

NOTICE OF PRECOMMENT DRAFT & STAKEHOLDER MEETING

Crafted Precious Metal Dealer Registration System Transition & Rule Amendments

January 26, 2018 at 10:00 a.m.

Please take notice that the Office of Consumer Credit Commissioner (OCCC) will hold a stakeholder meeting on January 26, 2018, at 10:00 a.m. in the Finance Commission Building, third floor hearing room, at 2601 North Lamar Blvd., Austin, Texas 78705. The registration system transition and the January 12 precomment draft of crafted precious metal dealer rule amendments will be discussed. The OCCC invites all persons interested in the crafted precious metal dealer registration process and these rules to participate in this meeting. The OCCC will also accept informal written precomments on the draft until 5:00 p.m. on January 29. The OCCC intends to present these rules at the Finance Commission's February 16 meeting.

Registration System Transition

The registration of crafted precious metal dealers will be moving from the Texas Department of Public Safety's Metals Registration Program to the OCCC online registration portal, ALECS. ALECS allows regulated industries many self-service options to manage their registrations and licenses online. Moving crafted precious metal dealers to ALECS will better enable the OCCC to assist registered dealers with the registration process, and will enhance the OCCC's ability to fulfill its regulatory duties.

This registration system transition will involve the following:

- ***Tentative transition date of July 1, 2018:*** After the transition date, all crafted precious metal dealers will be required to obtain registrations and renewals through ALECS. The tentative transition date is July 1, 2018.
- ***Registrations before transition date effective for one year:*** If a crafted precious metal dealer obtains a registration for a permanent registered location from the DPS Metals Registration Program before the transition date, the dealer's registration will be effective for one year, and will expire on the anniversary of the registration.
- ***Calendar year expiration and renewal:*** After the transition, registrations for permanent locations will expire on December 31 of each calendar year and must be renewed annually. This will be different from the current DPS system, under which each expiration date is based on the anniversary of the registration date.
- ***First renewal period in December 2019:*** Permanent location registrations obtained through ALECS in 2018 will not expire until December 31, 2019. The first renewal period will be in December 2019.

Rule Amendments

The attached precomment draft contains rule changes for crafted precious metal dealers, located at Texas Administrative Code, Title 7, Chapter 85, Subchapter B. The draft amendments include the following:

- The amendments would reflect the registration system transition outlined above.
- The requirement to provide hours for temporary locations would be removed.
- Dealers would be required to notify the OCCC of material changes in application information, and to maintain current contact information.
- There would be no additional late renewal fee if a dealer renews by the 30th day after expiration (i.e., January 30 of the following year). If a dealer renews between 31 and 180 days after expiration, there would be a late renewal fee of \$50. This maintains the current late renewal fee, but extends the late renewal period by 30 days.

The OCCC currently plans to present these rules at the Finance Commission's February 16 meeting for proposal, and at the Finance Commission's April 20 meeting for final adoption.

Participating in Meeting

Stakeholders are invited to attend the meeting in person at the Finance Commission Building. Stakeholders will also be able to listen to and participate in the meeting through an online webinar. If you are interested in listening or participating online, please follow the instructions available at the following link: <https://attendee.gotowebinar.com/register/5823658282557460739>

Submission of Informal Precomments

Informal precomments on the registration system transition or the OCCC's January 12 draft may be submitted in writing to Laurie Hobbs, Assistant General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207 or by e-mail to rule.comments@occc.texas.gov.

Informal precomments on the registration system transition or the OCCC's January 12 draft of crafted precious metal dealer rules must be received by 5:00 p.m. on January 29, 2018.

OCCC Crafted Precious Metal Dealer Rule Amendments
1/12/2018 Precomment Draft

Title 7, Texas Administrative Code

Chapter 85, Pawnshops and Crafted Precious Metal Dealers

Subchapter B. Rules for Crafted Precious Metal Dealers

Division 1. Registration Procedures

§85.1002. Filing of New Application.

