or telemedicine medical service requires the nurse to ensure a written

record is maintained of informed consent signed by the patient, or a parent or legal guardian of the patient, if the patient is a minor, or the patient has been adjudicated incompetent to manage the patient's personal affairs. A signed, written informed consent is required for all treatment plans and procedures where a reasonable possibility of complications from the treatment planned or a procedure exists, or the treatment plans and procedures involve risks or hazards that could influence a reasonable person in deciding to give or withhold consent. Such consent must disclose any and all complications, risks and hazards and include the following:

(1) the name and Texas nursing license number(s) and/or license number with multistate licensure privilege, contact information, and practice location involved in the patient's telehealth service and/or telemedicine medical service. This information must be kept current, accessible and provided in writing to the patient, parent, or legal guardian;

(2) an advanced practice registered nurse (APRN) who completes a telemedicine medical service must ensure that the informed consent of the patient includes disclosure to the patient of:

(A) the name of the delegating physician;

(B) the physician's Texas medical license number;

(C) the contact information of the physician including their primary practice address and phone number.

(d) When engaging in telehealth or telemedicine medical services, a licensee must:

(1) confirm the identity of the patient;

(2) verify and authenticate the patient's health history;

(3) obtain informed consent from the patient after disclosures have been made regarding the delivery models and treatment methods and limitations, to include any special informed consent regarding the use of telehealth service or telemedicine medical service. At a minimum, the informed consent must inform the patient and document acknowledgment of the risk and limitations of:

(A) the collection and use of electronic and digital communications in the provision of care;

(B) the potential for breach of confidentiality, or inadvertent access, of protected health information using electronic and digital communication in the provision of care; and

(C) the potential disruption of electronic and digital communication in the use of telehealth service or telemedicine medical service;

(4) inform the patient that it is the role of the licensee to determine whether the treatment is appropriate for a telehealth service or telemedicine medical service encounter; and

(5) state the requirement for explicit patient consent to forward patient identifiable information to a third party.

(d) Informed consent records must be retained at least seven years from the date of last treatment by a nurse or longer if required by other federal or state law. If a patient is under 18 years old, informed consent records must be retained until the patient reaches 21 years old, or seven years from the date of last treatment, whichever is longer.

(e) Issuance of Prescriptions. [(a)] The validity of a prescription issued as a result of a telemedicine medical service is determined by the same standards that would apply to the issuance of the prescription in an in-person setting.

(f) [(b)] This rule does not limit the professional judgment, discretion or decision-making authority of a licensed practitioner. A licensed practitioner is expected to meet the standard of care and demonstrate professional practice standards and judgment, consistent with all applicable statutes and rules when issuing, dispensing, delivering, or administering a prescription medication as a result of a telemedicine medical service.

(g) [(e)] A valid prescription must be:

(1) issued for a legitimate medical purpose by a practitioner as part of patient-practitioner relationship as set out in §111.005, Texas Occupations Code; and

(2) meet all other applicable laws before prescribing, dispensing, delivering, or administering a dangerous drug or controlled substance.

(h) [(d)] Any prescription drug orders issued as the result of telemedicine medical service, are subject to all regulations, limitations, and prohibitions set out in the federal and Texas Controlled Substances Act, Texas Dangerous Drug Act and any other applicable federal and state law.

(i) [(e)] Limitation on Treatment of Chronic Pain.

(1) For purposes of this rule, chronic pain has the same definition as used in 22 Texas Administrative Code §172.1(2) [§170.2(4)] (relating to Definitions).

(A) Telemedicine medical service [services] used for the treatment of chronic pain with scheduled drugs by any means other than via audio and video two-way communication is prohibited, unless a patient:

(i) is an established patient of the APRN being treated for chronic pain;

(ii) is receiving a prescription that is identical to a prescription issued at the previous visit; and

(iii) has been seen by the prescribing APRN, physician, or other health professional as defined in Tex. Occ. Code §111.001(1) in the last 90 days, either:

(I) in-person; or

(II) via telemedicine medical service using audio and video two-way communication.

(B) An APRN, when determining whether to utilize telemedicine medical service [services] for the treatment of chronic pain with controlled substances as permitted by paragraph (1)(A) of this subsection, shall give due consideration to factors that include, at a minimum, the date of the patient's last in-person visit, patient co-morbidities, and occupational related COVID risks. These are not the sole, exclusive, or exhaustive factors an APRN should consider under this rule.

(C) If a patient is treated for chronic pain with scheduled drugs through the use of telemedicine medical service [services] as permitted by paragraph (1)(A) of this subsection, the medical records must document the exception and the reason that a telemedicine medical service visit was conducted instead of an in-person visit.

(2) For purposes of this rule, acute pain has the same definition as used in 22 Texas Administrative Code §172.1(1) [§170.2(2)]. Telemedicine medical service [services] may be used for the treatment of acute pain with scheduled drugs, unless otherwise prohibited under federal and state law.

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

Filed with the Office of the Secretary of State on December 5, 2025.

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James W. Johnston

General Counsel

Texas Board of Nursing

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For further information, please call: (512) 305-6821



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 51. EXECUTIVE SUBCHAPTER G. NONPROFIT ORGANIZATIONS

##### 31 TAC §51.164

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §51.164, concerning Best Practices (Officers and Directors). The proposed amendment would clearly stipulate that the provisions of subsection (b)(3), which prohibit an employee of the department from serving as a member of a non-profit partner (NP), do not apply to the Texas Parks and Wildlife Mutual Association. The Texas Parks and Wildlife Mutual Association (Association) was founded in 1956 with the mission of providing financial assistance to the families/beneficiaries of deceased members (department employees and their spouses). Members receive no compensation from the Association and serve on a voluntary basis.

Parks and Wildlife Code authorizes the department to work with nonprofit organizations to carry out the mission of the department. The department has determined that the Association assists the department by providing bereavement benefits to employees who are members, including peace officers commissioned by the department, who are not infrequently in life-threatening situations in the line of duty. Similarly, Government Code, Chapter 2255, requires a state agency to adopt rules regarding the relationship between donors and the agency, including the agency's employees, if the agency is authorized to accept donations or if "a private organization exists that is designed to further the purposes and duties of the agency." Although the Association's relationship with the department is not pecuniary, it does exist to assist and support employees of the agency in times of need.

The amendment is necessary to allow the department to recognize the Association as a NP and explicitly acknowledge that a department employee may serve as an officer of the Association without affecting the Association's status as a NP.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed

is in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rule.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be the facilitation of bereavement support for the beneficiaries of department employees who serve the public.

There will be no adverse economic effect on persons required to comply with the rule, as the proposed amendment does not affect anyone other than department employees who are members of the Association.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules would result in no direct economic effect on any small businesses, micro-businesses, or rural community, as the proposed amendments are purely administrative; therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of an existing fee; not create, expand, or repeal an existing regulation; not increase or decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Robert Macdonald (512) 389-4775, e-mail: [robert.macdonald@tpwd.texas.gov](mailto:robert.macdonald@tpwd.texas.gov). Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The rule is proposed under Parks and Wildlife Code, Chapter 11, Subchapter J, which requires the commission to adopt rules governing best practices for nonprofit partners of the agency.

The proposed rule affects Parks and Wildlife Code, Chapter 11, Subchapter J.

§51.164. *Best Practices (Officers and Directors).*

(a) (No change.)

(b) In addition to subsection (a) of this section, NPs must comply with the best practices regarding officers and directors as prescribed in this section.

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

(3) NPs shall not elect or designate or otherwise select a department employee as an officer or director, other than as a non-voting uncompensated representative of the department. This paragraph does not apply to the Texas Parks and Wildlife Department Mutual Association.

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

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

Filed with the Office of the Secretary of State on December 8, 2025.

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## CHAPTER 53. FINANCE

### SUBCHAPTER A. FEES

#### DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

##### 31 TAC §53.15

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §53.15, concerning Miscellaneous Fisheries and Wildlife Licenses and Permits.

The proposed amendments would acknowledge the fee of \$50 for field trial permits issued under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter J.

The Texas Legislature during the most recent regular session enacted Senate Bill 2801, which added new Chapter 43, Subchapter J, to create a new type of field trial permit limited to the pursuit of squirrels, furbearing animals, and nongame wildlife on privately owned land or public lands authorized by the department by rule. The fee for the permit is set by statute at \$50; however, the department maintains by rule a list of fees for various permits and licenses and therefore wishes to add the new permit fee to keep that list contemporaneous and accurate.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed are in effect, any fiscal implications resulting from administration of the rule will be minimal and in any case the fee is established

under the provisions S.B. 2801 and not as a result of this rulemaking; therefore, there is no effect on persons required to comply with the rule as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be the accuracy of fee schedules in department rules.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule as proposed does not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rule.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation; not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Kevin Mote, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 217-2779; email: kevin.mote@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendment is proposed under Parks and Wildlife Code, §43.0762, which authorizes the commission to adopt regulations necessary to administer that subchapter.

The proposed amendment affects Parks and Wildlife Code, Chapters 43.

§53.15. *Miscellaneous Fisheries and Wildlife Licenses and Permits.*

(a) - (h) (No change.)

(i) Permit for Field Trial under the provisions of Parks and Wildlife Code, Subchapter J - §50.

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 December 8, 2025.

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## CHAPTER 55. LAW ENFORCEMENT

### SUBCHAPTER H. PARTY BOATS

The Texas Parks and Wildlife Department proposes the repeal of 31 TAC §55.406, amendments to §§55.401 - 5.403, and 55.405, and new 55.406, 55.408, and 55.410, concerning Party Boats. The proposed repeal, amendments, and new sections would function collectively to modernize, improve, reorganize, and streamline the regulation of commercial party boats on Texas inland waters in the interests of public safety.

In 2007, the 80th Texas Legislature responded to a spate of serious incidents involving commercial party boats (hereinafter, "party boats") on inland waters by enacting House Bill 12, which amended the Parks and Wildlife Code to add new Chapter 31, Subchapter G, to task the Parks and Wildlife Commission with the duty to regulate the operation of party boats (defined as a vessel operated by the owner of the vessel or an employee of the owner and rented or leased by the owner for a group recreational event for more than six passengers) on public fresh water as necessary to protect the public health and safety. The commission responded by promulgating 31 TAC Chapter 55, Subchapter H (32 TexReg 10011), which imposed various measures intended to protect and enhance the safety of the public, including requirements for party boat owners to obtain a department-issued license, mandatory annual inspections of party boats, party boat operator standards, limitations on the number of people that may be aboard a party boat while under way with paying passengers, basic emergency and safety requirements, and mandatory minimum liability insurance coverage.

Since 2007, the state has seen explosive growth in population and tourism and a corresponding increase in utilization of public surface water resources for outdoor recreation activities, including party boats, which are quite popular on lakes both large and small. A series of recent incidents caused the department to reassess the efficacy of current rules.

In May of 2018, a woman fell from a party boat on Lake Travis, striking her head and then drowning.

In August of 2021, a party boat on Lake Conroe capsized, throwing 53 passengers into the water along with a substantial quantity of diesel fuel, resulting in the death of one passenger and significant exposure to spilled fuel by the survivors. The vessel

had a history of regulatory issues (while operating under another name in another state), was prohibited by the U.S. Coast Guard from operating in federal waters, and had been renamed and relocated to Texas.

In July of 2022, the department arrested the operator of a party boat on Lake Austin and obtained a conviction for Boating While Intoxicated (BWI).

In May and June of 2025, the department conducted saturation patrols (an increased, temporary law enforcement presence on popular public waters during holiday or other high-use periods, intended to protect public safety by counteracting and minimizing common dangerous behaviors) on Lake Austin and Lake Travis, which resulted in 20 violations involving party boats, including: no evidence of inspection, no proof of insurance, passengers on the top deck while under way, inadequate staff preparation and education (e.g., CPR certification, boater education certification), no certificate of number (registration) onboard, unlawful party boat operation, no party boat operator license, and others. At least four boats over 30 feet were found operating illegally by claim of being livery vessels rather than party boats.

In August of 2025, department law enforcement personnel cited a party boat operator for operation without the required insurance, which had been allowed to expire.

Also in August of 2025, a party boat passenger Lake Travis overdosed and died, while in another incident a passenger was injured by a propeller strike.

The department is also aware of instances in which party boat owners have intentionally altered vessel length for the sole purpose of evading the applicability of the subchapter.

This is a sample of some of the major incidents that have occurred; department game wardens routinely encounter situations involving party boats in which borderline dangerous conditions or behavior are observed.

The department concludes, on the basis of continuing issues involving fatalities, injuries, insurance fraud, regulatory evasion, and other violations, that there is widespread intentional non-compliance with basic safety and documentation requirements, which warrants action to strengthen and improve party boat rules in the interest of public health and safety.

The proposed repeal of §55.406, concerning Violations and Penalties, is necessary to make room for proposed new §55.406, concerning Inspections and Certifications.

The proposed amendment to §55.401, concerning Definitions, would alter the definition of "inland waters" and add new definitions for "Owner's Agent," "Accredited Marine Surveyor," "Accredited Naval Architect," and "Stability Letter." The current definition of "inland waters" is not completely accurate, as it does not exclude certain border waters with Oklahoma and Louisiana that are considered navigable waters by the federal government and therefore subject to regulation by the U.S. Coast Guard (USCG), which supersede state regulations and are generally considered to be as or more efficacious than state regulations. The proposed amendment would add language to make the definition completely accurate. The proposed amendment would define "owner's agent" as "any person engaged, authorized, or otherwise allowed, directly or indirectly via an intermediary, to operate a vessel that is not owned by the person but is subject to the provisions of this subchapter." The department has encountered numerous instances of attempted evasion of regulatory compliance in the form of persons employing semantics to claim that

some sort of lease or subcontractor arrangement absolves the actual owner of a vessel being used as a party boat from culpability for violations of provisions of the subchapter. Under Parks and Wildlife Code, §31.171, a party boat is defined as "a vessel operated by the owner of the vessel or an employee of the owner." The statutory definition is, in the determination of the department, unambiguous with respect to the legal responsibilities of a person who owns a vessel being used as a party boat; however, the department seeks to make it abundantly clear that a business arrangement between the owner of a vessel used as a party boat and a person who is technically not an employee of the owner but ultimately operates or oversees the operation of the vessel is irrelevant in the context of determining responsible parties in the course of administrative and enforcement activities. The proposed provision would make this clear.

The proposed amendment would define "accredited marine surveyor" as a person accredited by one of the four recognized professional trade organizations. The proposed rules would require party boats and initially and periodically thereafter to be inspected by an accredited third-party inspector; thus, a definition of the term is necessary to ensure that party boat inspections are conducted by person competent to perform them.

