

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING
EDUCATION PROGRAMS, AND CERTIFICATION COURSES
28 TAC §§19.1006, 19.1010, 19.1011, and 19.1029**

INTRODUCTION. The Commissioner of Insurance adopts amendments to 28 Texas Administrative Code (TAC) §§19.1006, 19.1010, 19.1011, and 19.1029, concerning continuing education (CE) requirements of insurance professionals, including agents, adjusters, public insurance adjusters, and managing general agents. The amendments to §§19.1006, 19.1010, 19.1011, and 19.1029 are adopted with nonsubstantive changes to the proposed text published in the November 27, 2020, issue of the *Texas Register* (45 TexReg 8477).

REASONED JUSTIFICATION. In response to a Texas Department of Insurance (TDI) initiative to identify rules for updates and changes, stakeholders requested that TDI amend the CE rules to simplify existing requirements and add options for obtaining CE course credit. In response to this, the amendments to §§19.1006, 19.1010, and 19.1011 update the rules to reflect best practices for the CE requirements of insurance professionals.

Amendments to §19.1006 update the CE course topics, providing more detail and choices to make it easier for insurance professionals to obtain individually tailored CE. Amendments to §19.1010 add ways to calculate CE hours and simplify credit hours to include only whole numbers, to align with industry best practices. And amendments to §19.1011 give providers more flexibility in administering a CE exam and makes clear that a CE provider may issue an electronic certificate for CE course completion directly to the insurance professional. These amendments will help ensure that insurance professionals acquire and maintain the expertise to properly serve Texas insureds.

Further, the legislature amended Insurance Code §4004.202(b) in response to a TDI biennial report that called for additional CE requirements because of increased consumer complaints about complex insurance products. The amendment to §19.1029 will bring the rule into compliance with Insurance Code §4004.202(b).

The amendments to the sections are described in the following paragraphs.

Section 19.1006. Section 19.1006(a) is amended to expand and modernize the nonexclusive list of topics that may be covered as part of a certified continuing education course. The amended list contains 31 topics listed in new paragraphs (1) through (31), including new topics related to financial planning. Subsection (a) is further amended to clarify course content requirements for ethics and consumer protection credit by deleting current paragraphs (1) - (18) and inserting text that tracks those paragraphs into new paragraph (8)(A) - (R). The text of subsection (a)(24) as proposed has been changed by capitalizing the word "Real" in "Real Estate Settlement Procedures Act."

Section 19.1010. Section 19.1010(a)(1) and §19.1010(a)(2)(B) are amended by deleting the third and second sentences, respectively, referring to partial hour credit for CE courses. Section 19.1010(a)(2)(A) is amended by adding clauses (iii) and (iv), which describe new options for providers to calculate the number of credit hours per course. The options in new clauses (iii) and (iv) supplement the existing options in clauses (i) and (ii), and catchlines are also added to existing clauses (i) and (ii) to describe the content of those clauses. The text of §19.1010 as proposed has been changed by adding a hyphen to "self study" where necessary for consistency with the term as used in the rest of the adopted sections.

Section 19.1011. Section 19.1011(d)(1) is amended by deleting the last two sentences of the existing paragraph, which mandate that at least 70% of examination questions or interactive inquiries be based at the application level, while the remainder may be at the knowledge level. The removal of this requirement in §19.1011(d)(1) will

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allow providers to offer more courses that cater to educating novice insurance professionals.

Section 19.1011(e) is amended by deleting the last sentence of the existing subsection, which mandates that only CE course providers may prepare, print, or complete a CE course certificate of completion. Deleting the last sentence and making conforming amendments to the remainder of the subsection will ensure that, while providers must still prepare and complete the certificates of completion, the provider may award electronic certificates that can be printed by the insurance professional.

The text of §19.1011 as proposed has been changed by adding a hyphen to "self study" where necessary for consistency with the term as used in the rest of the adopted sections, and the text of subsection (f)(6) as proposed has been changed by making the letter "A" at the start of paragraph (6) lower case.

Section 19.1029. Section 19.1029 is amended to mirror the requirements of Insurance Code §4004.202(b). The existing section relates to CE hours regarding agents who sell annuities, and existing subsection (a) requires four hours of TDI-certified CE per year. Existing subsections (b) and (c) are deleted.