(a) New application. An application for issuance of a new crafted precious metal dealer registration must be submitted as prescribed by the OCCC ~~[commissioner]~~ at the date of filing and in accordance with the OCCC's ~~[commissioner's]~~ instructions.

(b) Required submission to OCCC ~~[online Metals Registration Program]~~. Each application for a new crafted precious metal dealer registration must be filed with the OCCC ~~[online Metals Registration Program]~~.

(c) Required information. The application must include the following information and any other information required by the OCCC ~~[commissioner]~~. All questions must be answered.

(1) Responsible persons. The application must list the person responsible for the day-to-day operation of the applicant's permanent registered location and a responsible person for each temporary location.

(2) Assumed names. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, the applicant must provide all assumed names used.

(3) Permanent registered location required. ~~[List of locations. Each applicant must provide a list of each location in this state at which the person will conduct business as a crafted precious metal dealer.]~~ A dealer must have at least one, and may have more than one, permanent registered location. If none of a dealer's locations satisfies the permanent registered location definition contained in §85.1001 of this title (relating to Definitions), the dealer must designate one location to be the permanent registered location.

(4) Temporary locations. For each temporary location, the dealer must provide the approximate dates ~~[and hours]~~ of operation at each ~~[in the]~~ temporary location ~~[and the name of the person responsible for on-site operations and compliance with applicable laws]~~.

§85.1003. Processing of Application.

(a) Complete application. An application is complete when:

(1) the application conforms to the rules and the OCCC's [eommissioner's] published instructions;

(2) all fees have been paid; and

(3) all requests for additional information have been satisfied.

~~[(b) Notification. Within 30 days of receiving an incomplete application for registration, the OCCC will provide written notice to the applicant stating that the application is incomplete and specifying the additional information required for completion.]~~

~~[(c) Application considered withdrawn. If the OCCC requests additional information required to complete an application and the applicant does not respond within 30 days, the application will be considered withdrawn. If an application is considered withdrawn, then the applicant must reapply under §85.1002 of this title (relating to Filing of New Application) in order to obtain a registration.]~~

(b) ~~[(d)]~~ Certificate. When an application is complete, the OCCC will issue a notice to [certificate of registration] to the crafted precious metal dealer. The crafted precious metal dealer must print its registration certificate through the OCCC online registration portal and display its registration in accordance with §85.1006 of this title (relating to Registration Display).

§85.1004. Relocation of Registered Location.

A registered crafted precious metal dealer may amend a registration to relocate a permanent registered location [move a business office from the registered location to any other location by amending the dealer's record in the Metals Registration Program]. An amendment fee under §85.1011 of this title (relating to Fees) is required at the time of relocation.

§85.1005. Contact Information and Notice.

(a) Updates to application information. A crafted precious metal dealer must report to the OCCC any information that would require a different answer than that given in the original application within 30 calendar days after the crafted precious metal dealer has knowledge of the information, if the information relates to any of the following:

(1) the name or any assumed name of the crafted precious metal dealer; or

(2) the person responsible for day-to-day operations at any permanent or temporary location.

(b) Contact information. Each crafted precious metal dealer is responsible for ensuring that all contact information on file with the OCCC is current and correct, including all mailing addresses, all phone numbers, and all e-mail addresses. It is a best practice for crafted precious metal dealers to regularly review contact information on file with the OCCC to ensure that it is current and correct.

(c) Notice. The OCCC may rely on the mailing and e-mail addresses currently on file for all purposes relating to notification. The failure to maintain a current mailing or e-mail address with the OCCC is not a defense to any action based on a crafted precious metal dealer's failure to respond to the OCCC.

§85.1007. Annual Renewal. **{{This section will replace current §85.1007, which will be repealed.}}**

(a) Generally. For each calendar year following the initial registration for a permanent registered location, a crafted precious metal dealer must renew the registration annually. A registration for a permanent registered location expires on December 31 of each year.