The proposed amendment would define "accredited naval architect" as a person accredited by one of the two recognized professional trade organizations. The proposed rules would require party boats and initially and periodically thereafter to be inspected by an accredited third-party inspector; thus, a definition of the term is necessary to ensure that party boat inspections are conducted by person competent to perform them.

Finally, the proposed amendment would define "stability letter" as "an affidavit from a naval architect or accredited marine surveyor attesting to the loading limits necessary for the safe operation of a vessel used as a party boat" and stipulate an occupancy limit. The proposed rules require every vessel operated as a party boat to be assessed initially and periodically thereafter for seaworthiness and for the particulars of that assessment to be put in writing in the form of a Stability Letter that is then submitted to the department; therefore, a definition of the term is necessary to provide guidance as to the content of the letter.

The proposed amendment to §55.402, concerning Applicability and Exceptions, would make alterations necessary to comport the section with other components of the proposed rulemaking, consisting of the insertion of a reference to proposed new §55.406, concerning Inspections and Certifications, in subsection (b), and the removal of current subsection (c)(2), which is no longer necessary because it address license reciprocity on border waters. Such waters are under USCG jurisdiction and a USCG license is required to operate a party boat on those waters; thus, because the proposed amendment would exempt persons in possession of a valid USCG captain's or pilot license from having to obtain a party boat license in Texas, party boat operators in Louisiana and Oklahoma would meet the exception to licensure in Texas. The proposed amendment would also eliminate current subsection (d)(3) to remove the reference to livery vessels, which has been misconstrued to somehow exempt owners of party boats from the requirements of the subchapter, which isn't the case.

The proposed amendment to §55.403, concerning License Required, would alter current subsections (a) and (c) to create an exception to licensing requirements for persons in possession of a valid USCG captain's or pilot's license. The department has determined that USCG requirements for such licenses meet or

exceed the requirements of this subchapter and therefore the department is satisfied that public safety is not being compromised by allowing federal licensure to be substituted for a party boat operator's license.

The proposed amendment to §55.405, concerning Employer/Owner Responsibilities, would update the section to comport it with the changes being made in this rulemaking, increase the minimum amount of liability insurance required to be carried, clarify that the liability insurance policy must be applicable on a per-incident basis, stipulate a records retention period, and eliminate current subsections (c) and (d).

The proposed amendment would add language to allow certain USGS certifications to be used in lieu of the inspections and certifications required under the subchapter. The Coast Guard requirements for certification of "K" or "T" class commercial boats meet or exceed the standards that would be imposed under the proposed rules and the department believes that because of that, exempting such vessels from the inspection and certification requirements of the subchapter does not jeopardize public safety.

Current rule requires a party boat operator to maintain a minimum of \$300,000 of liability insurance from an insurer licensed to do business in Texas. The requirement for liability insurance is established by Parks and Wildlife Code, §31.175(c); however, the amount of insurance is set by the commission. Although the department considers that a survey of party boat operations indicates that most are carrying liability insurance that exceeds the \$300,000 minimum, the department nonetheless believes it is prudent to adjust the minimum value. The current value was established in 2007. Thus, the proposed amendment would increase the required minimum to \$500,000 to reflect the fact that the Consumer Price Index has increased significantly since 2007 (49%), and the requirement would represent the bare minimum with respect to the ability to respond to incidents resulting in damages or injuries. The proposed amendment also would clearly state that the insurance required by the subchapter is to be on a per-incident basis. The department has encountered situations in which persons have maintained that because the rules do not stipulate insurance on a per-incident basis, insuring on a per-vessel or per-fleet is therefore sufficient. The department disagrees, maintains that it should be intuitively obvious, and wishes to make this clear in rule. The proposed amendment also would require proof of insurance to be kept on board a party boat at all times and made available upon request to a department employee acting within the scope of official duties. The department believes it is necessary to be able to quickly determine that a party boat operator is in compliance with the minimum insurance requirements at any time the vessel is being used to accommodate paying passengers.

Similarly, the proposed amendment would require the retention of all documentation required by the subchapter for a period of two years, which is the statute of limitations for Parks and Wildlife Code violations under Parks and Wildlife Code, Chapter 31, Subchapter G.

Finally, the proposed amendment would remove current subsections (d) and (e). The provisions of subsection (d) would be relocated to proposed new §55.408, concerning Passenger Safety. Current subsection (e) would be eliminated because passenger load limits would be calculated by an accredited naval architect or marine surveyor as part of the inspection and assessment regime set forth in proposed new §55.406, concerning Inspections and Certifications.

Proposed new §55.406, concerning Inspections and Certifications, would prescribe general and specific requirements related to the department's ability to determine vessel safety.

Proposed new subsection (a) would clearly state that any person who operates or allows the operation of a vessel as a party boat when the vessel has not been inspected and certified as provided by the subchapter commits a criminal offense. The provision is necessary because the department believes it should be absolutely clear that no vessel is to be operated as a party boat unless it has been determined by the department or the USCG to be safe for that use. The proposed new subsection also would require a stability test to be performed following significant alterations to the vessel's structure or equipment, or following a reportable incident as described in Parks and Wildlife Code, §31.105, unless the incident does not involve physical damage to the vessel. The department reasons that any development or occurrence that could fundamentally alter a vessel's seaworthiness or stability merits the performance of a stability test to determine the vessel's ability to operate safely. Finally, the proposed new subsection would stipulate that when a vessel is required to be the subject of a stability test under the subsection, it is unlawful to operate that vessel as a party boat until the results of the stability test have been submitted to the department and the department has authorized resumption of operation as a party boat. The provision is necessary to provide a verification mechanism for vessels whose safety could potentially be compromised by alteration or incident.

Proposed new subsection (b) would establish a continuing inspection and assessment regime for vessels operated as party boats. Current rule requires a qualifying vessel to pass an annual safety inspection conducted by the department before it can be lawfully used as a party boat. The proposed new rule would replace the current requirement for a single annual inspection conducted by department law enforcement personnel with a new approach that would require 1) an initial comprehensive inspection/certification to be performed by an accredited naval architect or marine surveyor (and department verification of other water safety requirements as a condition of licensure), followed by 2) annual water safety compliance inspections conducted by the department, and 3) additional ongoing inspections by an accredited naval architect or marine surveyor no less frequently than once every five years. In addition to the serious incidents documented earlier in this preamble, the department has encountered numerous problematic issues with respect to compliance and compliance verification, highlighting not only the need for strengthening of regulatory oversight, but new approaches to providing for public safety. However, one significant operational constraint is game warden availability for inspection duties. The department's law enforcement personnel are tasked with a wide and diverse array of enforcement responsibilities, ranging from the enforcement of recreational hunting and fishing laws to environmental, water safety, and border security matters. There are 136 party boats licensed in Texas and 182 operator licenses currently active in the state and most are concentrated around a handful of large lakes, which places a unique burden on game wardens stationed in those areas with respect to scheduling and conducting the inspections required under current rule. Therefore, the department seeks to address the issue by providing for an initial comprehensive inspection and certification to be performed by an accredited naval architect or marine surveyor as opposed to a game warden (although department game wardens would still, prior to issuance, verify that initial water safety requirements have been satisfied). Not only would this approach

provide for an independent, professional assessment of vessel seaworthiness and safety, it would allow party boat owners and operators greater flexibility to schedule and have inspections performed. The proposed new subsection would require an initial inspection to be performed by an accredited naval architect or marine surveyor, consisting of an examination of a prospective party boat in dry dock to assess the integrity of the hull, steering and propulsion systems, a USCG-approved stability test, and determination of an occupancy limit.

Proposed new subsection (d) would provide for a video inspection to be conducted in lieu of the inspection in dry dock, which is intended to provide an alternative method of compliance in instances where it is impractical or not possible for vessels to be taken out of the water. The rules would require a USCG-approved stability test because such tests are already widely performed, understood, and accepted as efficacious, which is necessary to document in writing the limitations on any given vessel necessary to prevent overloading of passengers, cargo, equipment, and fuel that could cause unsafe operational conditions.

Proposed new subsection (e) would require the acknowledgment required by subsection (c) to be maintained by the owner of the vessel and provided to the department upon request, which is necessary to provide a mechanism for verifying that the licensee has complied with the inspection requirements of the proposed new section.

Proposed new subsection (f) would require an annual water safety compliance inspection to be performed by the department, which would function to provide a continuous process for verifying that party boats and party boat operators are equipped and operating as required by law. The inspection would consist of confirmation of compliance with various statutory requirements of Parks and Wildlife Code, Chapter 31 (registration, lights, sound signal devices, fire extinguishers, passenger safety information, etc.), items mandated by department rules promulgated under Parks and Wildlife Code, Chapter 31 (first-aid kit), and the possession and display of required documentation, all of which the department considers necessary to demonstrate that any given party boat or operator is operating safely as required by law. Proposed new subsection (f) also would prescribe the process for requesting, scheduling, and performing the annual assessment inspection required under the subsection. As noted earlier, the department has experienced logistical and administrative stress with respect to inspections under the current rules. Current rules specify only that a party boat may not be operated unless an annual inspection has been performed within the previous 12 months. The department has determined that it is necessary to provide additional structure and timeliness to the process; therefore, the proposed provisions would require licensees to schedule an assessment inspection not more than 60 nor less than 30 days prior to the annual anniversary date of the inspection for initial licensure and would require the department to conduct the assessment inspection no more than 30 days prior to that date. By organizing and stratifying requests for inspection, the department can impose some sort of order on the process and avoid logjams that occur when multiple licensees wait until the last minute to obtain the inspections they cannot legally continue to operate without having.

Proposed new subsection (g) would require party boats to be inspected in dry dock or by video at five-year intervals by an accredited naval architect or marine surveyor to determine the suitability of the vessel for continued use as a party boat. Party boats are not pleasure craft, they are working vessels subjected to ex-

tensive, repetitive use that can impact hull, power, and steering systems. The department believes it is prudent and appropriate to require party boats to be inspected in dry dock (or via video) at least once every five years to ensure the integrity of such systems.

Proposed new subsection (h) would require the acknowledgment required by subsection (g) to be maintained by the owner of the vessel and provided to the department upon request, which is necessary to provide a mechanism for verifying that the licensee has complied with the inspection requirements of the proposed new section.

Proposed new §55.408, concerning Passenger Safety, would set forth specific provisions intended to advance the safety of passengers aboard party boats. Proposed new subsection (a) would explicitly establish the number and types of personal flotation devices that must be aboard a party boat when it is carrying passengers, including provisions intended to provide adequate water safety for children and minors.

Proposed new subsection (b) would enumerate the specific emergency procedures that a party boat operator would be required to articulate to each paying passenger aboard a party boat and require those procedures to be conspicuously posted aboard the vessel for passenger reference. Those procedures are already required under current §55.405, relating to Employer/Owner Responsibilities, and are being relocated to the new section for greater organizational sense.

Proposed new §55.410, concerning Violations and Penalties, would restate verbatim the contents of current §55.406, which is proposed for repeal to create space for proposed new §55.406, concerning Inspections and Certifications.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state government as a result of enforcing or administering the rules as proposed.

There will be fiscal implications for persons required to comply with the rules as proposed, which are identical to those addressed in the discussion of the proposed rules impacts on small and micro businesses later in this preamble.

Mr. Macdonald also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the protection of public health and safety by enhanced oversight of party boat operators and the safety of other recreational users who share the water with party boats, as well as reduced burdens on first responders.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules will impose an adverse economic effect on small businesses and mi-



crobusinesses, namely, party boat operators. Department data indicate that there are 136 party boats licensed in Texas and 182 operator licenses currently active in Texas. To ensure that this analysis fully captures all entities that could be affected by the rules, this analysis assumes that all 136 party boats owners qualify as a small or microbusiness. The department has accordingly prepared the economic impact statement and regulatory flexibility analysis described in Government Code, Chapter 2006.

The proposed rules would require prospective licensees to engage an accredited naval architect or accredited marine surveyor to perform an initial inspection of the party boat as a condition of licensure, to consist of an analysis of the vessel's seaworthiness, a stability test, and the calculation of the maximum number of passengers the vessel is able to carry safely. Following initial licensure, the proposed rules would require an inspection by an accredited naval architect or marine surveyor at least once every five years, and following significant modifications that could affect vessel stability or reportable incidents resulting in damage. The distribution and availability of the services required varies across the state, but based on cursory research, the experience of knowledgeable law enforcement personnel, and anecdotal information, the department has determined that the total cost of compliance for initial licensure could range anywhere between approximately \$1,500 and \$3,000 per vessel.

The cost of a stability test is dependent on the length of the vessel. The minimum length of a party boat is 30 feet and there is no maximum; however, the largest vessel currently licensed to operate as a party boat is 100 feet long. Department records indicate that there are 81 party boats of between 30 and 41 feet in length (59.5%), 33 party boats of between 41 and 51 feet in length (24.2%), nine party boats of between 51 and 61 feet in length (6.6%), three party boats of between 61 and 71 feet in length (2.2%), two party boats of between 71 and 81 feet in length (1.4%), five party boats of between 81 and 91 feet in length (3.7%), and two party boats of between 91 and 100 feet in length (1.4%). The average length of a party boat is approximately 40 feet, which is approximately 60% of the fleet. Based on observation, inquiry, and anecdotal information, the amount of time necessary to perform a stability test on a 40-foot vessel is approximately three hours. Also based on observation, inquiry, and anecdotal information, the labor cost for a stability test is approximately \$120 per hour. Therefore, the department estimates the average cost for a stability analysis to be approximately \$360, plus any incidentals such as travel cost, which are incident-dependent and cannot be meaningfully quantified.

The cost of performing an inspection in dry dock (removal from the water) varies, depending on where the vessel is located, the length and tonnage of the vessel, the duration of the inspection, and the business model employed by the contractor. Based on observation, inquiry, and anecdotal information, the department estimates that the cost to dry dock a vessel 40 feet or less in length is approximately \$25 per foot in most locations, and the cost for vessels longer than 40 feet in length is approximately \$30 per foot. Some contractors charge a flat fee of anywhere from \$1,500 to \$2,400 to remove vessels from the water. Again, based on observation, inquiry, and anecdotal information, the cost of the actual inspection is estimated to be approximately \$190 hour and that most if not all inspections are conducted in less than three hours. Therefore, the department estimates the cost of compliance for inspection, for a 40-foot vessel (the average vessel length in the current fleet), could range from approximately \$1,570 to \$2,970, consisting of a \$1,000 to \$2,400 dry-dock fee and \$570 for a three-hour inspection at \$190 per

hour, plus any incidentals such as travel cost, which are incident-dependent and cannot be meaningfully quantified. For the largest party boat, the department estimates the minimum cost of compliance to be approximately \$3,570, consisting of a \$3,000 dry dock fee and a three-hour inspection cost of \$570. The rules as proposed provide for the option of a video inspection in lieu of inspection in dry dock. Based on anecdotal information and data from the Bureau of Labor Statistics, the department estimates that the mean hourly rate for a commercial diver to conduct a survey of a vessel is approximately \$40 per hour, to which would be added the cost for an accredited marine surveyor or naval architect to review the stored media for purposes of inspection at \$190 per hour. The department anticipates that the dive-time for a survey would not exceed three hours and the time to review the stored media for inspection purposes to be not more than three hours as well; therefore, the cost of compliance with respect to a video inspection in lieu of inspection in dry dock is estimated to be approximately \$690.

