

SUBCHAPTER L. ELECTRONIC SUBMISSIONS AND COMMUNICATIONS
28 TAC §1.1301 and §1.1302

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §1.1301 and §1.1302, concerning electronic submissions made to TDI and electronic communications from TDI.

EXPLANATION. New §1.1301 is added to generally authorize persons to make any submissions to TDI electronically. New §1.1302 is added to recognize that TDI may officially communicate by email with regulated persons. Section 1.1302 requires regulated persons to designate an email for such communications from TDI. By allowing electronic submissions and communications instead of paper submissions and communications by mail, the new sections will reduce the regulatory burden and costs imposed on regulated persons and promote administrative efficiency and reduce costs for TDI.

Section 1.1301. Section 1.1301(a) generally authorizes persons to make submissions with TDI electronically, unless statute requires a method of submission that is not electronic. Subsection (a) prevails over any other provision in Title 28 TAC Part 1.

Section 1.1301(b) states that an electronic submission must be made in accordance with any electronic procedure established by statute or rule. If a procedure for the electronic submission is not established by statute or rule, the electronic submission must be made as specified on TDI's website.

Section 1.1302. Section 1.1302(a) defines for this section the term "regulated person" to encompass all persons regulated by the Commissioner and the Texas State Fire Marshal.

Section 1.1302(b) generally authorizes TDI to send official communications to the email designated by a regulated person, unless statute requires a different method of communication.

Section 1.1302(c) requires all regulated persons to provide to TDI an email address designated for receipt of official communications from TDI, except as provided by Section 1.1302(d). Regulated persons should provide the email address as specified on TDI's website. If emails may no longer be received at a designated email address, the regulated person must notify the department and provide a new email address within 10 business days.

Section 1.1302(d) states that notice or service requirements are satisfied if TDI communicated by email under the section, unless statute requires a different method of notice or service.

Section 1.1302(e) relieves a regulated person of the requirement in Section 1.1302(b) if the regulated person notifies the department that the regulated person does not have the technological capability to maintain an email address designated for official department communications or for other good reason does not wish to receive communications by email.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jamie Walker, deputy commissioner of the Financial Regulation Division, has determined that during each year of the first five years the proposed new sections is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Walker does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new sections is in effect, Ms. Walker expects that administering the proposed sections will have the public benefits of reducing the regulatory burden and costs imposed on regulated persons and promoting administrative efficiency and reducing costs for TDI.

Ms. Walker expects that the proposed new sections will not increase the costs of compliance with laws administered by TDI because it does not impose requirements that would result in a cost for regulated persons.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new sections will not have an adverse economic effect on small or micro businesses, or on rural communities. The proposed new sections will reduce the regulatory burden and costs imposed on regulated persons and promote administrative efficiency and reduce costs for TDI. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI 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. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on December 7, 2020. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The request for public hearing must be separate from any comments and received by the department no later than 5:00 p.m. central time, on December 7, 2020. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

STATUTORY AUTHORITY. TDI proposes §1.1301 and §1.1302 under Insurance Code §36.001 and Government Code §417.005.

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.

Government Code §417.005 provides that the Commissioner may adopt necessary rules to guide the state fire marshal and fire and arson investigators commissioned by the state fire marshal in the investigation of arson, fire, and suspected arson and in the performance of other duties for the commissioner.

CROSS-REFERENCE TO STATUTE. Section 1.1301 affects all provisions concerning submissions made with TDI. Section 1.1302 affects all provisions giving the Commissioner or the state fire marshal authority to issue an authorization, including a permit, license, certificate of authority, or certificate of registration.

TEXT.

SUBCHAPTER L. ELECTRONIC SUBMISSIONS AND COMMUNICATIONS

§1.1301. Electronic Submissions.

(a) Notwithstanding any other provision in Part 1 of this title (relating to Texas Department of Insurance), any submissions made to the Texas Department of Insurance (department) may be made electronically, unless statute requires an alternative method of submission.

(b) A submission made electronically to the department must be made in accordance with any specific procedure for electronic submissions established by statute or rule. If a specific procedure for electronic submissions is not established by statute or rule, an electronic submission must be made as specified on the department's website.

§1.1302. Electronic Communications from the Texas Department of Insurance.

(a) In this section, "regulated person" means an individual, corporation, association, partnership, or other artificial person holding an authorization, including a permit, license, certificate of authority, or certificate of registration, issued or existing under the Commissioner's or the Texas State Fire Marshal's authority or the Insurance Code.

(b) Notwithstanding any other provision in Part 1 of this title (relating to Texas Department of Insurance) other than §1.90 of this title (relating to Joint Memorandum of Understanding (MOU) between Texas Department of Insurance (TDI) and State Office of Administrative Hearings (SOAH) Concerning Procedures for Contested Cases before SOAH and Responsibilities of Each Agency), the department may send official communications to the email address designated for such communications by a regulated person, unless statute requires a different method of communication.

(c) Except as provided by Subsection (e) of this section, all regulated persons must provide an email address that is designated for receipt of official department communications. Regulated persons should provide the email address as specified on TDI's website. If communications may no longer be received at the designated email address, the regulated person must notify the department and designate a new email address within 10 business days.

(d) Notice or service sent by email under this section satisfies any notice or service requirements, unless a different method of notice or service is required by statute or §1.90 of this title.

(e) If a regulated person does not have the technological capability to maintain an email address designated for official department communications, or for good reason does not wish to receive communications by email from the department, the regulated

person should notify the department as specified on TDI's website regarding address changes.

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

Issued in Austin, Texas, on October 21, 2020.

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James Person, General Counsel
Texas Department of Insurance