(b) Renewal procedure. A crafted precious metal dealer may renew its registration for a permanent registered location by providing the following:

(1) the fees required by §85.1011 of this title (relating to Fees); and

(2) any information required by the OCCC.

(c) Late renewal.

(1) If a crafted precious metal dealer renews its registration on or before the 30th day following expiration (i.e., on or before January 30), then there is no late renewal fee.

(2) If a crafted precious metal dealer renews its registration after the 30th day following expiration, but on or before the 180th day following expiration, then the dealer must pay a late renewal fee of \$50 for each permanent registered location, in addition to the fees described by §85.1011 of this title.

(3) A registration for a permanent registered location may not be renewed after the 180th day following expiration. In order to obtain a registration, the crafted precious metal dealer must reapply under §85.1002 of this title (relating to Filing of New Application).

(d) Administrative penalty. If a person has engaged in the purchase of crafted precious metal while its registration was not effective, the person may be subject to an administrative penalty under Texas Occupations Code, §1956.0615.

(e) Temporary locations. A registration for a temporary location is not renewable.

§85.1008. Temporary Location Amendments.

A dealer may amend a registration to relocate a temporary location [~~to add one or more temporary locations~~] after the initial application [~~or after a renewal~~]. In order to amend its registration, a dealer must provide:

(1) the fee required by §85.1011 of this title (relating to Fees);

(2) the approximate dates [~~and hours~~] of operation for each temporary location; and

(3) the name of the person responsible for on-site operations and compliance with applicable laws at each temporary location.

§85.1011. Fees.

(a) Fee for permanent registered locations. In connection with a new application or an annual renewal, a crafted precious metal dealer must pay a \$50 fee for each permanent registered location.

(b) Fee for temporary locations. In connection with a new application for a temporary location [~~or an annual renewal~~], a crafted precious metal dealer must pay a \$25 fee for each temporary location.

(c) Amendments to permanent registered location. In order to amend a registration by changing the assumed name of the registrant or relocating a permanent registered location, a crafted precious metal dealer must pay a \$25 fee.

(d) Amendments to temporary location [~~Temporary location additions~~]. In order to amend a registration by relocating a temporary location [~~to add one or more temporary locations after the initial application or after a renewal~~], a crafted precious metal dealer must pay a fee of \$25 for each amended [~~added~~] location.

(e) Fees nonrefundable, nontransferable, and not prorated. All fees paid relating to a crafted precious metal dealer's registration with the OCCC are nonrefundable and nontransferable. All fees are fixed and will not be prorated based on the date of the dealer's application.

(f) Nonsufficient funds fee. As provided by Texas Business and Commerce Code, §3.506, the OCCC may charge a fee for nonsufficient funds if an applicant provides a payment device that is dishonored.

§85.1012. Registration System Transition.

(a) Registrations on or before June 30, 2018.

(1) Effectiveness of registration. Notwithstanding §85.1007 of this title (relating to Annual Renewal), if a crafted precious metal dealer obtains or renews a registration for a

permanent registered location on or before June 30, 2018, the dealer's registration will be effective for one year after the date of the registration, and will expire on the anniversary of the date of registration.

(2) After expiration. After the expiration of a permanent registered location registration obtained on or before June 30, 2018, a dealer must register for a permanent registered location using the OCCC online registration portal in order to continue doing business as a crafted precious metal dealer.

(b) Registrations on or after July 1, 2018.

(1) Transition start date. On or after July 1, 2018, all registrations and renewals for crafted precious metal dealers will be performed through the OCCC online registration portal.

(2) Expiration date. Notwithstanding §85.1007 of this title, if a dealer obtains a registration for a permanent registered location or before December 31, 2018, then the registration will expire on December 31, 2019.

(c) Expiration of section. This section will expire on January 1, 2020.