The proposed rules would require party boats to be equipped with a functional two-way communications apparatus and a First Aid kit in good condition. Current rule requires a party boat operator to post emergency procedures for passengers, including instructions for use of a radio-telephone and the location of First Aid equipment, which suggests that such items are necessary to pass the inspection; the proposed rules would explicitly require them. The department has determined that an appropriate First Aid kit costs approximately \$50 to \$200. With respect to communications equipment, the department concludes that it would be very rare for a commercial vessel taking paying passengers on trips not to be equipped with some sort of ability to communicate with the shore, especially in the age of cellular phones, but estimates the cost of compliance for two-way communications capability to be anywhere from \$100 to \$500.

The proposed rules would require party boat operators to carry a minimum of \$500,000 of liability insurance on a per-incident coverage basis (the current requirement is for \$300,000 of coverage). The department has surveyed the regulated community and determined that approximately 70 percent of party boats already meet this standard, which is to be expected, as it would be prudent business practice to acknowledge the legal risks inherent in the regulated activity; however, to ensure that a credible minimum standard exists, the rules would increase the required coverage by \$200,000 to reflect the increase in the Consumer Price Index since 2007. The department estimates that the proposed rules, if adopted, would result in an additional cost of approximately \$4,000 per license related to insurance. This figure is based on communications with the regulated community indicating annual premiums of approximately \$3,000 for the current minimum coverage and \$7,000 for licensees who are already insured at the proposed \$500,000 minimum coverage. The department notes again that most and nearly all members of the regulated community carry liability insurance with coverage of \$500,000 or greater.

The department has determined that the proposed rules will not impose a direct adverse economic impact on rural communities, as the proposed rules would not directly regulate any local community.

The department considered several alternatives to the rules as proposed.

One alternative considered was status quo. The department rejected this alternative because it has determined that the current rules are insufficient in achieving a statutorily mandated duty to

protect public health and safety with respect to regulation of party boats.

Another alternative considered was to increase law enforcement presence and effort on inland waters. This alternative was rejected because current department law enforcement commitments do not allow shifting of sufficient enforcement resources to party boat operations without negatively impacting other enforcement obligations.

A third alternative considered was to increase education and outreach efforts and rely upon the "honor system" to create a safe environment for the public with respect to party boat operations in the state. This alternative was rejected because the current state of affairs demonstrates that the current rules are not sufficient to discharge the agency's statutory duty to protect the public health and safety; thus, if the "honor system" concept was efficacious, the need for the proposed rules would not exist.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation, but will expand an existing regulation (by requiring third-party inspections and certifications of party boats and increasing the minimum liability insurance required for party boats); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Assistant Commander Cody Jones, Boating Law Administrator, at (512) 389-4624, email: or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

### **31 TAC §§55.401 - 5.403, 55.405, 55.406, 55.408, 55.410**

The amendments and new sections are proposed under the authority of Parks and Wildlife Code, §31.176, which requires the commission to promulgate rules regarding the requirements and procedures for the issuance and renewal of a party boat operator license to protect the public health and safety, and §31.180, which requires the commission to adopt and enforce rules necessary to implement Parks and Wildlife Code, Chapter 31, Subchapter G.

The proposed amendments and new sections affect Parks and Wildlife Code, Chapter 31.

#### *§55.401. Definitions.*

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

(1) Inland waters--all public waters of this state that lie:

(A) entirely within the state; and

(B) are not designated as navigable waters by the United States Coast Guard (USCG) [on the landward side of the coastal waters boundary as defined in §65.3(15) of this title (relating to Definitions)].

(2) Party boat--a vessel meeting the definition of "party boat" established in Parks and Wildlife Code, §31.171(2).

(3) Passenger--a person carried on board a party boat, but does not include:

(A) the vessel owner or the owner's agent;

(B) the vessel's operator or crew members, if they have not provided a consideration for their transportation before, during, or after the voyage; or

(C) a person being trained for the purposes of acquiring a party boat operator's license.

(4) Owner's Agent--Any person engaged, authorized, or otherwise allowed, directly or indirectly via an intermediary, to operate a vessel that is not owned by the person but is subject to the provisions of this subchapter.

(5) Accredited Marine Surveyor--A person accredited by one of the following organizations:

(A) National Association of Marine Surveyors (NAMSGlobal);

(B) Society of Accredited Marine Surveyors (SAMS);

(C) Association of Certified Marine Surveyors (ACMS); or

(D) United States Surveyors Association (USSA) / NAVTECH.

(6) Accredited Naval Architect--A person accredited by one of the following organizations:

(A) Society of Naval Architects and Marine Engineers (SNAME); or

(B) American Society of Naval Engineers (ASNE).

(7) Stability Letter--An affidavit from a naval architect or accredited marine surveyor attesting to the loading limits necessary for the safe operation of a vessel used as a party boat. For the purposes of this subchapter, a stability letter must specifically identify the number of persons that may be aboard the vessel without compromising vessel stability with respect to capsizing (hereinafter, "occupancy limit").

#### *§55.402. Applicability and Exceptions.*

(a) This subchapter applies to a party boat that operates on inland waters of this state.

(b) The annual water safety inspection required by §55.406(c) of this title (relating to Inspections and Certifications) [§55.405(a) of this title (relating to Employer/Owner Responsibilities)] is not required for a vessel that:

(1) is carrying passengers for hire; and

(2) carries a valid and current certificate of inspection issued pursuant to federal law.

(c) A person is not required to obtain a party boat operator's license if that person possesses[:]

[(1)] a valid and current federal pilot's or captain's license issued by the United States Coast Guard or other federal agency.]; or]

[(2)] a valid license, issued by a state that shares a body of water with Texas, that is substantively similar in effect and scope to the party boat operator license required by this subchapter, provided:]

[(A)] the issuing state allows Texas vessels to operate in the shared waters under the same conditions; and]

[(B)] the party boat is operated only in waters shared by the issuing state and the state of Texas.]

(d) This subchapter does not apply to:

(1) a boat that is less than 30 feet in length;

(2) a sailboat; or

[(3)] a vessel rented out for profit under a written contract by a vessel livery, as defined by Parks and Wildlife Code, §31.003(8), where all responsibility and liability for operating and provisioning the vessel is assumed by the party renting the vessel; or]

(3) [(4)] any vessel used for training or instructional purposes while it is not being used as a party boat.

#### §55.403. License Required.

(a) A person may not operate a party boat unless the person:

(1) has in the person's immediate possession:

(A) a party boat operator's license issued by the department; or

(B) a current and valid USCG pilot or captain's license; or

(2) is learning to operate the party boat for the purpose of acquiring a party boat operator's license and:

(A) is an employee of the owner of the party boat or the owner's agent; and

(B) is accompanied by a holder of a party boat operator's license issued by the department and the license holder occupies a space beside the unlicensed operator for the purpose of giving instruction on operating the party boat.

(b) It is a defense to prosecution under subsection (a)(1) of this section that the person charged produces in court:

(1) a party boat operator's license that was issued to the person and was valid when the offense was committed; or

(2) a current and valid pilot or captain's license issue by the USCG. [a valid license, issued by a state that shares a body of water with Texas, that is substantively similar in effect and scope to the party boat operator license required by this subchapter, provided:]

[(A)] the issuing state allows Texas vessels to operate in the shared waters under the same conditions; and]

[(B)] the party boat is operated only in waters shared by the issuing state and the state of Texas.]

#### §55.405. Employer/Owner Responsibilities.

(a) The owner of a vessel meeting the definition of a party boat may not operate or allow the operation of that vessel [a boat] as a party boat unless:

(1) the vessel and the owner are in compliance with the provisions of this subchapter with regard to inspections and certifications required under this subchapter; or [it has passed an annual water safety

inspection conducted or authorized by the department within the previous 12 months]

(2) a current, valid, applicable USGS Certificate of Inspection as provided in 46 CFR Subchapter K or T has been issued for the vessel.

(b) The owner of a party boat shall maintain liability insurance of at least \$500,000 per incident from an insurance provider authorized to do business in Texas. Proof of insurance must be:

(1) kept aboard the party boat at all times; and

(2) made available for inspection during normal business hours at the request of any department employee acting within the scope of official duties [The owner of a party boat must maintain at least a minimum of \$300,000 of liability insurance from an insurer licensed to do business in this state].

(c) The owner of a party boat may not knowingly:

(1) permit a person to operate a party boat at any time that the person is prohibited under the provisions of this subchapter from operating a party boat; or

(2) train a person to operate a party boat for purposes of obtaining a party boat operator's license unless the person is employed by the owner and has completed a boating safety course approved by the department. This paragraph does not apply if six or fewer passengers are aboard at the time a person is being trained.

(d) All documentation required by this subchapter shall be retained for a period of two years from the date the document or digital media is created and made available for inspection during normal business hours at the request of any department employee acting within the scope of official duties.

[(d)] The owner of a party boat shall ensure that a list of emergency procedures is posted in a conspicuous location on a party boat at all times that paying passengers are aboard the vessel. The list shall set forth, at a minimum, procedures or instructions for the following:]

[(1)] use of radio-telephone, if the vessel is equipped with a radio-telephone;]

[(2)] man overboard;]

[(3)] fire or explosion;]

[(4)] leaks or damage control;]

[(5)] location of personal flotation devices;]

[(6)] location of escape hatches and escape routes;]

[(7)] abandoning ship; and]

[(8)] location of first-aid kit.]

(e) On vessels that do not have or are not required to have a vessel capacity plate, the passenger capacity may be determined from the application of any one of the following formulae to the vessel:]

[(1)] one passenger per 30 inches of rail space available to passengers at the vessel's sides and across the transom;]

[(2)] one passenger per 10 square feet of deck area available for passenger use, not including concession stands, toilets, washrooms, companionways, or stairways; and]

[(3)] one passenger per 18 inches of width of fixed seating area provided.]

#### §55.406. Inspections and Certifications.

(a) General.

(1) It is an offense for a party boat owner to operate or allow the operation of a party boat unless the vessel has been inspected and certified as suitable for use as a party boat as prescribed in this section.

(2) The owner of a party boat shall ensure that a stability test is performed by an accredited naval architect or marine surveyor if:

(A) the vessel's structure or equipment (including, but not limited to, engines, generators, motors, air conditioning units or other major electrical or mechanical systems or components) have been modified to the extent that the weight or weight distribution of the vessel affects or could affect the stability of the vessel under normal operating conditions; or

(B) the vessel is involved in a reportable incident described by Parks and Wildlife Code, §31.105. This subparagraph does not apply to a reportable incident that does not involve physical damage to the party boat.

(C) A vessel subject to the provisions of this paragraph may not be used as a party boat until:

(i) the stability test required under this paragraph has been performed by an accredited naval architect or marine surveyor; and

(ii) the owner or owner's agent has submitted the resulting stability letter to the department and received written authorization to resume operation of the vessel as a party boat.

(b) Initial and Continuing Inspection/Certification. A vessel that has never been inspected for use as a party boat must undergo an initial inspection as provided in this paragraph before being used as a party boat. The initial inspection shall be conducted by an accredited naval architect or marine surveyor and shall consist of:

(1) an examination of the vessel in dry dock (including, but not limited to an assessment of the integrity of the vessel's hull and the external steering and propulsion system components);

(2) a USCG-approved stability test for the type and size of boat, which must be compliant with the current Assumed Average Weight per Person standard adopted by the USCG for the type and size of boat; and

(3) a statement signed by the accredited naval architect or marine surveyor who conducted the inspection attesting to:

(A) the suitability and safety of the vessel for use as a party boat; and

(B) the occupancy limit of the vessel, to include, if the vessel has multiple decks, the maximum number of persons the boat can safely carry on each deck, together and separately.

(c) A vessel may not be used as a party boat until:

(1) the statement required by subsection (b)(3) of this section has been submitted to the department; and

(2) the owner or owner's agent has received acknowledgment from the department that the statement has been received.

(d) In lieu of an examination in dry dock, the inspection required by subsection (b) of this section may be performed on the vessel while it is in the water, provided the entire examination is recorded on digital media in such a fashion as to provide visual clarity of detail necessary to determine the seaworthiness of the hull and the integrity of all mechanical components of the vessel that are below the waterline.

(e) The acknowledgment required by subsection (c)(2) of this section must be maintained by the owner or agent and made available

at the request of any department employee acting within the scope of official duties.

(f) Annual Water Safety Compliance Inspection and Certification.

(1) Following the inspection and certification required under subsection (a) of this section and continuing for as long as the vessel is used as a party boat, a party boat shall undergo an annual water safety compliance inspection as prescribed in this subsection.

(2) The inspection required under this subsection shall consist of the department's verification of:

(A) All applicable requirements of Parks and Wildlife Code, Chapter 31, relating or applicable to boat registration, titling, lighting, signaling, and safety equipment;

(B) a current stability letter posted aboard the vessel in compliance with the provisions of this subchapter;

(C) a First Aid kit in good condition aboard the vessel;

(D) an effectively functional two-way communication device (VHF radio or cellular phone with service) aboard the vessel;

(E) the list of emergency procedures enumerated in §55.408 of this title (relating to Passenger Safety), prominently posted in a conspicuous place for the benefit of passengers;

(F) all documentation, including proof of liability insurance, required by this subchapter and Parks and Wildlife Code, Chapter 31; and

(G) the log or records required under the provisions of §55.408(b) of this title indicating that emergency procedures have been communicated to passengers.

(3) The annual water safety inspection required by this subsection shall be conducted not more than 30 days prior to each anniversary of the initial inspection and certification required under subsection (b) of this section.

(4) A permittee must schedule the annual water safety inspection with the department in advance by completing and submitting a request to the department on a form supplied or provided by the department for that purpose.

(A) The request shall be submitted to the department not more than 60 days nor less than 30 days prior to each anniversary of the initial inspection required under subsection (b) of this section. The department will establish a mutually acceptable date for the annual water safety inspection.

