

*Title 7. Banking and Securities*

*Part 5. Office of Consumer Credit Commissioner*

*Chapter 85. Pawnshops and Crafted Precious Metal Dealers*

*Subchapter B. Rules for Crafted Precious Metal Dealers*

The Finance Commission of Texas (commission) adopts amendments to §§85.1002, 85.1003, 85.1004, 85.1005, 85.1008, 85.1011, and 85.2002; adopts new 85.1007 and 85.1012; and adopts the repeal of 85.1007 in Subchapter B of 7 TAC, Chapter 85, concerning the registration of crafted precious metal dealers.

The commission adopts the amendments to §§85.1002, 85.1003, 85.1004, 85.1008, 85.1011, and 85.2002; adopts new 85.1007 and 85.1012; and adopts the repeal of 85.1007 without changes to the proposed text as published in the March 2, 2018, issue of the *Texas Register* (43 TexReg 1203).

The commission received no written comments on the proposal.

The purpose of the adopted rule changes is to implement the registration system transition to the Office of Consumer Credit Commissioner's (OCCC) online registration portal, to update and streamline registration procedures, to require current application and contact information, to update late renewal procedures, and to make technical corrections.

The OCCC circulated an early draft of proposed changes to interested stakeholders, and then held a stakeholder meeting and webinar regarding the registration system transition and accompanying rule changes. The OCCC did not receive any informal oral or written precomments on the rule text draft.

The individual purposes of the adopted changes to each section are provided in the following paragraphs.

Section 85.1002 outlines the requirements to file a new application. Adopted amendments throughout §85.1002 add references to the agency's acronym, OCCC. The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically.

Also in §85.1002, amendments remove unnecessary language related to the current registration system that is being replaced. In particular, the phrase "online Metals Registration Program" has been deleted from subsections (a) and (b). In subsection (c)(3), the requirement to provide a list of locations has also been deleted, as each permanent and temporary location will be registered separately by the crafted precious metal dealer.

In §85.1002(c)(4), an amendment removes the requirement to provide hours of operation for temporary locations. Additionally, duplicative language regarding responsible persons has been deleted.

Section 85.1003 concerns the processing of an application. Corresponding changes to those described under §85.1002 are also included in §85.1003(a)(1) to continue use of the agency's acronym. Former subsections (b) and (c) have been deleted to update registration procedures, as they relate

to application notification and withdrawal procedures that are no longer needed.

Also in §85.1003, an amendment describes how a crafted precious metal dealer must print its registration certificate and display it in accordance with current rule §85.1006.

Section 85.1004 concerns the relocation of a permanent registered location. An adopted amendment to this section removes references to the DPS system and updates the process for relocating a permanent registered location.

Section 85.1005 relates to notice requirements for a registered dealer. The language of former §85.1005 has been reorganized into adopted subsection (c), regarding the OCCC's reasonable reliance on the dealer's mailing and e-mail addresses currently on file. The addition of subsection (a) requires a dealer to notify the OCCC of material changes in application information, including a change in assumed name or the person responsible for day-to-day operations. The addition of subsection (b) explains that each dealer must keep its contact information up-to-date. This provision is intended to ensure that the agency can contact registered dealers, and so that the agency can carry out its responsibility to monitor dealers and ensure compliance, as provided by Texas Occupations Code, §1956.0613.

Section 85.1007 has been repealed and replaced with a revised and reorganized rule that reflects the amended procedures for annual renewals. The new rule incorporates renewal and expiration based on the calendar year, as opposed to being based on the anniversary date of each particular registration.

Adopted new §85.1007(a) outlines annual renewal generally for permanent registered locations. Each calendar year after initial registration, a dealer must renew permanent locations, as these locations will expire on December 31 of each year.

In adopted new §85.1007(b), the information necessary to complete the renewal procedure is described, including required fees and other necessary information.

Several changes have been adopted in new §85.1007(c) concerning the late renewal process for permanent locations. In subsection (c)(1), there is no additional late renewal fee if a dealer renews by the 30th day after expiration (i.e., January 30 of the following year). Under subsection (c)(2), if a dealer renews between 31 and 180 days after expiration, there is a late renewal fee of \$50. This maintains the current late renewal fee, but extends the late renewal period by 30 days. The requirement to obtain a new permanent registered location if not renewed by the late renewal deadline is maintained in adopted subsection (c)(3) (former (c)(2)).