Existing §19.1029(a) is amended by adding a sentence to clarify that the exemptions provided in §19.1004(b) and (c) also apply to insurance professionals certified to sell annuities. The remainder of the existing text of the subsection is divided into new subsections (b) and (c). The text from existing subsection (a) that is incorporated into new subsection (b) is amended to require eight hours of TDI-certified continuing education hours every two years. The text from existing subsection (a) that is incorporated into new subsection (c) is amended to clarify that completion of the annuity certification course required by §19.1028 constitutes four hours of TDI-certified annuity continuing education in the license period during which the certification course is taken. These changes will align the section with the requirements in the Insurance Code and further simplify

requirements for insurance professionals engaging in the annuities business. The text of subsection (d)(2) as proposed has been changed by adding the word "in."

In addition, §§19.1006, 19.1010, 19.1011, and 19.1029 include nonsubstantive editorial and formatting amendments to conform the sections to the agency's current style and to improve the rule's clarity. These amendments include replacing each instance of "department," replacing or deleting each instance of "shall," and revising the wording where administrative code sections are referenced. "Department" or "the department" is replaced by "TDI," "shall" is replaced by "must" or otherwise replaced or deleted as appropriate, and the words "chapter" and "subchapter" are changed to "title" where they appear in references to administrative code sections. In addition, punctuation and capitalization are revised throughout the text where necessary to correct errors and for consistency with TDI's current style.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendments.

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STATUTORY AUTHORITY. TDI adopts amendments to §§19.1006, 19.1010, 19.1011, and 19.1029 under Insurance Code §§4004.001, 4004.103, 4004.104, 4004.203, and 36.001.

Insurance Code §4004.001 provides TDI with exclusive jurisdiction for all matters relating to the continuing education of agents licensed under the Insurance Code.

Insurance Code §4004.103 provides that the Commissioner may adopt rules establishing other requirements for continuing education program providers.

Insurance Code §4004.104 provides TDI with authority to establish the scope and type of continuing education requirements for each type of licensee.

Insurance Code §4004.203 provides that the Commissioner by rule adopt criteria for continuing education programs used to satisfy the requirements of §4004.202.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.**§19.1006. Course Criteria.**

(a) To be certified as a continuing education course, the course content must include topics that contribute substantive knowledge relating to the business of insurance and expand the competence of the licensee. Ethics and consumer protection course credit, described in paragraph (8) of this subsection, applies equally to all license types. TDI will not approve a course if it does not relate specifically to the business of insurance. Given that restriction, approved topics include, but are not limited to, the following:

- (1) actuarial mathematics, statistics, and probability;
- (2) assigned risk;
- (3) claims adjusting;
- (4) courses leading to and maintaining insurance designations;
- (5) employee benefit plans;
- (6) errors and omissions;
- (7) estate planning/taxation;
- (8) ethics and consumer protection, only if the course also provides

instruction consistent with one or more of the following topics:

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(A) Insurance Code Chapter 541, concerning Unfair Methods of Competition and Unfair or Deceptive Acts or Practices;

(B) Insurance Code Chapter 547, concerning False Advertising by Unauthorized Insurers;

(C) Insurance Code Chapter 542, Subchapter A, concerning Unfair Claim Settlement Practices;

(D) Business and Commerce Code Chapter 17, Subchapter E, concerning Deceptive Trade Practices and Consumer Protection Act;

(E) analogous laws as specified by TDI, including:

(i) Insurance Code Chapter 1952, Subchapter G, concerning Repair of Motor Vehicles;

(ii) Insurance Code Chapter 542, Subchapter B, concerning Prompt Payment of Claims;

(iii) Insurance Code Chapter 542, Subchapter D, concerning Notice of Settlement of Claim Under Casualty Insurance Policy;

(iv) Insurance Code Chapter 542, Subchapter E, concerning Recovery of Deductible From Third Parties Under Certain Automobile Insurance Policies;

(v) §5.501 of this title (relating to Notice Requirements to Claimants Regarding Motor Vehicle Repairs); and

(vi) Penal Code Chapter 35, concerning Insurance Fraud;

(F) corporate ethics;

(G) ethical challenges of licensees;

(H) ethical behavior of an insurance company;

(I) ethical behavior of an agent or adjuster;

(J) duties of the licensee to company, client, and customer;

(K) duties of insurer/HMO to agents/clients;