(B) The department will not conduct an annual water safety inspection if the owner or representative is not present at the place, date, and time established for the annual water safety inspection under the provisions of subparagraph (A) of this paragraph.

(C) When an annual water safety inspection required by this subsection reflects compliance with the applicable requirements of this subchapter and Parks and Wildlife Code, Chapter 31, the department will provide the owner or representative with documentation of the inspection and the vessel may then be lawfully used as a party boat. Such documentation shall be prominently displayed in a conspicuous location aboard the vessel.

(5) If the annual water safety inspection required by this subsection is not performed before one year has passed since the date of the previous annual inspection, the vessel may not be used as a party boat until an inspection meeting the requirements of subsection (b) of this section has been performed.

(g) Five-year Inspection and Certification.

(1) Beginning the date of the initial inspection, stability test, and certification required by subsection (b) of this section or the effective date of this section, the owner of a party boat shall ensure that an examination of the vessel meeting the requirements of subsection (b) of this section is conducted by an accredited naval architect or marine surveyor not less than once every five years, as applicable.

(2) A statement signed by the accredited naval architect or marine surveyor who conducted the inspection, attesting to whether the vessel is or is not suitable for use as a party boat, must be submitted to the department within 30 days of the inspection required by this subsection. A vessel may not be used as a party boat until:

(A) the statement required by this paragraph has been submitted to the department; and

(B) the owner or owner's agent has received acknowledgment from the department that the statement has been received.

(3) A vessel may not be operated as a party boat if the vessel or owner is not in compliance with the provisions of this subsection, if applicable, and must be inspected and certified as described by subsection (b) of this section before being used as a party boat again.

(4) In lieu of an examination in dry dock, the inspection required by this subsection may be performed on the vessel while it is in the water, provided the entire examination is recorded on digital media in such a fashion as to provide visual clarity of detail necessary to determine the seaworthiness of the hull and the integrity of all mechanical components of the vessel that are below the waterline.

(h) The acknowledgment required under subsection (g)(2) of this section must be maintained by the owner or agent and made available at the request of any department employee acting within the scope of official duties.

§55.408. Passenger Safety.

(a) Personal flotation devices. It is unlawful to operate a party boat unless it carries:

(1) serviceable USCG-approved, wearable personal flotation devices meeting the requirements of Parks and Wildlife Code §31.066, in a number equivalent to the occupancy limit indicated on the annual inspection certificate issued by the department under this subchapter; and

(2) an additional number of personal flotation devices suitable for children equal to at least 10 percent of the occupancy limit established for the vessel under this subchapter. If more than 10% of the passengers on any voyage are children, a personal flotation device appropriate for children must be present for each child. For purposes of this subchapter, a child is any person younger than 13 years of age.

(b) Emergency Procedures.

(1) The owner of a party boat shall ensure, prior to the departure of the party boat from the dock, pier, or mooring where passengers board the vessel, that the safety procedures enumerated in paragraph (2) of this subsection have been presented and explained, verbally or in written form, to each passenger aboard the vessel, and that each passenger signs and dates an affidavit or log attesting to that fact.

(2) At all times that passengers are aboard a party boat, a list of emergency procedures shall be prominently displayed in a conspicuous place on the vessel. The list required by this subparagraph shall set forth, at a minimum, the procedures or instructions for:

(A) use of radio or telephone;

(B) man overboard;

(C) fire or explosion;

(D) leaks or damage control;

(E) location of personal flotation devices;

(F) location of escape hatches and escape routes;

(G) abandoning ship; and

(H) location of first-aid kit.

§55.410. Violations and Penalties.

A violation of any provision of this subchapter is punishable as prescribed by Parks and Wildlife Code, §31.127.

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 December 8, 2025.

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James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: January 18, 2026

For further information, please call: (512) 389-4775



**31 TAC §55.406**

The repeal is proposed under the authority of Parks and Wildlife Code, §31.176, which requires the commission to promulgate rules regarding the requirements and procedures for the issuance and renewal of a party boat operator license to protect the public health and safety, and §31.180, which requires the commission to adopt and enforce rules necessary to implement Parks and Wildlife Code, Chapter 31, Subchapter G.

The proposed repeal affects Parks and Wildlife Code, Chapter 31.

§55.406. Violations and Penalties.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



**CHAPTER 57. FISHERIES**  
**SUBCHAPTER A. HARMFUL OR**  
**POTENTIALLY HARMFUL FISH, SHELLFISH,**  
**AND AQUATIC PLANTS**

**31 TAC §57.114, §57.129**

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §57.114 and new §57.129, concerning Harmful and Potentially Harmful Exotic Fish, Shellfish, and Aquatic Plants. The proposed rules would authorize the issuance of permits for the possession, cultivation, sale, and transport of dotted duckweed (*Landoltia punctata*) under specific conditions.

Under current rule (§57.112(3)(C)(i)), dotted duckweed is designated a prohibited harmful or potentially harmful exotic aquatic plant and cannot be cultivated for commercial purposes. The department recently received a petition for rulemaking requesting the alteration of current rules to create an exception allowing the commercial cultivation of dotted duckweed under the existing commercial aquaculture permit. After comprehensive analysis of all significant parameters, the department determined that dotted duckweed can be safely cultivated, provided all culture and handling occurs in fully enclosed facilities under appropriate biosecurity standards. Dotted duckweed is a small, floating exotic aquatic plant native to Australia and Southeast Asia that is distributed easily via multiple transport pathways, has a high growth and propagation rate, and is known to outcompete native plant species. Climate match analysis indicates it could survive and become established in public waters throughout most of Texas should it escape culture, and it is deemed likely to have potential to become particularly problematic in smaller water bodies because it forms dense mats capable of suppressing native plants and potential degradation of sportfish habitat. Dotted duckweed can be easily transported to new water bodies by waterfowl, watercraft, and aquarium dumping, presenting a high spread potential should it escape. Notwithstanding, based on careful consideration of biosecurity risks associated with the proposed activity and escapement risk mitigation feasibility, staff has determined that under appropriate biosecurity and monitoring provisions there is an acceptably minimal, though not zero, risk of escape.

The amendment to §57.114, concerning Controlled Exotic Species Permit, would provide for the issuance of a commercial aquaculture facility permit for the possession, culture, sale, and transport of dotted duckweed.

Proposed new §57.129, concerning Special Provisions--Dotted Duckweed, would establish facility and processing standards that specifically apply to the cultivation of dotted duckweed.

Proposed new subsection (a)(1) would stipulate that the provisions of the proposed new section would be in addition to the minimum facility requirements already imposed by the subchapter, which is necessary to prevent confusion or misunderstanding. The proposed new section also would define the term "culture pond" as "any reservoir of water used as media for the cultivation and harvest of dotted duckweed in a facility permitted to do so under this subchapter," which is necessary to provide an unambiguous meaning of that term for purposes of compliance, administration, and enforcement.

Proposed new subsection (a)(2) would provide that the department will not issue a permit under the section for a facility located in a part of the state that is both south of SH 21 and east of I-35. The proposed provision is necessary because there is a significant portion of the state that regularly experiences, has experienced, or is at risk of experiencing inundation during hurricane events, which could result in escapement of dotted duckweed to surrounding aquatic systems. The department has determined that there is a significant enough potential threat to native species and systems to justify restricting the culture of dotted

duckweed to areas of the state not likely to be affected by hurricane-related inundation events.

Proposed new subsection (b) would set forth the requirements for water handling within facilities permitted to culture dotted duckweed to minimize escape risks. New subsection (b)(1) would prohibit the draining of any water from culture ponds unless it has been chemically treated in accordance with applicable law to kill all dotted duckweed that may be present. The provision is necessary, in concert with the provisions of proposed new subsection (b)(2), to ensure that water leaving any facility is free of viable dotted duckweed. Proposed new subsection (b)(2) would require all water leaving a facility to be passed through equipment that reduces plant material to a size of 100 micrometers or smaller (based upon seed size), which must be maintained to meet the regulatory standard at all times. The department has determined that the combination of chemical and physical treatments of culture media result in reasonable confidence that viable dotted duckweed will not escape from facilities where it is cultivated. Proposed new paragraph (b)(3) would explicitly state that it is an offense for any person to allow or cause culture pond water to drain into any ditch, storm drain, channel, conduit, stream, or other pathway that drains into or could drain into public water to provide reasonable confidence that viable dotted duckweed will not be spread to the environment. The department wishes to make absolutely and unmistakably clear that failure to contain dotted duckweed as a result of pond draining procedures is a crime.

Proposed new subsection (c) would establish facility standards where dotted duckweed is authorized to be cultured. Proposed new subsection (c)(1) would require all facilities and infrastructure used for the culture, harvesting, and packaging of dotted duckweed to be completely enclosed within a permanent, department-approved structure. The provision is necessary to ensure that there is a physical barrier at all times between viable dotted duckweed and the external environment. Proposed new subsection (c)(2) would require all points of entry or access to structures containing viable dotted duckweed to be kept closed except for immediate use for ingress or egress of personnel, equipment, or machinery. The provision is necessary to minimize, to the greatest extent practicable, the opportunity for waterfowl or other vectors to transport dotted duckweed from facilities to the external environment.

Proposed new subsection (d) would prescribe best practices for the processing and transport of dotted duckweed. Proposed new subsection (d)(1) would stipulate that the processing of dotted duckweed occur only within permitted facilities, and reiterate that allowing dotted duckweed to leave a facility except as provided by rule is a criminal offense. The provision is necessary to make it abundantly clear that dotted duckweed cannot be removed or allowed to leave a facility except as specifically provided by rule.

Proposed new subsection (d)(2) would prohibit the removal of dotted duckweed and any byproducts of the processing of dotted duckweed from a facility unless it has been passed through at least one department-approved mechanical device that reduces plant material to particles of a size no greater than 100 micrometers, and for all such equipment to be constantly maintained to achieve this standard. As noted previously in this preamble, the department has determined that physical treatment of organic material to render it non-viable is necessary to provide reasonable confidence that viable dotted duckweed will not be spread to the environment from facilities where it is cultivated.

Proposed new subsection (d)(3) would specifically authorize the possession, transport, sale, and export of non-viable dotted duckweed remnants and plant material byproducts. The department has determined that upon satisfaction of the various provisions of the rules, there is no longer a need to regulate the possession of materials that are incapable of negative impacts to native ecosystems.

Proposed new subsection (e) would require a permittee to ensure that all water and wastewater discharges at a facility are compliant with applicable rules of the Texas Commission on Environmental Quality, which is necessary because such requirements may differ from animal aquaculture wastewater discharge authorization requirements applicable to other permitted aquaculture facilities.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be minimal fiscal implications to state or local governments as a result of administering or enforcing the rules. The department estimates that at least one controlled exotic species commercial aquaculture permit will be issued for dotted duckweed, resulting in first-year revenue to the department of \$263. For each year after initial permit issuance, a permit may be renewed for one year at \$74, three years at \$168, or five years at \$263, contingent upon compliance history.

There will be no fiscal implications for other units of state or local government as a result of enforcing or administering the rules.

Mr. Macdonald also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be adequate protection of public natural resources.

There will be adverse economic effect on persons required to comply with the rules as proposed, which are addressed later in this preamble in the analysis of the effect of the rules on small business, microbusiness, and rural communities. As noted elsewhere in this preamble, the department is aware of one entity that would engage in the culture of dotted duckweed if the rules as proposed are adopted, and that entity already meets the requirements of the proposed rules; thus, the estimated adverse economic effects of the rules would apply only to future applicants, if there are any.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department is aware of one small business that would be engaged in the cultivation of dotted duckweed if the rules as proposed are adopted, namely, the petitioner. The rules as proposed would require the construction of some kind of

permanent structure to house culture ponds and processing areas and require chemical and mechanical treatment of plant material and culture media. The entity that has petitioned the department is already culturing similar but non-prohibited species of aquatic plants in structures that would be compliant with the requirements of the proposed rules, using maceration equipment that also is compliant with the requirements of the proposed rules, and already possesses pesticides meeting the requirements of the proposed rule; thus, for the only small or microbusiness known or expected to be affected by the rules as proposed, there would be no direct adverse economic impacts or minimal adverse economic impacts. The department has no method of determining the future demand for permits to cultivate dotted duckweed; however, initial costs for prospective permittees would consist of approximately \$3,000-\$12,000 per greenhouse (enclosed structure), approximately \$500 per macerator pump per facility or per greenhouse (dependent upon facility operational parameters); and approximately \$500 for pesticides sufficient for one water draining event per year. The department notes that the rules do not stipulate specific construction materials or design elements for greenhouses, only that whatever structure is built must completely enclose all culture ponds and, in the determination of the department, function as a credible physical barrier between the culture ponds and the external environment; therefore, there is wide variability in possible structures and associated construction costs, ranging from simple hoop structures to more complex structures, as well a variety of materials, from hardened plastic or glass to wood or metal.

The department has determined that the rules as proposed will not have any direct economic effect on any rural community.

The department considered several alternatives to the rules as proposed.

One alternative considered was to remove dotted duckweed from the list of exotic harmful or potentially harmful plants, which would allow the cultivation of dotted duckweed without regulatory oversight, including by aquarium hobbyists. This alternative was rejected because the department has an affirmative duty under the Parks and Wildlife Code to protect native systems and species from harmful exotic species and unregulated possession of dotted duckweed is highly likely to result in escape.

One alternative was to do nothing and maintain status quo, leaving the possession and cultivation of dotted duckweed illegal. This alternative was rejected because the staff recommendation regarding the petition for rulemaking was to proceed to rulemaking.

Another alternative was to prescribe more prescriptive facility requirements to absolutely and definitively preclude the possible escape of dotted duckweed. This alternative was rejected because staff has determined that the measures as proposed are believed to be an appropriate and sensible accommodation of the petitioner's request while discharging the regulatory responsibilities of the department under the Parks and Wildlife Code.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of an existing fee; not create or repeal an existing regulation, but will expand an existing regulation (by adding dotted duckweed to the list of species for which commercial culture is permitted); not increase or decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Monica McGarrity, Senior Scientist for Aquatic Invasive Species, e-mail: [monica.mcgarritty@tpwd.texas.gov](mailto:monica.mcgarritty@tpwd.texas.gov). Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The amendments are proposed under the authority of Parks and Wildlife Code, §66.007, which authorizes the department to make rules necessary to authorize the import, possession, sale, or introduction of harmful or potentially harmful exotic fish.

The proposed amendments affect Parks and Wildlife Code, Chapter 66.

*§57.114. Controlled Exotic Species Permit.*

(a) (No change.)

(b) Commercial Aquaculture Facility Permits.

(1) Controlled exotic species facility permits may be issued for commercial aquaculture, in accordance with the provisions of this subchapter, only for the following species:

(A) - (C) (No change.)

