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To: Texas Workers' Compensation System Participants

From: Kara Mace, General Counsel

Date: [November 14, 2025](#)

Subject: Proposed amendments to 28 Texas Administrative Code Sections 128.3, 128.5, 128.6, and 128.7

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is accepting public comments on proposed rules amending 28 Texas Administrative Code Sections [128.3](#), [128.5](#), [128.6](#), and [128.7](#), concerning calculating the average weekly wage. The amendments implement Texas Labor Code Sections [408.041](#), [408.042](#), [408.043](#), [408.044](#), and [408.0446](#), which govern calculating and adjusting an employee's average weekly wage for workers' compensation benefits. An informal working draft of the proposed rules was posted for comment on DWC's website and all comments were considered while drafting this formal proposal.

The proposed amendments to Sections [128.3](#), [128.6](#), and [128.7](#) are to correct obsolete references and update the text for plain language and agency style. The proposed amendments to Section [128.5](#) clarify the process for insurance carriers to request adjustments to a seasonal employee's average weekly wage and get wage information from seasonal employees.

The amendments are necessary to update obsolete references and language, clarify the process for insurance carriers to request wage information, and ensure that the process for disputes in the rule is current and accurate.

The proposed rules will be published in the November 14, 2025, issue of the *Texas Register* and available at www.sos.state.tx.us/texreg/index.shtml once published. We will also post a copy of the proposed rules on the TDI website at <https://www.tdi.texas.gov/wc/rules/2025rules.html>.

You may submit written comments on the proposed rules to: RuleComments@tdi.texas.gov, or mail or deliver your comments to:

Legal Services, MC-LS
Texas Department of Insurance, Division of Workers' Compensation
P.O. Box 12050
Austin, Texas 78711-2050

The deadline to submit comments is 5 p.m., Central time, on December 15, 2025.

DWC is also accepting public comments on the DWC Form-055, *Request to Adjust Average Weekly Wage for a Seasonal Employee*. These are not comments on rules under the Administrative Procedure Act, but DWC will consider substantive comments before finalizing the form. The draft form is on the website at <https://tdi.texas.gov/forms/form20.html>.

Submit any comments on the draft form online at <https://forms.office.com/g/6TrngaF4SV>.

The deadline to submit all comments is 5 p.m., Central time, on December 15, 2025.