- (L) fiduciary responsibility;
 - (M) unfair marketing practices;
 - (N) difference between ethics and laws;
 - (O) confidentiality, privacy, and ethics;
 - (P) ethical analysis of the licensee's job;
 - (Q) philosophical approaches to ethics; or
 - (R) business ethics;
- (9) fundamentals/principles of insurance;
 - (10) insurance accounting/actuarial considerations;
 - (11) insurance contract/policy comparison and analysis;
 - (12) insurance fraud;
 - (13) insurance laws, rules, regulations, and regulatory updates;
 - (14) insurance policy provisions;
 - (15) insurance product-specific knowledge;
 - (16) insurance rating/underwriting/claims;
 - (17) insurance tax laws;
 - (18) legal principles;
 - (19) long-term care/partnership;
 - (20) loss prevention, control, and mitigation;
 - (21) managed care;
 - (22) principles of risk management;
 - (23) proper uses of insurance products;
 - (24) Real Estate Settlement Procedures Act;
 - (25) restoration -- addresses claims, loss control issues, and mitigation;
 - (26) retirement planning;
 - (27) securities;

- (28) suitability in insurance products;
- (29) surety bail bond;
- (30) underwriting principles; and
- (31) viaticals/life settlements.

(b) To be certified as an adjuster prelicensing education course or program, the course content must enhance the student's knowledge, understanding, and/or professional competence regarding the subjects set forth in §19.1017 and §19.1018 of this title (relating to Adjuster Prelicensing Education Course Content and Examination Requirements and Adjuster Prelicensing Examination Topics). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education and adjuster prelicensing purposes.

(c) To be certified as a long-term care partnership certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1022 of this title (relating to Long-Term Care Partnership Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes.

(d) To be certified as a Medicare-related product certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1024 of this title (relating to Medicare-Related Product Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education, Medicare-related product certification, and Medicare-related product continuing education purposes.

(e) To be certified as a small employer health benefit plan specialty certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1026 of this title (relating to Small Employer Health Benefit Plan Specialty Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education and small employer health benefit plan specialty certification.

(f) To be certified as an annuity certification or continuing education course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1028(g)(1) - (4) of this title (relating to Annuity Certification Course). Unless specifically stated otherwise, this section applies equally to courses certified for continuing education and annuity certification.

(g) The following course content is not applicable to a licensee's continuing education requirements:

(1) meetings held in conjunction with the regular business of the licensee or courses or training relating to the marketing and business practices of a specific company;

(2) course content teaching general accounting, speed reading, other general business skills, computer use, or computer software application use;

(3) course content teaching motivation, goal-setting, time management, communication, sales, or marketing skills;

(4) course content providing for prelicensing training qualifying examination preparation;

(5) course content that does not meet the requirement of subsection (a) of this section; and

(6) course content that is substantially:

(A) a glossary, dictionary, or index of insurance terms without independent distinction as to the application of these terms to the business of insurance

through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance; or

(B) a recitation of statutes, rules, legal principles, or theories without independent distinction as to the application of these issues to the business of insurance through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance.

(h) A single continuing education course may include both ethics and consumer protection credit topics with other topics meeting the requirements of subsection (a) of this section.

§19.1010. Hours of Credit.

(a) Credit hours for courses are determined by the methods set forth in paragraphs (1) - (7) of this subsection.

(1) TDI will award credit for certified classroom courses at the rate of one hour for every 50 minutes of actual instruction contact time. All classroom courses must be at least one hour of credit in length. Instruction contact time is considered the amount of time devoted to the actual course instruction and does not include breaks, lunch, dinner, introductions of speakers, explanatory or preparatory instructions, or evaluation of the course. TDI will not certify more than 24 credit hours for any one classroom course.

(2) TDI will award credit for certified classroom equivalent and self-study courses as set forth in subparagraphs (A) - (D) of this paragraph.

(A) The provider must determine the number of course hours by using one of the methods described in the following clauses.

(i) Average completion time. The provider may determine the number of course hours by calculating the average completion time of the individual course completion times of at least five licensees. If the provider uses this method to

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determine the number of credit hours, the provider must retain the names, current insurance license numbers, and completion times of all licensees that were used by the provider. A provider using this method may, at its discretion, issue certificates of completion in the number of hours certified by TDI to the licensees involved in the process and who completed the entire course.

(ii) Average number of credit hours assigned by other states.

The provider may determine the number of course hours by calculating the average number of hours of the credit hours assigned by all other states in which the course is certified or approved. A provider may not use this method to determine the number of credit hours unless the course is approved in at least three other states. Providers may not include any hours allowed by other states for sales and marketing topics in calculating the average.