(D) Dotted duckweed--(*Landoltia punctata*) in compliance with the provisions of §57.129 of this title (relating to Special Provisions--Dotted Duckweed).

(2) (No change.)

(c) - (f) (No change.)

*§57.129. Special Provisions--Dotted Duckweed.*

(a) General.

(1) In addition to the requirements of the provisions of §57.119 of this title (relating to Minimum Facility Requirements), the provisions of this section apply to facilities permitted to culture dotted duckweed under the provisions of this subchapter. For the purposes of this section, a culture pond is any reservoir of water used as media for the cultivation and harvest of dotted duckweed in a facility permitted to do so under this subchapter.

(2) The department will not approve a permit under this section for any facility located in a part of the state that is both south of State Highway 21 and east of I-35.

(b) Culture ponds.

(1) Water may not be drained from a culture pond until all dotted duckweed in the culture pond has been killed in accordance with

applicable law by application of pesticides or other chemicals approved for aquatic use by the U.S. Environmental Protection Agency and Texas Department of Agriculture.

(2) No water from a culture pond may be allowed to exit a greenhouse or other such confinement structure unless all culture pond water and plant material have been passed through at least one macerator pump or similar department-approved mechanical device that reduces plant material to particles of a size no greater than 100 micrometers. All equipment required by this subparagraph shall be maintained to ensure the particle size limit established by this subparagraph is not exceeded at any time.

(3) It is an offense for any person to allow or cause culture pond water to drain into any ditch, storm drain, channel, conduit, stream, or other pathway that drains into or could drain into public water.

(c) Facility requirements.

(1) All culture ponds and harvesting equipment (including but not limited to conveyor belts, transport infrastructure, processing infrastructure, and all other equipment or infrastructure associated with culture, harvest, and transport of dotted duckweed) within a facility shall be fully enclosed within a permanent, department-approved structure such as a greenhouse or other enclosure that the department determines is sufficient to prevent the escape of dotted duckweed.

(2) All doors and access points to greenhouses or structures used to enclose culture ponds and all access points to infrastructure used to transport dotted duckweed shall remain closed at all times except for purposes of immediate use for ingress or egress of personnel, equipment, or machinery.

(d) Processing requirements.

(1) Dotted duckweed may be processed only within a permitted aquaculture facility. Except as provided for drainwater under subsection (b) of this section, it is an offense for any person to allow or cause dotted duckweed to leave a facility for any reason.

(2) No plant material, including dotted duckweed and any byproducts or remnants of processing operations, may be removed from the permitted facility for any reason unless it has been passed through at least one macerator pump or similar department-approved mechanical device that reduces plant material to particles of a size no greater than 100 micrometers. All equipment required by this subparagraph shall be maintained to ensure the particle size limit established by this subparagraph is not exceeded at any time.

(3) Dotted duckweed remnants and plant material byproducts that have been rendered non-viable in accordance with the provisions of subsection (b)(2) of this section may be possessed, transported, sold, or exported without a controlled exotic species permit.

(e) Wastewater discharge. A permittee shall ensure that all discharge of wastewater from a permitted facility occurs in compliance with all applicable regulatory requirements of the Texas Commission on Environmental Quality.

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 December 8, 2025.

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## SUBCHAPTER C. INTRODUCTION OF FISH, SHELLFISH AND AQUATIC PLANTS

### 31 TAC §57.251, §57.252

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §57.251 and §57.252, concerning Introduction of Fish, Shellfish, and Aquatic Plants. The proposed rules would function in concert to explicitly acknowledge that macroalgae, as well as plants that reproduce only by spores or fragmentation and emergent aquatic plants, are included in the applicability of department rules governing the introduction of aquatic plants in public waters.

Under Parks and Wildlife Code, §12.015, the department is required to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state. Under Parks and Wildlife Code, §66.015, the department is required to adopt rules governing the issuance of permits for the introduction of fish, shellfish, and aquatic plants into public waters and stipulates that no person may place any species of fish, shellfish, or aquatic plant into the public water of the state without a permit issued by the department. Under Agriculture Code, §134.005, the department is required to adopt rules to carry out its duties under that chapter with respect to the regulation of aquaculture.

The department has recently been approached by external parties interested in conducting introductions of marine macroalgae in public water for research purposes related to potential for aquaculture. In evaluating these inquiries, the department has identified what could be interpreted as a lacuna in the applicability of rules under which the department may authorize the introduction of aquatic plants, specifically, the sufficiency of the current regulatory definition of "aquatic plant" with respect to classes of aquatic plants such as macroalgae (and, in addition, plants that reproduce by means other than seeds, and emergent aquatic plants). The current definition has been in effect since the late 1970s and the department has determined that it should be restated to reflect the current status of botanical understanding of aquatic plants and clearly include macroalgae. The department has determined that any macroalgae introductions have the potential to adversely impact habitats and create user conflict and because oversight of such activities is necessary and warranted to protect native organisms and ecosystems, the definition should be amended to introduce greater clarity. The department emphasizes that if a prospective introduction to public water of any species is determined by the department to be problematic, it will not be authorized.

On this basis, the proposed amendment to §57.251, concerning Definitions, would replace the current definition with a new definition that more completely encompasses the variety of aquatic plants to which the rules apply.

The proposed amendment to §57.252, concerning General Provisions, would provide for department waiver of permit requirements for introductions coordinated with or conducted under the direction of the department for purposes of mitigation or restoration (or any other environmentally beneficial reason). In cases

such as the aftermath of major storms, flood events, or environmental incidents, restoration efforts can be large and concentrated. The department seeks to facilitate the rapid recovery of ecosystems in such cases and reasons that waiver of permit requirements, in the presence of department coordination or direction is sensible.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be minimal fiscal implications to state or local governments as a result of administering or enforcing the rules, consisting of revenue lost as a result of the waiver of permit fees, which cannot be anticipated and therefore cannot be quantified.

There will be no fiscal implications for other units of state or local government as a result of enforcing or administering the rules.

Mr. Macdonald also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be accurate regulations and the resultant protection of public natural resources.

There will be no adverse economic effect on persons required to comply with the rules as proposed.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that because the rules as proposed clarify the applicability of existing regulations, they do not directly affect any small business or microbusiness.

The department has determined that the rules as proposed will not affect rural communities, as the rules do not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number

of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of an existing fee; not create, repeal, or expand an existing regulation; not increase or decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Monica McGarrity, Senior Scientist for Aquatic Invasive Species, e-mail: [monica.mcgarritty@tpwd.texas.gov](mailto:monica.mcgarritty@tpwd.texas.gov). Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The amendments are proposed under Parks and Wildlife Code, §12.015, which requires the department to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state; §66.015(c), which requires the department to establish rules related to the issuance of permits for the introduction of fish, shellfish, or aquatic plants into the public water of the state; and Agriculture Code, §134.005, which requires the commission to adopt rules necessary to carry out its responsibilities under that chapter to regulate aquaculture.

The proposed amendments affect Parks and Wildlife Code, Chapters 12 and 66, and Agriculture Code, Chapter 134.

§57.251. *Definitions.*

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

(1) (No change.)

(2) Aquatic plant--All plants (vascular or non-vascular) that grow either partially or totally submerged in water or in the substrate of a body of water, including freshwater macroalgae of genus *Chara* (muskgrass) or *Nitella* (stoneworts), and all marine macroalgae (seaweeds) [All plants whose seeds germinate in either the water phase or the substrate of a body of water and which must spend part of the life cycle in water (Reid, G.K., and R.O. Wood 1976, *Ecology of Inland Waters and Estuaries*)].

(3) - (11) (No change.)

§57.252. *General Provisions.*

(a) - (i) (No change.)

(j) The department may waive the permit requirements of this subchapter for restoration or mitigation activities or other beneficial environmental purpose conducted in coordination with or at the direction of the department.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## CHAPTER 65. WILDLIFE

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §§65.81, 65.88, 65.90, 65.91, 65.92, 65.94, 65.95, 65.97, 65.99, and 65.100, concerning Disease Detection and Response, and 65.610, concerning Deer Breeder Permits. The proposed amendments would function collectively to clearly define the areas of respective responsibility between the department and the Texas Animal Health Commission (TAHC) with respect to the management of chronic wasting disease (CWD) in Texas.

CWD is a fatal neurodegenerative disorder that affects some cervid species, including wildlife resources such as white-tailed deer and mule deer, but also exotic species such as elk, red deer, sika, and their hybrids (referred to collectively as "susceptible species"). It is classified as a TSE (transmissible spongiform encephalopathy), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE, found in cattle and commonly known as "Mad Cow Disease"), and variant Creutzfeldt-Jakob Disease (vCJD) in humans. CWD is spread by prions (a misfolded protein that is the infectious agent) that other animals can acquire directly or indirectly via bodily fluids or contaminated environments. CWD prions are known to persist in soil, vegetation, water, and carcasses indefinitely and there is no practical method for denaturing them. Thus, if CWD is not contained and controlled, the implications of the disease for Texas and its multi-billion-dollar ranching, hunting, wildlife management, and real estate economies could be significant.

The department has been concerned for over two decades about the emergence of CWD in free-ranging and captive populations of white-tailed and mule deer in Texas. The department is the primary state agency for the management and protection of native wildlife in the state, while TAHC is the state agency responsible for protecting animal agriculture (livestock and poultry) from disease and human health from zoonotic disease. Under Agriculture Code, §161.101(a)(6), CWD is a reportable disease and requires a veterinarian, veterinary diagnostic laboratory, or person having care, custody, or control of an animal to report the existence of CWD to TAHC within 24 hours after diagnosis. Because CWD can be transmitted between wildlife and farmed animals, there is an obvious nexus of interagency responsibilities in certain situations.

A central component of the joint strategy for CWD management was the department's utilization of TAHC hold orders and quarantines as a regulatory mechanism for isolating and restricting the movement of infected or potentially infected animals. The proposed amendments would remove all references to TAHC (with exceptions as noted), hold orders, quarantines, and herd plans and replace references to hold orders, quarantines, and herd plans, as appropriate, with references to "disease management plan," which is necessary to create and implement a similar mechanism administered solely by the department and applicable only to white-tailed and mule deer, which are the only two species of native wildlife that are susceptible to CWD.

The proposed amendment to §65.88, concerning Deer Carcass Movement Restrictions, in addition to conforming changes regarding TAHC mentioned earlier in this preamble, would extend the applicability of the section to all dead deer being transported (i.e., not just deer killed by hunting) reword subsection (a) for purposes of clarity, and add new subsection (b) to address the disposal of deer that die within breeding facilities. The disposal methods for deer that die within exposed and positive breeding facilities are currently addressed under TAHC herd plans; there-

fore, the department must stipulate those standards in department rules in order to prevent the spread of CWD from breeding facilities where it might or has been confirmed to exist. Additionally, the proposed amendment would require persons transporting carcasses of dead breeder deer to a landfill (if the deer are not interred *in situ*) to possess a completed disposition document on a form approved or supplied by the department, which would be required to accompany deer carcasses during transport and until the carcasses are accepted at the landfill. The proposed amendment is necessary to aid in law enforcement investigations, if necessary, by documenting deer that no longer bear the permanent identification required under Parks and Wildlife Code, Chapter 43, Subchapter L.

The proposed amendment to §65.90, concerning Definitions, consists of a number of related changes intended to address intra-agency roles in CWD management in wildlife contexts and to make clarifications and improvements to definitions used throughout the subchapter. The changes are necessary to prevent misunderstandings and standardize the applicability of various specialized terms.

The proposed amendment would add new paragraph (14) to define "exposed facility" as "a facility that has received exposed deer," and alter current paragraphs (29) and (45) to make those provisions applicable to all types of facilities and not just to deer breeding facilities. The current rule defines "exposed deer" and "exposure" but does not explicitly address facilities that contain exposed deer. The current definitions in paragraphs (29) and (45) reflect the division of labor with respect to the former role of TAHC in CWD management. Because TAHC hold orders and quarantines will no longer be issued for premises on the basis of CWD in wildlife populations, the affected definitions must be made applicable to all facilities (rather than just to breeding facilities) to accommodate that fact.

The proposed amendment also would make several changes affecting terminology related to administrative mechanisms for authorizing the movement of breeder deer. In order to effectively and efficiently track the movement of breeder deer to and from deer breeders for purposes of law enforcement and disease investigations, the department created a specialized database commonly known as TWIMS, which allowed the automation of many permitting processes. Every location where breeder deer are kept or released is assigned a unique "facility ID" in TWIMS. Although the term "facility" has long been defined by rule to apply to any location required to be registered in TWIMS, the term has, for whatever reason, become synonymous with "deer breeding facility." Similarly, although the terms "Movement Qualified" (current paragraph (26)) and "Non-Movement Qualified" (current paragraph (28)), under current rule apply only to breeding facilities, they have for whatever reason erroneously become understood to include movement authorizations for other types of facilities, which is technically and legally not the case. The terms were promulgated to reflect the binary opposition states (predicated on compliance with disease-testing requirements) necessary for TWIMS to allow or prevent the activation of a transfer permit that allows deer movement to and from deer breeding facilities or to other types of facilities; however, the terms have become so commonly used to refer to release locations that the department believes it is easier and more effective to simply alter the rules to expand the applicability of the terms to include all types of facilities. Along the same lines, the term "transfer permit" has long been defined in Chapter 65, Subchapter T, to mean the authorization for movement of breeder deer to or from any type of facility, some confusion has arisen as to whether "to

or from" means "to and from" even though release locations are terminal destinations (i.e., the transfer permit in such cases is a permanent and final "one-way only" authorization of movement to a location from which the deer cannot ever be removed while still alive). Finally, the proposed amendment would replace the term "release site" (current paragraph (34)), with the term "release facility." As discussed earlier in this preamble, every location where breeder deer are kept and every location where breeder deer are released are assigned a "facility ID" in TWIMS. To maintain continuity of terminology, the proposed amendments would remove all references to release sites and replace them with references to "release facility."

The proposed amendment to §65.91, concerning General Provisions, would eliminate references to TAHC and replace the term "herd plan" with the term "disease management plan" for reasons previously discussed in this preamble. The proposed amendment to subsection (d) would address situations in which a premise is subject to TAHC movement restrictions because of CWD exposure in a susceptible species other than white-tailed deer or mule deer. The department has determined that because native cervids are susceptible species, allowing breeder deer to be moved from an exposed location represents an unacceptable risk of spreading CWD to native free-ranging and captive deer populations unless a determination based on the particulars of a given circumstance indicate that risk is either non-existent or acceptable. The proposed amendment also would alter subsection (e) to create an exception that would allow the transfer of deer to or from a facility designated NMQ if authorized under a disease management plan. The department has determined that there may be unforeseen situations in which compliance with a disease management plan provides epidemiological confidence that the transfer of deer by a facility otherwise not allowed to move deer can be allowed. Finally, the proposed amendment would alter subsection (f) to clarify that the provisions of the subsection apply to facilities where CWD has been confirmed as well as facilities where CWD is suspected to be present, which is necessary to address situations in which a facility nominally linked to a positive facility can be cleared following epidemiological investigation.