The administrative penalty provision authorized by Texas Occupations Code, §1956.0615 has been maintained in adopted §85.1007(d) (former (c)(3)). Adopted §85.1007(e) adds a specific statement that a registration for a temporary location is not renewable.

Section 85.1008 concerns temporary location amendments. Adopted amendments to this section revise language to relocate a temporary location, and remove the requirement to provide hours of operation for temporary locations, consistent with the change adopted in §85.1002. Additionally, language related to renewal of a temporary

**ADOPT AMENDMENTS, NEW RULES, & REPEAL  
7 TAC, CHAPTER 85, SUBCHAPTER B  
Page 3 of 7**

location has been deleted, as temporary locations will not be renewable under adopted new §85.1007.

Section 85.1011 outlines the fees required for permanent and temporary locations, as well as amendments to each type of registration. The dollar amounts required for all registration fees have been maintained in this adoption. The amendments in §85.1011 relate to updating the process to be used regarding renewal, amendments, and relocation.

Adopted new 85.1012 is a temporary rule specifically related to the registration system transition. Subsection (a) describes how registrations obtained on or before June 30, 2018 will be effective for one year, and will expire on the anniversary of the registration. Subsection (b) outlines the registration start date of July 1, 2018, and the first renewal period under the OCCC online portal with registrations expiring on December 31, 2019. Subsection (c) states that §85.1012, i.e. the rule itself, would expire on January 1, 2020.

Section 85.2002 outlines the process for submitting required transaction reports to local law enforcement. Under Texas Occupations Code, §1956.062(d)(2) and §1956.063, a crafted precious metal dealer is required to submit a report to local law enforcement for each transaction no later than 48 hours after the transaction. An adopted amendment to §85.2002(b) deletes former paragraph (3), which states that a dealer may submit transaction reports through the Metals Registration Program. Crafted precious metal dealers do not currently report individual transactions through DPS's system. The adoption retains the provisions in current §85.2002(b)(1) and (2) stating that the dealer may submit

transaction reports to local law enforcement by paper or electronically, in a manner agreed to by local law enforcement.

The rule changes are adopted under Texas Occupations Code, §1956.0611, which authorizes the Finance Commission to adopt rules necessary to implement and enforce Texas Occupations Code, Chapter 1956, Subchapter B, regarding Sale of Crafted Precious Metal to Dealers. The rule changes are also adopted under Texas Occupations Code, §1956.0612(f), which authorizes the Consumer Credit Commissioner to prescribe the registration form.

The statutory provisions affected by the adopted rule changes are contained in Texas Occupations Code, Chapter 1956, Subchapter B, concerning Sale of Crafted Precious Metal to Dealers.

*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 [~~commissioner'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.

**ADOPT AMENDMENTS, NEW RULES, & REPEAL  
7 TAC, CHAPTER 85, SUBCHAPTER B  
Page 6 of 7**

(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.

**ADOPT AMENDMENTS, NEW RULES, & REPEAL  
7 TAC, CHAPTER 85, SUBCHAPTER B  
Page 7 of 7**

(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.

*§85.2002. Submission of Transaction Report Form and Records.*

(a) Copy to seller required. The dealer must provide a complete copy of the transaction report form and any images used under §85.2001(a)(9)(B) of this title

(relating to Transaction Report Form and Records) to the seller with respect to that seller's transaction.

(b) Paper or electronic submission. Within 48 hours of each transaction, the dealer must submit, in a manner approved by local law enforcement, either:

(1) a printed copy of the transaction report form and any images used under §85.2001(a)(9)(B) of this title to local law enforcement; or

(2) an electronic copy of the transaction report form and any images used under §85.2001(a)(9)(B) of this title to local law enforcement. [~~;~~]

~~[(3) an electronic copy of the transaction report form to the online Metals Registration Program. If the dealer submits the form to the Metals Registration Program, then the dealer must also notify local law enforcement in writing, within 48 hours of the transaction, that it has submitted a transaction report form to the Metals Registration Program and provide to local law enforcement either a paper or electronic copy of any images used under §85.2001(a)(9)(B) of this title.]~~

**Certification**

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on April 20, 2018.

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