(iii) Word count/difficulty level. Providers using this method

must designate the course as one of three difficulty levels: basic, intermediate, or advanced. A basic level course is designed for entry-level practitioners or practitioners new to the subject matter, an intermediate level course is designed for practitioners who have existing competence in the subject area and who seek to further develop and apply their skills, and an advanced course is designed for practitioners who have a strong foundation and high level of competence in the subject matter. Using these course difficulty definitions, the provider may then determine the number of course hours in the following manner. First, divide the total number of words by 180 to equal the documented average reading time. Second, divide the documented average reading time by 50 to equal the credit hours for a basic level course. Third, for intermediate and advanced courses, multiply the number of credit hours by 1.25 and 1.50, respectively, to reach the total number of credit hours for those respective courses. Fractional hours must be

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rounded up to the nearest whole number if .50 or above, and fractional hours must be rounded down to the nearest whole number if .49 or less.

(iv) Interactive course content. To use this method, the course must be interactive. An interactive course includes regularly occurring opportunities for student participation, engagement, and interaction with or in course activities and information. Examples include but are not limited to question and answer sessions, polling, games, sequencing, and matching exercises. The provider may determine the number of course hours of an interactive course by calculating the run time of the mandatory interactive elements, which include only those elements required to complete the course.

(B) All classroom equivalent and self-study courses must be at least one hour of credit, 50 minutes, in length.

(C) Providers may not use the final examination and pre-tests for determining course hours or calculating an average.

(D) TDI will not certify more than 24 credit hours for any one classroom equivalent course or 12 credit hours for any one self-study course.

(3) TDI will grant continuing education classroom credit to licensees successfully completing qualifying college, law school, and university insurance classroom courses, as determined by the college, law school, or university. The number of classroom hours of continuing education credit for college, law school, and university insurance courses is the number of classroom instruction contact hours not including examinations, which may be no more than 24 credit hours per course.

(4) TDI will grant 12 self-study credit hours to licensees successfully passing qualifying national designation certification program examinations. Should the licensee also participate in and successfully complete a certified or qualifying classroom or classroom equivalent course in preparation for the national designation certification

program examination, the licensee must choose either the classroom presentation or the national designation certification program examination to count as credit towards the licensee's continuing education requirement.

(5) Licensees who teach any portion of a certified continuing education classroom course may receive hour for hour classroom credit up to the maximum number of credit hours for the course. Licensees who teach courses may also be awarded an equal number of self-study hours as credit for course preparation.

(6) TDI will grant continuing education classroom credit to licensees successfully completing qualifying courses certified or approved for classroom, classroom equivalent, or participatory credit by the continuing education authority of a state bar association or state board of public accountancy on an hour for hour basis equal to the credit hours assigned to the course by the certifying state bar association or state board of public accountancy. The state bar association or state board of public accountancy must determine what constitutes successful completion of the course. TDI will not grant licensees self-study credit for any course accepted by a state bar association or state board of public accountancy unless the self-study course is offered through a registered provider in accordance with this subchapter.

(7) TDI will grant licensees continuing education credit for successfully completing courses certified or approved by the Federal Farm Credit Insurance Corporation on an hour for hour basis as assigned by the Farm Credit Insurance Corporation. The Farm Credit Insurance Corporation must determine what constitutes successful completion of the course.

(b) A provider must not issue certificates of completion to a licensee for partial credit of any course, except to an instructor teaching a portion of the course and who does not attend the full course.

(c) A licensee may not receive credit for teaching or completing the same continuing education course more than once within the same reporting period for compliance with the continuing education requirement.

(d) Providers may advertise and link courses as parts of a whole curriculum, but providers may not require a licensee to purchase more than one continuing education course to receive the credit hours approved for a single course.

§19.1011. Requirements for Successful Completion of Continuing Education Courses.

(a) Providers must use, at a minimum, actual attendance rosters to certify completion of a certified classroom or one-time-event continuing education course or a certified classroom certification course. TDI requires each student to attend at least 90% of the course. Providers must establish a means to ensure that each student attended at least 90% of the course. Attendance records must include, at a minimum, sign-in and sign-out sheets, and the legible names, addresses, and TDI license number of each student in attendance. Providers must use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily require an examination for successful completion of the certified classroom certification course. Providers may establish additional assessment measurements or any other completion requirements for successful completion of a classroom continuing education or classroom certification course, but those requirements must be fully disclosed in the registration materials before the student purchases the course. Providers must determine successful completion of these additional requirements.

(b) Providers must use the periodic interactive inquiries to determine completion of certified classroom equivalent continuing education or certification courses. A student must complete all inquiry sections with a minimum score of at least 70% for each section.

(c) Providers must use a written, online, or computer-based final examination as the means of completion for all certified self-study continuing education or certification courses. TDI does not require providers to monitor continuing education or certification self-study examinations. Course records for each examination attempt must include, at a minimum, the date the exam was taken, the final examination score, the examination version used, the legible name, address, and the TDI license number of each student.