The proposed amendment to §65.92, concerning CWD Testing, would make conforming changes discussed previously in this preamble.

The proposed amendment to §65.94, concerning Breeding Facility Minimum Movement Qualification, would make conforming changes discussed previously in this preamble.

The proposed amendment to §65.95, concerning Movement of Breeder Deer, makes conforming changes as discussed previously in this preamble and would stipulate that changes in land ownership do not affect the status of a property as a trace-out release site. The department has determined that because CWD is an existential threat to native wildlife, it is necessary to eliminate the potential for unscrupulous persons to evade disease-management obligations by way of real estate transactions.

The proposed amendment to §65.97, concerning Testing and Movement of Deer Pursuant to a Triple T or TTP Permit, would make conforming changes discussed previously in this preamble.

The proposed amendment to §65.99, concerning Breeding Facilities Epidemiologically Connected to Deer Infected with CWD; Positive Deer Breeding Facilities, would make conforming changes discussed previously in this preamble.

The proposed amendment to §65.100, concerning Violations and Penalties, would make conforming changes discussed previously in this preamble.

The proposed amendment to §65.610, concerning Transfer of Deer, would make conforming changes discussed previously in this preamble.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state and local governments as a result of enforcing or administering the rules as proposed, as department personnel currently allocated to the administration and enforcement of disease management activities will administer and enforce the rules as part of their current job duties.

Mr. Macdonald also has determined that for each of the first five years the amendments as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rules as proposed will be the continued efficacy of department efforts to prevent the spread of CWD from locations where it does or has a reasonable probability to exist, thus ensuring the public of continued enjoyment of the resource and also ensuring the continued beneficial economic impacts of hunting in Texas.

There will be no adverse economic impact on persons required to comply with the rules as proposed.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses, micro-businesses, and rural communities. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

Government Code, §2006.001(1), defines a small or micro-business as a legal entity "formed for the purpose of making a profit" and "independently owned and operated." A micro-business is a business with 20 or fewer employees. A small business is defined as a business with fewer than 100 employees, or less than \$6 million in annual gross receipts. The department has determined that the proposed rules will not result in direct economic costs to small businesses and microbusinesses.

The department has determined that the proposed rules will not affect rural communities because the rules do not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not result in direct impacts to local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules. Any impacts resulting from the discovery of CWD in or near private real property would be the result of the discovery of CWD and not the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; not create a new regulation or repeal an existing regulation, but will modify existing rules to accommodate the cessation of TAHC involvement in the management of CWD efforts with respect to native wildlife; not increase the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Kory Gann, Big Game Program Director, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744; (512) 389-4363, (e-mail: [kory.gann@tpwd.texas.gov](mailto:kory.gann@tpwd.texas.gov)); or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

## SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

### DIVISION 1. CHRONIC WASTING DISEASE (CWD)

#### 31 TAC §65.81, §65.88

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapters R and R-1, which authorize the commission to establish the conditions of a deer management permit for white-tailed and mule deer, respectively; and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, R, R-1, and Chapter 61.

#### §65.81. Risk Mitigation Provisions.

(a) (No change.)

(b) Breeder Deer.

(1) - (7) (No change.)

(8) Deer that escape from a breeding facility any part of which is within five linear miles of a location where CWD has been detected in a free-range white-tailed deer or susceptible species, or within 25 linear miles of a location where CWD has been detected in a free-range mule deer, may not be recaptured and/or returned to a breeding facility except as expressly authorized in writing by the department or in a disease management [herd] plan.

(9) (No change.)

(c) (No change.)

*§65.88. Deer Carcass Movement Restrictions.*

(a) In addition to the provisions of §65.10 of this title (Possession of Wildlife Resources) and except as may be otherwise prohibited by this subchapter or a disease management plan, a dead white-tailed deer, mule deer, or susceptible species (or parts thereof) may be transported into or within this state from the location where the animal was killed or found, provided the [a department herd plan, or a quarantine or hold order issued by TAHC, a white-tailed deer or mule deer or part of a white-tailed or mule deer killed in this state or a susceptible species or part of a susceptible species harvested outside of Texas may be transported from the location where the animal was killed as provided in this section. The] parts of the animal not retained for cooking, storage or taxidermy purposes are [shall be] disposed of as quickly as practicable by one of the following methods:

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

(b) A white-tailed deer or mule deer that dies in an exposed breeding facility or positive breeding facility must be disposed of only as provided in subsection (a)(1) or (2) of this section. If a breeder deer is disposed of as provided in subsection (a)(1) of this section, a completed disposition document on a form provided or approved by the department must accompany the carcass(es) to the landfill and remain with the possessor until the carcass(es) has/have been accepted by the landfill.

(c) [(b)] The rendering of carcass parts is not a lawful method of disposal.

(d) [(e)] The carcass of a white-tailed or mule deer may be deboned at any location prior to transportation to a final destination, provided:

(1) - (6) (No change.)

(e) [(d)] It is an offense for any person to dispose of those parts of an animal that the possessor does not retain for cooking, storage, or taxidermy purposes except as follows:

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

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## DIVISION 2. CHRONIC WASTING DISEASE - COMPREHENSIVE RULES

### 31 TAC §§65.90 - 65.92, 65.94, 65.95, 65.97, 65.99, 65.100

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected

wildlife for scientific research, educational display, zoological collection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapters R and R-1, which authorize the commission to establish the conditions of a deer management permit for white-tailed and mule deer, respectively; and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, R, R-1, and Chapter 61.

*§65.90. Definitions.*

The following words and terms shall have the following meanings, except in cases where the context clearly indicates otherwise.

(1) - (11) (No change.)

(12) Disease management plan--A set of requirements for disease testing and management developed by the department.

(13) [(12)] Exposed deer--A deer that meets any of the following criteria:

(A) - (C) (No change.)

(14) Exposed facility--A facility that has received an exposed deer.

(15) [(13)] Exposure--The period of time that has elapsed following the introduction of an exposed deer to a breeding facility.

(16) [(14)] Facility--Any location required to be registered in TWIMS under a deer breeder's permit, Triple T permit, TTP permit, or DMP, including release sites and/or trap sites.

(17) [(15)] Free-range deer--A deer that is not a breeder deer.

[(16)] Herd Plan--A set of requirements for disease testing and management developed by the department and TAHC.]

(18) [(17)] Hunter-harvested deer--A deer required to be tagged under the provisions of Subchapter A of this chapter (relating to Statewide Hunting Proclamation).

(19) [(18)] Hunting year--That period of time between September 1 and August 31 of any year when it is lawful to hunt deer under the provisions of Subchapter A of this chapter (relating to Statewide Hunting Proclamation).

(20) [(19)] Inconclusive--A test result that is neither "positive" nor "not detected" on the basis of clinical deficiency.

(21) [(20)] "Insufficient follicles"--A test result indicating that a tonsil or rectal biopsy sample contained an insufficient number of lymphoid follicles to produce a valid test result.

(22) [(21)] Landowner (owner)--Any person who has an ownership interest in a tract of land and includes landowner's authorized agent.

(23) [(22)] Landowner's authorized agent (agent)--A person designated by a landowner to act on the landowner's behalf.

(24) [(23)] Last known exposure--The last date a deer in a trace-out or trace-in breeding facility was exposed to a trace deer prior to the death or transfer of that trace deer.

(25) [(24)] Liberated deer--A free-ranging deer that bears evidence of having been a breeder deer, including, but not limited to, a tattoo (including partial or illegible tattooing), or evidence of having been ear-tagged at any time (holes, rips, notches, etc. in the ear tissue), electronic identification devices, or any other signs that the deer was at any time a breeder deer.

(26) [(25)] Location of detection--The exact geographic location, to the extent that it can be determined, at which a deer or susceptible species confirmed to be positive for CWD died.

(27) [(26)] Movement Qualified (MQ)--A designation made by the department pursuant to this division that allows:

(A) a deer breeder to [lawfully] transfer breeder deer to another facility; or

(B) a facility to receive breeder deer.

(28) [(27)] Not available/unavailable for testing--For a Category B trace-out deer breeding facility, a deer that is no longer present in a facility and cannot be found or the whereabouts of which are otherwise unknown.

(29) [(28)] Not Movement Qualified (NMQ)--A designation made by the department pursuant to this division that prohibits:

(A) the transfer of deer by a deer breeder; or

(B) a facility from receiving breeder deer.

(30) [(29)] Positive [breeding] facility--A [deer breeding] facility where CWD has been confirmed to exist.

(31) [(30)] Post-mortem test--A CWD test performed on a dead deer.

(32) [(31)] Properly executed--A form or report required by this division on which all required information has been entered.

(33) [(32)] Reconciled herd--The breeder deer held in a breeding facility for which every birth, mortality, and transfer of breeder deer has been accurately reported as required by this division.

(34) [(33)] Release--The act of liberating a deer from captivity. For the purposes of this division the terms "release" and "liberate" are synonymous.

(35) [(34)] Release facility [site]--A specific tract of land to which deer are released, including the release of deer under the provisions of this chapter or Parks and Wildlife Code, Chapter 43, Subchapters E, L, R, or R-1.

(36) [(35)] Reporting year--For a deer breeder's permit, the period of time from April 1 of one calendar year through March 31 of the next calendar year.

(37) [(36)] RFID tag--A button-type ear tag conforming to the 840 standards of the United States Department of Agriculture's Animal Identification Number system.

(38) [(37)] Submit--When used in the context of test results, provided to the department, either directly from a deer breeder or via an accredited testing laboratory.

(39) [(38)] Susceptible species--Any cervid species or part of a cervid species that is susceptible to CWD.

(40) [(39)] Suspect--An initial CWD test result of "detected" that has not been confirmed.

(41) [(40)] TAHC--Texas Animal Health Commission.

(42) [(41)] Test-eligible--

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

(43) [(42)] Test, Test Result(s), or Test Requirement--A CWD test, CWD test result, or CWD test requirement as provided in this division.

(44) [(43)] Trace deer--A deer that the department has determined had been in a CWD-positive deer breeding facility on or after the date the facility was first exposed to CWD, if known; otherwise, within the previous five years from the reported mortality date of the CWD-positive deer, or the date of the ante-mortem test result.

(45) [(44)] Trace-in breeding facility--A breeding facility that meets either of the following criteria:

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

(46) [(45)] Trace-out [breeding] facility--A breeding or release facility that has received an exposed deer that was in a CWD-positive deer breeding facility.

(47) Transfer--The movement of breeder deer under a transfer permit executed as provided in Subchapter T of this chapter:

(A) from or to another breeding facility; or

(B) from a breeding facility to another type of facility.

(48) [(46)] Trap Site--A specific tract of land approved by the department for the trapping of deer under this chapter and Parks and Wildlife Code, Chapter 43, Subchapters E, L, R, and R-1.

(49) [(47)] Triple T permit--A permit to trap, transport, and transplant white-tailed or mule deer (Triple T permit) issued under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter E, and Subchapter C of this chapter (relating to Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds).

(50) [(48)] Trap, Transport and Process (TTP) permit--A permit issued under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter E, and Subchapter C of this chapter (relating to Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds), to trap, transport, and process surplus white-tailed deer (TTP permit).

(51) [(49)] TWIMS--The department's Texas Wildlife Information Management Services (TWIMS) online application.

(52) [(50)] Whole-herd test--The administration of an ante-mortem test to the entirety of test-eligible deer in the inventory of a breeding facility.

#### §65.91. General Provisions.

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

(c) Except as provided in this division or as expressly authorized and in accordance with the provisions of a disease management [herd] plan, [no person shall transfer deer to or from] any facility for which a CWD test result of "suspect" or "positive" has been obtained from an accredited testing laboratory, irrespective of how the sample was obtained or who collected the sample, is automatically NMQ and the [The] provisions of this subsection take effect immediately [upon the notification of a CWD "suspect" test result, and continue in effect until the department expressly authorizes the resumption of permitted activities at that facility].

(d) Notwithstanding any provision of this division, no person may cause or allow breeder deer to be transferred from a facility subject to [moved from a facility for any purpose if such movement is prohibited by a herd plan associated with] a TAHC hold order or TAHC quarantine applicable to a trace susceptible species unless specifically

authorized to do so under a disease management plan or the department has authorized movement following an epidemiological assessment.

(e) No person may transfer deer to or from a facility that has been designated NMQ by the department unless:

(1) specifically authorized by the department for the holder of a scientific research permit when the proposed research is determined to be of use in advancing the etiology of CWD in susceptible species; or

(2) authorized by a disease management plan.

(f) Immediately upon the notification that a facility has received a CWD "suspect" test result (a CWD-suspect facility) or a CWD "positive" test result (a CWD-positive facility), all facilities that have received [that have been in possession of] a deer [that was] held in or transferred to the [CWD suspect] facility within the previous five years shall be designated NMQ by the department until it is determined that the facility is not epidemiologically linked to the CWD-suspect or CWD-positive [CWD suspect] deer, or it is determined upon further testing that the "suspect" deer is not a confirmed positive.

(g) - (i) (No change.)

*§65.92. CWD Testing.*

(a) (No change.)

(b) Except as provided in §65.95(c)(7) of this title (relating to Movement of Breeder Deer) or subsection (d) of this section, an ante-mortem CWD test is not valid unless it is performed by an accredited laboratory on retropharyngeal lymph node, rectal mucosa, or tonsillar tissue with at least six lymphoid follicles collected within eight months of submission by a licensed veterinarian authorized pursuant to statutes and regulations governing the practice of veterinary medicine in Texas [and regulations of the TAHC] from a live deer that:

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

(c) - (j) (No change.)

(k) Upon notification by the department that CWD is suspected or confirmed in a deer as a result of ante-mortem testing in a facility, the facility is automatically NMQ and the permittee shall:

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

(l) (No change.)

*§65.94. Breeding Facility Minimum Movement Qualification.*

(a) Notwithstanding any other provision of this division, a breeding facility is designated NMQ and is prohibited from transferring breeder deer anywhere for any purpose if the breeding facility:

(1) (No change.)

(2) is not authorized pursuant to a disease management plan [herd plan associated with a TAHC hold order or TAHC quarantine];

(3) - (4) (No change.)

(b) - (d) (No change.)

(e) The department may decline to designate a facility as MQ under subsection (d) of this section:

(1) (No change.)

(2) upon the recommendation of a licensed veterinarian or epidemiologist employed by the department [or TAHC]. The recommendation must:

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

(f) - (i) (No change.)

*§65.95. Movement of Breeder Deer.*

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

(c) Release Facilities [Sites]; Release of Breeder Deer.

(1) An approved release facility [site] consists solely of the specific tract of land to which deer are released and the acreage is designated as a release facility [site] in TWIMS. A release facility [site] owner may modify the acreage registered as the release facility [site] to recognize changes in acreage (such as the removal of cross-fencing or the purchase of adjoining land), so long as the release facility [site] owner notifies the department of such modifications prior to the acreage modification. The release facility [site] requirements set forth in this division apply to the entire acreage modified under the provisions of this paragraph.

(2) Liberated breeder deer must have complete, unrestricted access to the entirety of the release facility [site]; provided, however, deer may be excluded from areas for safety reasons (such as airstrips) or for the purpose of protecting areas such as crops, orchards, ornamental plants, and lawns from depredation.

(3) All release facility [sites] onto which breeder deer are liberated must be surrounded by a fence of at least seven feet in height that is capable of retaining deer at all times under reasonable and ordinary circumstances. The owner of the release facility [site] is responsible for ensuring that the fence and associated infrastructure retain deer under reasonable and ordinary circumstances.

(4) The department will not authorize the liberation of breeder deer at a release facility [site] registered in TWIMS following the effective date of this subsection unless the owner of the release facility [site] submits to the department a letter of endorsement by a person authorized by the department to conduct fence inspections under the provisions of §65.603 of this title (relating to Application and Permit Issuance) stating that the person has personally conducted an on-site inspection at the release facility identified in the application and affirming that the release facility [site] is surrounded by a perimeter fence meeting the requirements of paragraph (3) of this subsection. This paragraph does not apply to release facility [sites] that have received deer prior to the effective date of this paragraph. It is an offense for any person the department has authorized as a facility inspector to submit the letter of endorsement required by this paragraph if the person has not personally conducted an onsite inspection at the facility.

(5) No person may intentionally cause or allow any live deer to leave or escape from a release facility [site] onto which breeder deer have been liberated.

(6) The owner of a release facility [site] where deer from a facility subject to the provisions of §65.99 of this title (relating to Breeding Facilities Epidemiologically Connected to Deer Infected with CWD; Positive Deer Breeding Facilities) or deer from a CWD-positive facility have been released shall maintain a harvest log at the release facility [site] that complies with §65.93 of this title (relating to Harvest Log).

(7) No person may transfer a breeder deer to a release facility or cause or allow a breeder deer to be transferred to a release facility unless:

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

(C) the deer bears the identification prescribed by Parks and Wildlife Code, §43.3561, and any applicable disease management [herd] plan.

(D) - (F) (No change.)

(d) Trace-out Release Facility [Site].

(1) A release facility [site] is a trace-out release facility [site] if it has[;]

~~[(A)] received trace deer directly or indirectly from a positive breeding facility, unless the department has determined that the landowner of the release facility has satisfied the requirements of a disease management plan for the property[; or]~~

~~[(B)] it has not been released from a hold order or quarantine related to activity described in subparagraph (A) of this paragraph].~~

(2) The landowner of a trace-out release facility [site] must:

(A) within 60 days of notification by the department that trace-out release status has been confirmed, remove every trace deer at the release facility [site], either by lawful hunting or as specifically authorized in writing by the department (or both), and submit post-mortem CWD samples for each deer within seven days of mortality; and

(B) submit post-mortem CWD test results for 100 percent of all hunter-harvested deer until the department is confident that CWD is not present at the release facility [site] or as prescribed in a disease management [herd] plan.

(3) No breeder deer may be transferred to a trace-out release facility [site] unless the deer has been tagged in one ear with a button-type RFID tag approved by the department.

(4) A change in ownership of a tract of land does not affect the status of the property as a trace-out release site for the purposes of this subchapter.

(e) The owner of a trace-out release facility [site] that is not in compliance with applicable provisions of this division is ineligible for enrollment or continued participation in the Managed Lands Deer Program under Subchapter A of this chapter.

*§65.97. Testing and Movement of Deer Pursuant to a Triple T or TTP Permit.*

(a) General.

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

(3) In addition to the reasons for denying a Triple T permit as provided in §65.107 of this title (relating to Permit Application and Processing) and §65.109 of this title (relating to Issuance of Permit), the department will not issue a Triple T permit if the department determines, based on epidemiological assessment, ~~[and consultation with TAHC]~~ that to do so would create an unacceptable risk for the spread of CWD.

(4) - (7) (No change.)

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

*§65.99. Breeding Facilities Epidemiologically Connected to Deer Infected with CWD; Positive Deer Breeding Facilities.*

(a) (No change.)

(b) No deer from a facility subject to the provisions of this section may be transferred or liberated except as provided in this section or expressly authorized in a disease management [herd] plan and then only in accordance with the provisions of this division and the disease management [herd] plan.

(c) (No change.)

(d) Category A trace-out breeding facility.

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

(4) The department ~~[in consultation with TAHC]~~ may decline to authorize a custom testing plan under subsection (h) of this section if an epidemiological assessment determines that a custom testing plan is inappropriate.

(5) (No change.)

(e) Category B trace-out breeding facility.

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

(5) The department ~~[in consultation with TAHC]~~ may decline to authorize a custom testing plan under subsection (h) of this section if an epidemiological assessment determines that a custom testing plan is inappropriate.

(6) (No change.)

(f) The department shall, provided the provisions of this subchapter do not otherwise prevent restoration of MQ status, restore MQ status to a breeding facility that has been designated NMQ under the provisions of subsection (e) of this section as provided in this paragraph.

(1) MQ status may be restored for a facility in which all trace deer available for testing are tested in accordance with subsection (e) of this section and trace deer unavailable for testing were received by the trace facility less than 36 months prior to the date of detection in the positive breeding facility, provided:

(A) - (D) (No change.)

(E) Compliance with the requirements of this subsection does not relieve any person of any obligation or requirement of a disease management [herd] plan.

(2) MQ status may be restored for a facility in which:

(A) - (D) (No change.)

(E) Compliance with the requirements of this subsection does not relieve any person of any obligation or requirement of a disease management [herd] plan.

(g) Trace-in breeding facility. Immediately upon notification by the department of trace-in facility status, a facility is automatically NMQ.

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

(4) The department ~~[in consultation with TAHC]~~ may decline to authorize a custom testing plan under subsection (g) of this section if an epidemiological assessment determines that a custom testing plan is inappropriate.

(5) (No change.)

(h) Custom Testing Plan. Within seven days of being notified by the department that a breeding facility has been designated a Category A, Category B, or trace-in facility, a permittee may, in lieu of meeting the applicable testing requirements of subsections (d) - (g) of this section, request the development of a custom testing plan by the department ~~[in consultation with TAHC]~~ based upon an epidemiological assessment conducted by the department ~~[and TAHC. A custom testing plan under this subsection is not valid unless it has been approved by the department and TAHC].~~

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

(i) Positive Facility.



(1) Upon notification by the department that CWD is suspected in a deer in a facility, the facility is automatically NMQ and the permittee shall:

(A) - (C) (No change.)

(D) euthanize all trace deer within seven days of confirmation of the positive test result, unless authorized by the department or in a disease management [herd] plan;

(E) - (F) (No change.)

(2) Unless otherwise provided in writing by the department, a permittee must enter into a disease management [herd] plan within six months of being designated a positive facility or agree to conduct a depopulation of the breeder deer within the facility.

(3) Fencing meeting the specifications in §65.605 of this title shall be installed around a positive facility no later than the completion of the disease management [herd] plan and removal of a quarantine unless the owner of the facility conducts a complete depopulation of the breeder deer.

#### *§65.100. Violations and Penalties.*

(a) A person who violates a provision of this division or a condition of a deer breeder's permit, DMP, Triple T permit, TTP permit, disease management [herd] plan, or custom testing plan commits an offense and is subject to the penalties prescribed by the applicable provisions of the Parks and Wildlife Code.

~~{(b) A person who possesses or receives white-tailed deer or mule deer under the provisions of this division and/or Subchapters C, D, or F of this chapter is subject to the provisions of TAHC regulations at 4 TAC Chapter 40 (relating to Chronic Wasting Disease) that are applicable to white-tailed or mule deer}.~~

(b) ~~[(e)]~~ A person who fails to comply with a provision of this division or a condition of a deer's breeder permit, DMP, Triple T permit, TTP permit, disease management [herd] plan, or custom testing plan may be prohibited by the department from future permit eligibility or issuance.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## SUBCHAPTER T. DEER BREEDER PERMITS

### 31 TAC §65.610

The amendment is proposed under the authority of Parks and Wildlife Code, Chapter 43, Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter

The proposed amendment affects Parks and Wildlife Code, Chapter 43, Subchapter L.

#### *§65.610. Transfer Permits.*

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

(e) Release.

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

(5) It is an offense for any person to:

(A) release, cause, allow, or participate in the release of a breeder deer that does not bear the identification prescribed by Parks and Wildlife Code, §43.3561, and any applicable disease management [herd] plan; or

(B) (No change.)

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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## SUBCHAPTER F. PERMITS FOR AERIAL MANAGEMENT OF WILDLIFE AND EXOTIC SPECIES

### 31 TAC §65.151, §65.152

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §65.151 and §65.152, concerning Permits for Aerial Management of Wildlife and Exotic Species. The proposed amendments would comport existing rules governing the take of wildlife and exotic animals from aircraft to reflect the provisions of Senate Bill (S.B.) 1245, enacted by the most recent session of the Texas Legislature. Senate Bill 1245 amended Parks and Wildlife Code, Chapter 43, Subchapter G, to allow a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department.

The proposed amendments add "aoudad sheep" where necessary to make the provisions of the subchapter functional with respect to the management of aoudad sheep by means of aircraft. Such changes are made throughout the rules as necessary.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state government as a result of enforcing or administering the rules as proposed.

There will be no effect on persons required to comply with the rules as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be compliance with the directives of the Texas Legislature.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules affect a permit that privileges individual persons to manage wildlife and exotic species and therefore do not directly affect small businesses, micro-businesses, or rural communities. There will be no adverse economic effect on small businesses, microbusinesses, or rural communities as a result of the rules. On this basis, the department has determined that neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation, but will expand an existing regulation (by allowing the take of aoudad sheep from aircraft under a department-issued permit); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Kory Gann, Big Game Program Director, at (512) 389-4363, email: kory.gann@tpwd.texas.gov, or via the department website at www.tpwd.texas.gov.

The amendments are proposed under the provisions of Senate Bill (S.B.) 1245, enacted by the 89th Texas Legislature (R.S.), which allows a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a helicopter to take depredating aoudad sheep from a helicopter under a permit issued by the department, and Parks and Wildlife Code, Chapter 43, Subchapter G, which provides the commission with authority to make regulations governing the management of wildlife or exotic animals by the use of aircraft, including forms and procedures for permit applications; procedures for the management of wildlife or exotic animals by the use of aircraft; limitations on the time and the place for which a permit is valid; establishment of prohibited acts; rules to require, limit, or prohibit any activity as

necessary to implement Parks and Wildlife Code, Chapter 43, Subchapter G.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapter G.

§65.151. *Definitions.*

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

(1) - (11) (No change.)

(12) Subagent--A person designated by an Agent to act as a gunner for the purpose of taking of feral hogs, aoudad sheep, or coyotes.

(13) (No change.)

§65.152. *General Rules.*

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

(c) It is lawful for a person who holds an AMP to contract with a qualified Landowner, Agent, or Subagent to act as a gunner the taking of depredating feral hogs, aoudad sheep, or coyotes from a helicopter, provided:

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

(d) A person (which includes a pilot, applicant, gunner, observer, or Subagent) commits an offense if:

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

(3) the person participates in the take or attempted take of any wildlife or exotic animals other depredating feral hogs, aoudad sheep, or coyotes without having on his or her person a valid hunting license issued by the department;

(4) - (12) (No change.)

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

(h) The department will not approve an LOA for the take of feral hogs or aoudad sheep on a tract of land where feral hogs or aoudad sheep have been released or liberated by or with the approval of the Landowner or Agent for the purpose of being hunted.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## SUBCHAPTER H. PUBLIC HUNTING PROCLAMATION

### 31 TAC §65.191, §65.194

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §65.191, concerning Definition, and §65.194,

concerning Competitive Hunting Dog (Field Trials) Events and Fees.

The proposed amendments would remove all references to "field trial" and "field trial permits" and instead refer to those activities as "competitive hunting dog events," which is necessary to prevent confusion, as well as waive insurance and bond requirements for certain types of competitive hunting dog events conducted under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter J.

Under Parks and Wildlife Code, §62.016, the department is authorized to issue a permit for "competitive hunting dog events" in an area designated by the commission as a public hunting area and places no restrictions on the species that such permits may be used to pursue. Department rules (§65.194) therefore provide for the issuance and use of such permits, and employ the term "field trial" as a useful shorthand. Under Parks and Wildlife Code, Chapter 43, Subchapter F, the department may issue a Private Bird Hunting Area Permit on private lands, and persons who hold such a permit may apply for a "field trial" permit as provided by Parks and Wildlife Code, §43.0763, which is limited to the pursuit of banded, pen-raised game birds.

The Texas Legislature during the most recent regular session enacted Senate Bill 2801, which added new Chapter 43, Subchapter J, to create another type of field trial permit limited to the pursuit of squirrels, furbearing animals, and nongame wildlife on privately owned land or public lands authorized by the department by rule. The department has determined that having three kinds of permits with the same or similar name that are valid for at least four different regulatory scenarios under multiple fee standards could create confusion; therefore, in proposed rulemakings published elsewhere in this issue of the *Texas Register* the department would create the "Field Trial Permit" explicitly required by S.B. 2801, while in this proposed rulemaking eliminate references to "field trial permit," and instead refer to those activities as "competitive hunting dog events." The proposed amendment also would reduce the length of the submission deadline (from 90 days to 30 days), waive the insurance and bond requirements of the subchapter for events authorized under the provisions of S.B. 2801; require all officials, participants, and spectators of events conducted under the provisions of S.B. 2801 to obtain and possess during all activities either a Limited Public Use (LPU) permit or Annual Public Hunting (APH) permit; make changes to modernize program administration by requiring applicants to provide an email address as part of the contact information; and rephrase paragraph (9)(B) for clarification.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be minimal fiscal implications to the department in the form of revenue from the sale of a small number of LPU and APH permits required under the proposed rule, which is not expected to be greater than \$1,000.