(d) Self-study examinations and classroom equivalent interactive inquiries must meet the criteria set forth in paragraphs (1) - (12) of this subsection:

(1) the final examination or interactive inquiries must reasonably evaluate the student's understanding of the course content;

(2) the specific final examination questions and interactive inquiries may not be made available to the student until the test is administered, and providers must effect security measures to maintain the integrity of the examination;

(3) providers must maintain a record of each student's final examination in the student's record for four years;

(4) an authorized staff member or computer program must grade self-study final examinations, and the interactive inquiry computer program must grade interactive inquiries;

(5) providers must allow students to retake an examination at least one time if a score of 70% or higher is not achieved;

(6) providers must revise and update self-study final examinations and interactive inquiries consistent with the course update/revision;

(7) providers requiring a monitored final examination must establish the rules under which the examination will be given;

(8) the examination or interactive inquiry periods must consist of questions that do not give or indicate an answer or correct response and are of the following types:

(A) for self-study courses:

(i) short essay questions requiring a response of five or more words;

(ii) fill in the blank questions requiring a response from memory and not from an indicated list of potential alternatives; or

(iii) multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(B) for interactive inquiry periods, multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(9) each interactive inquiry period must consist of at least five questions;

(10) each self-study final examination must consist of at least 10 questions for each hour of credit up to a maximum requirement of 50 questions per course. Providers may, at their discretion, have a greater number of final examination questions;

(11) during examinations and interactive inquiry periods, licensees may use course materials or personal notes, but may not use another person's notes, answers, or otherwise receive assistance in answering the questions from another person; and

(12) licensees must mail or deliver the completed self-study examination directly to the provider.

(e) Providers must issue certificates of completion to students who successfully complete a certified course. The provider must prepare the certificate and issue it in a manner that ensures that the student receiving the certificate is the student who took the course, issue the certificate within 30 days of completing the course, and complete the certificate to reflect the date the student took the course/examination.

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(f) Notwithstanding subsections (a) - (e) of this section, licensees must claim continuing education under §19.1020 of this title (relating to State and National Association Credit) by sending to TDI, or its designee, upon request, an affirmation acceptable to TDI containing:

(1) the licensee's name, address, telephone number, and licensee's TDI license number;

(2) the name of the national designation or state or national insurance association providing educational materials or sponsoring educational presentations;

(3) the cumulative number of hours of credit claimed for reviewing the educational materials;

(4) the cumulative number of hours of credit claimed for attending the educational presentations;

(5) a statement that the licensee currently holds the national designation or is a member in good standing of the state or national insurance association; and

(6) a statement that the licensee completed at least the number of hours in these activities the licensee is claiming for continuing education credit.

(g) In addition to the affirmation provided under subsection (f) of this section, TDI may request a licensee claiming hours under §19.1020 of this title to submit a sworn written affirmation to TDI confirming under oath the information in subsection (f) of this section. Failure to submit a sworn affirmation will result in denial of the claimed hours and may result in disciplinary action under §19.1015 of this title (relating to Failure to Comply) or the Insurance Code.

§19.1029. Annuity Continuing Education.

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(a) Licensees who qualify for the exemption provided in §19.1004(b) or (c) of this title (relating to Licensee Exemption from and Extension of Time for Continuing Education) are exempt from the provisions of this section.

(b) During a licensee's two-year licensing period, a licensee who sells, solicits, or negotiates a contract for an annuity or represents an insurer in relation to an annuity in this state, or intends to sell, solicit, or negotiate a contract for an annuity or represent an insurer in relation to an annuity in this state must complete at least eight hours of TDI-certified annuity continuing education in compliance with this section.

(c) Completion of the annuity certification course required by §19.1028 of this title (relating to Annuity Certification Course) constitutes four hours of TDI-certified annuity continuing education in the license period during which the certification course is taken.

(d) The TDI-certified continuing education required under subsection (b) of this section must:

(1) comply with the requirements of §19.1006 of this title (relating to Course Criteria); and

(2) enhance the student's knowledge, understanding, and professional competence of one or more of the subjects described in §19.1028(g)(1) - (4) of this title.

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

Issued in Austin, Texas, on May 26, 2021.

DocuSigned by:
James Person
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James Person, General Counsel
Texas Department of Insurance

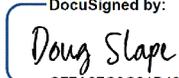
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TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 19. Licensing and Regulation of Insurance Professionals

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The Commissioner adopts amended 28 TAC §§19.1006, 19.1010, 19.1011, and 19.1029.

Commissioner of Insurance

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Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code §601.002
Commissioner's Order No. 2018-5528