There will be no fiscal implications to other units of state or local government as a result of administering the rules.

The rules will result in costs to persons required to comply, as all officials, participants, and handlers in affected activities would be required to purchase a \$12 LPU permit or a \$48 APH permit, at the discretion of the participant.

Mr. Macdonald also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be elimination of confusing regulatory language.

(B) Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rules as proposed do not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rules.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; reduce the amount of a fee; not create a new regulation; not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Kevin Mote, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 217-2779; email: [kevin.mote@tpwd.texas.gov](mailto:kevin.mote@tpwd.texas.gov) or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The amendments are proposed under Parks and Wildlife Code, §81.403, which authorizes the commission to issue a permit authorizing access to public hunting land or for specific hunting, fishing, recreational, or other use and to impose a fee, and under Parks and Wildlife Code, §81.404, which authorizes the commission to adopt rules governing recreational activities in wildlife management areas.

The proposed amendments affect Parks and Wildlife Code, Chapter 81.

*§65.191. Definitions.*

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

§65.3 of this title (relating to Statewide Hunting and Fishing Proclamation).

(1) - (9) (No change.)

(10) Competitive hunting dog event ~~[(field trial)]~~--A department-sanctioned contest in which the skills of hunting dogs are tested.

(11) - (49) (No change.)

*§65.194. Competitive Hunting Dog Event ~~[(Field Trials) and Fees]~~.* The department may authorize competitive hunting dog events ~~[field trials]~~ on public hunting lands. All activities conducted pursuant to this section shall be subject to the provisions of this subchapter, except as specifically provided in this section.

(1) No person shall conduct or participate in a competitive hunting dog event ~~[field trial]~~ on public hunting lands unless the event has been sanctioned by the department through the issuance of a Competitive Hunting Dog Event ~~[Field Trial]~~ Permit in accordance with this section.

(2) An application for a Competitive Hunting Dog Event ~~[Field Trial]~~ Permit shall be submitted at least 30 ~~[90]~~ days in advance of the proposed event to the Wildlife Division regional director in whose region the proposed event would take place. The application shall include, at a minimum:

(A) the name, address, email address, and telephone number of the sponsoring person(s) or organization(s), and the Social Security number of the person to whom the permit will be issued, if approved;

(B) - (D) (No change.)

(E) the estimated number of participating dogs, dog handlers, and officials, respectively, and the estimated number of spectators;

(F) the species of animals or birds to be pursued during the event;

(G) ~~[(F)]~~ the fee for the competitive hunting dog event ~~[field trial]~~ permit ~~[as assessed according to the number of participating dog handlers and officials]~~ as specified by Chapter 53, Subchapter A of this title, (relating to Fees).

(H) ~~[(G)]~~ proof of liability insurance for the event in the amount of at least \$250,000, which shall include coverage of personal injury and property damage; and

(I) ~~[(H)]~~ a performance bond in the amount of \$5,000 to assure restoration of the involved public hunting lands to pre-event ~~[pre-field trial]~~ conditions.

(J) The provisions of subparagraphs (H) and (I) of this paragraph do not apply to an applicant seeking authorization to pursue squirrels, fur-bearing animals, and nongame wildlife under a permit pursuant to Parks and Wildlife Code, Chapter 43, Subchapter J.

(K) All officials, participants, and spectators at permitted activities occurring on public hunting lands under a permit issued pursuant to Parks and Wildlife Code, Chapter 43, Subchapter J, shall obtain and be in physical possession of a valid Limited Public Use Permit or Annual Public Hunting Permit issued by the department at all times such persons are present on public hunting lands.

(3) (No change.)

(4) The regional director shall, within 30 days of receipt of such application, notify the applicant of approval or denial of the application. If the application is approved, the ~~[field trial]~~ permit shall

be issued in the form of a letter to the applicant. Any requirements or restrictions in addition to the provisions of this subchapter shall be specified in the permit.

(5) A permit issued under the provisions of this section ~~[The field trial permit]~~ shall be present and available on-site during all permitted ~~[field trial]~~ activities. The permittee shall, prior to commencing any competition, attach to the permit an accurate list containing the names of all dog handlers and officials who at any time participate in the event, and the names of all spectators. ~~[The aggregate number of participants named on the list shall not exceed the number of participants authorized by the field trial permit.]~~ The list shall be sent to the regional director no later than ten days following the conclusion of the event.

(6) (No change.)

(7) The permittee is responsible and liable for the actions of all ~~[field trial]~~ participants, spectators, and dogs during all activities conducted during an [this] event conducted under the provisions of this section.

(8) All construction, facilities emplacement, or other site alterations shall be performed and removed strictly in accordance with the conditions specified in ~~[of]~~ the ~~[field trial]~~ permit. The permittee shall not be released from the obligations of this section and the performance bond shall not be returned to the permittee until the department is satisfied that the site has been restored to pre-event ~~[pre-trial]~~ conditions.

(9) During any ~~[field trial]~~ activity conducted under the provisions of this section, it is an offense for any person attending the event or named on the list required by paragraph (2) of this section to:

(A) violate any condition of the ~~[field trial]~~ permit; or

(B) kill or injure any wildlife resource ~~[take or attempt to take any animal or bird].~~

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## SUBCHAPTER W. SPECIAL PERMITS

### 31 TAC §65.908

The Texas Parks and Wildlife Department proposes new 31 TAC §65.908, concerning Field Trial Permit. The proposed new rule would implement provisions required or authorized under Senate Bill 2801, enacted during the Regular Session of the 89th Texas Legislature, which amended the Parks and Wildlife Code by adding new Chapter 43, Subchapter J, to create a field trial permit allowing the pursuit of squirrels, furbearing animals, and nongame wildlife on privately owned land or public lands identified by commission rule. The fee for the permit is fixed by statute at \$50.

Proposed new subsection (a) would explicitly identify the field trial permit authorized by S.B. 2801 and clearly distinguish it from other, similar types of permits already issued by the department under existing statutory and regulatory authority. The department wishes to eliminate, to the extent possible, any confusion with respect to various dog-related permits administered by the department.

Proposed new subsection (b) would prescribe the process and content for applications for a field trial permit. The proposed provision would specify the issuance of permits to named individuals only, which is necessary to facilitate enforcement activities by providing for the clear identification of a responsible party with respect to conduct regulated under the rule. The proposed provision also would allow for the department to prescribe permit conditions necessary to manage and protect wildlife resources subject to permitted activities. Because Texas is a large state with many types of ecological systems and property conditions, the circumstances of any given permit cannot be anticipated and articulated by rule; therefore, the provision would allow the department to prescribe permit conditions unique to a given permit if necessary.

Proposed new subsection (c) would require the permittee or a designee to be present at all times during the period of validity of the permit, to possess a list of all participants present during the period of the validity of the permit (including identification and contact information), a map or boundary description of the property where the activity is taking place, and written landowner consent for permitted activities (if the permittee is not the landowner of the property where permitted activities are taking place), all of which are necessary to assist the department in determining regulatory compliance. The proposed amendment also would require all officials, participants, and spectators of events conducted on public hunting lands under the provisions of S.B. 2801 to obtain and possess during all activities either a Limited Public Use (LPU) permit or Annual Public Hunting (APH) permit, which provides an effective waiver of liability for the state in the absence of the liability insurance and bond requirements established by Chapter 65, Subchapter H for other types of hunting dog events.

Proposed new subsection (d) would identify the units of department-owned public lands where field trial permits under the provisions of the proposed new section could be issued, which is required under the provisions of S.B. 2801; provided the activity does not occur during public hunting activities or interfere with research or management activities.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be minimal fiscal implications to the department in the form of revenue from the sale of a small number of LPU and APH permits required under the proposed rule, which is not expected to be greater than \$1,000 per year.

There will be no fiscal implications to other units of state or local government as a result of administering the rules.

There will be fiscal implications on persons required to comply with the rule as proposed, namely the cost of a permit (\$50); however, that fee is established under the provisions S.B. 2801 and is not a result of this rulemaking. Additionally, persons engaging in permitted activities on public hunting lands will incur a cost of \$12 for a LPU permit or a cost of \$48 for an APH permit, at the discretion of the participant.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be compliance with the directives of the Texas Legislature.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule as proposed does not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rule.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; create a new regulation (to implement a process for obtain a Field Trial Permit); not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Kevin Mote, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 217-2779 or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The new rule is proposed under the provisions of Senate Bill 2801 (R.S. 2025), which amended Parks and Wildlife Code, Chapter 43, by adding new Subchapter J, to authorize the commission to prescribe by rule the manner of application for and issuance of the field trial permit authorized by the subchapter, rules necessary to administer the subchapter, and rules to specify public lands where field trial permits under the subchapter may be issued.

The proposed new rule affects Parks and Wildlife Code, Chapter 43, Subchapter J.

§65.908. Field Trial Permit.

(a) General.

(1) The department may issue a Field Trial Permit to a qualified applicant as provided by Parks and Wildlife Code, Chapter 43, Subchapter J. A permit under this section may be issued for a single field trial that takes place on multiple private lands or multiple public lands, but not for an event that takes place on both private and public lands.

(2) A permit under this section is not required for an activity lawfully conducted under the provisions of:

(A) Parks and Wildlife Code, Chapter 43, Subchapter F; or

(B) §65.194 of this title (relating to Competitive Dog Events).

(3) A permit under this section may not be substituted for or used in lieu of a permit described in:

(A) Parks and Wildlife Code, Chapter 43, Subchapter F; or

(B) §65.194 of this title (relating to Competitive Dog Events).

(4) A permit under this section is valid only on the specific properties or public lands for which it was issued and authorizes only the activities identified in Parks and Wildlife Code, Chapter 43, Subchapter J.

(5) For the purposes of this section, "public lands" means the department-owned or department-managed lands listed in subsection (d) of this section.

(b) Application and issuance.

(1) A permit under this section shall be issued only to a named individual and not in the name of any organization or association.

(2) The department will not issue a permit under this section until an administratively complete application for a Field Trial Permit has been submitted to the department on a form supplied or approved by the department for that purpose.

(3) The department may prescribe permit conditions as necessary to manage and protect wildlife resources subject to the activity authorized by the permit.

(c) On-site requirements. The person to whom a Field Trial Permit is issued (permittee) may designate another person to act on his or her behalf for purposes of compliance with this subsection. Such designation shall be in writing and shall be possessed on the person of the designee during permitted activities. The permittee or designee shall possess on their person at all times during the time period specified by the permit for the conduct of permitted activities:

(1) the Field Trial Permit (original, photocopy, or photograph);

(2) a list of all persons participating in permitted activities (participants). The list shall consist of, for each participant:

(A) the participant's full legal name;

(B) address and a functioning telephone number or email address; and

(C) the driver's license or state-issued personal identification number issued by the participant's state of residence;

(D) a map or boundary description of the property where the permitted activities are to take place, if the prospective activity is to take place on private lands; and

(E) if the property where the permitted activity is taking place is owned by a person other than the permittee, written consent from the owner of the land where the permitted activity is taking place to use the property for the purposes authorized by the permit.

(3) All officials, participants, and spectators at permitted activities occurring on public hunting lands under a permit issued pursuant to Parks and Wildlife Code, Chapter 43, Subchapter J, shall obtain and be in physical possession of a valid Limited Public Use Permit or Annual Public Hunting permit issued by the department under the provisions of Subchapter H of this chapter at all times such persons are present on public hunting lands.

(d) A permit under this section may be issued for designated areas within the following units of public hunting lands, provided the prospective activity does not interfere with public hunting, research, or management activities.

(1) Alazan Bayou WMA (including Blunt property);

(2) Big Lake Bottom WMA;

(3) Black Gap WMA;

(4) Blue Elbow Swamp-Tony Houseman WMA;

(5) Caddo Lake WMA;

(6) Chaparral WMA;

(7) Dam B WMA (including Angelina-Neches Scientific

Area)

(8) Gus Engeling WMA;

(9) Las Palomas WMA;

(10) Elephant Mountain WMA;

(11) Gene Howe WMA (does not include Pat Murphy

Unit);

(12) Guadalupe Delta WMA;

(13) James Daughtrey WMA;

(14) Justin Hurst WMA;

(15) Matador WMA;

(16) McGillvray and Leona McKie Muse WMA;

(17) Moore Plantation WMA;

(18) Nannie Stringfellow WMA;

(19) Old Sabine Bottom WMA;

(20) Pat Mayse WMA;

(21) Ray Roberts;

(22) Roger Fawcett WMA; and

(23) White Oak Creek WMA.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

#### CHAPTER 342. STANDARDS FOR HOUSING NON-TEXAS JUVENILES IN TEXAS DETENTION AND CORRECTIONAL FACILITIES

##### 37 TAC §342.1

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC §342.1, Authority to House Out-of-State Juveniles.

##### SUMMARY OF CHANGES

Amendments to §342.1 will include changing the phrase *juveniles convicted of offenses committed against the laws of another state or the United States* to *juveniles convicted of offenses committed against the laws of another state of the United States*; and changing the current phrases referring to *detention and pre-adjudication*, while the statute refers to *state juvenile inmates convicted of offenses*.

##### FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the amended section is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the section.

##### PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of administering this section will be to better align policy with statute.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of the section.

##### GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the amended section is in effect, the section will have the following impacts.

(1) The proposed section does not create or eliminate a government program.

(2) The proposed section does not require the creation or elimination of employee positions at TJJD.

(3) The proposed section does not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed section does not impact fees paid to TJJD.

(5) The proposed section does not create a new regulation.

(6) The proposed section does not expand, limit, or repeal an existing regulation.

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

(8) The proposed section will not positively or adversely affect this state's economy.

##### PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to [policy.proposals@tjjd.texas.gov](mailto:policy.proposals@tjjd.texas.gov).

##### STATUTORY AUTHORITY

The amended section is proposed under §221.053, Human Resources Code, which requires the Board to develop rules, procedures, and minimum standards applicable to county or private correctional facilities housing out-of-state juvenile inmates

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

No other statute, code, or article is affected by this proposal.

*§342.1. Authority to House Out-of-State Juveniles.*

The only entities other than the state authorized to operate a [~~pre-adjudication secure detention facility;~~] post-adjudication secure correctional facility[~~;~~] or non-secure correctional facility in this state to house juveniles convicted of offenses committed against the laws of another state ~~of~~ [or] the United States are:

(1) a governmental unit in this state; or

(2) a private vendor operating a [~~pre-adjudication secure detention facility;~~] post-adjudication secure correctional facility[~~;~~] or non-secure correctional facility under a contract with a governmental unit in this state.

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

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Jana Jones

General Counsel

Texas Juvenile Justice Department

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For further information, please call: (512) 490-7278