

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION
DIVISION 7. INSPECTIONS FOR WINDSTORM AND HAIL INSURANCE
28 TAC §§5.4604, 5.4606, 5.4621, 5.4626, and 5.4640

INTRODUCTION. The Texas Department of Insurance (TDI) proposes amendments to 28 TAC §§5.4604, 5.4606, 5.4621, 5.4626, and 5.4640, concerning certificates of compliance for improvements for purposes of coverage under a policy issued by the Texas Windstorm Insurance Association (TWIA). Amendments to §5.4640 implement House Bill 3564, 87th Legislature, 2021.

EXPLANATION. Insurance Code §2210.2515 specifies that TDI must issue certificates of compliance for structures meeting specified criteria. Certificates of compliance issued by TDI are used to demonstrate evidence of insurability for the purpose of TWIA coverage. HB 3564 amended §2210.2515 to eliminate TDI's authority to rescind certificates of compliance after issuance.

Currently, such forms are submitted to TDI by several methods: through the TDI Windstorm system available on the TDI website, by email, by fax, and by mail. The amendments to §5.4604 and §5.4621 requiring electronic submission of certain forms through TDI's Windstorm system will increase government efficiency by eliminating duplication of effort among TDI staff.

The Windstorm system is an electronic system that allows users to find a windstorm inspector, apply for a certificate of compliance, access and print the certificate, and apply to become an inspector. Only professional engineers and inspectors use the system to apply for certificates of compliance. Currently, when TDI receives certificates of compliance form submissions by alternate means (such as fax, email, or paper), TDI staff must enter the form information into TDI's Windstorm system. When such form filings are submitted with omissions or errors, TDI staff must contact the filer to request a correction

or refiling. This leads to delays in processing applications. In contrast, filers using TDI's Windstorm system are notified immediately if their submission lacks a necessary component.

The amendments to §5.4606 and §5.4626 to require electronic submission of supporting documentation through the Windstorm system or by email will streamline and expedite TDI's receipt and review of this information. Although the Windstorm system is not currently equipped to accept supporting documentation, TDI plans to modify the Windstorm system to accept it. Email submissions will be accepted while the Windstorm system is modified to accept such supporting documentation and will continue to be accepted thereafter.

The amendments to §5.4640 are necessary to implement the changes made by HB 3564. Current §5.4640 states that TDI may rescind a certificate of compliance. HB 3564 amended Insurance Code §2210.2515(k) to prohibit TDI from rescinding a certificate of compliance for a completed or ongoing improvement for purposes of coverage under a TWIA-issued policy after issuing the certificate.

TDI posted an informal draft of the proposed rule text on June 15, 2022. Stakeholder comments on the informal draft informed the drafting of this proposal. Particularly, in response to feedback from the informal rule posting, the proposed rule text specifies which forms must be submitted electronically and allows submission of supporting information by email.

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

Section 5.4604. The amendments to §5.4604 revise subsection (c) to require that the information in the Application for Certificate of Compliance for Completed Improvement, Form WPI-2E, be submitted electronically to TDI using the Windstorm system. Amendments to the section also correct the name of the Texas Board of

Professional Engineers and Land Surveyors, correct a reference to the section heading of §5.4606, and add the whole form title for Form WPI-2E.

Section 5.4606. The amendments to §5.406 add subsection (e) to require that all supporting evidence be submitted electronically to TDI using the Windstorm system or through email at windstorm@tdi.texas.gov. The amendments also correct the name of the Window & Door Manufacturers Association and make nonsubstantive changes to punctuation and capitalization elements and a reference to another section to conform to TDI style guidelines.

Section 5.4621. The amendments to §5.4621 add a new paragraph (5) to require that the information collected in the Application for Certificate of Compliance, Form WPI-1, and the Inspection Verification Form, Form WPI-2, be submitted electronically to TDI using the Windstorm system. The amendments remove existing paragraphs (2) and (6). These paragraphs address Form WPI-1 and Form WPI-2, but those forms will now be addressed in new paragraph (5). Finally, the amendments renumber the paragraphs in the section and update internal references within the section as appropriate to reflect the new and deleted paragraphs.

Section 5.4626. The amendments to §5.4626 add new subsection (c) to require all information required by the section to be submitted electronically to TDI using the Windstorm system or through email at windstorm@tdi.texas.gov. The amendments also redesignate current subsection (c) as subsection (d) to reflect the addition of the new subsection.

Section 5.4640. The amendments to §5.4640 eliminate references to the rescission of issued certificates of compliance, consistent with HB 3564. In addition, the amendments correct the name of Form WPI-2E, correct a reference to the heading of §5.4606, and make nonsubstantive punctuation changes to conform to TDI style guidelines.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Mark Worman, deputy commissioner, Property and Casualty Division, has determined that during each year of the first five years the proposed amendments are 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. Mr. Worman made this determination 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 sections.

Mr. Worman does not anticipate a 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 amendments are in effect, Mr. Worman expects that the sections will have the public benefit of ensuring that TDI's rules accurately conform to Insurance Code §2210.2515(k), which will reduce the regulatory burden and costs imposed on filing entities, conserve agency resources, and increase government efficiency.

Mr. Worman expects that the proposed amendments relating to electronic submission of certain documents will potentially impose an initial economic cost on persons required to comply with the amendments that currently file such documents by alternate means. This will affect only a small number of filers, as most already use TDI's Windstorm system. The small number of filers that do not currently use TDI's Windstorm system may have some minimal administrative costs initially.

It is not feasible for TDI to quantify these minimal administrative costs because potential costs relating to electronic filing are highly specific to each filing entity. Streamlining the submission process is expected to reduce the time and effort required

by filers. TDI expects that this will more than offset any initial administrative costs and result in an overall reduction in costs of compliance.

TDI has determined that the elements of the proposal implementing HB 3564, relating to rescission of a completed certificate of compliance, will not impose costs on regulated persons.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses or on rural communities. As a result, TDI is not required to prepare a regulatory flexibility analysis as would otherwise be required under Government Code §2006.002(c).

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that while the electronic submission requirements of this proposal may impose an initial cost on regulated persons, these costs will be more than offset by savings that result from a reduction in application processing time and effort. In addition, under Government Code §2001.0045(c)(2), TDI is not required to repeal or amend another rule because the proposed amendments to §5.4640 are necessary to implement legislation and the proposed amendments relating to electronic submission of information will reduce the burden or responsibilities imposed on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed rule is 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 not create a new regulation;
- will 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 October 10, 2022. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030.

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: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on October 10, 2022. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. TDI proposes §§5.4604, 5.4606, 5.4621, 5.4626, and 5.4640 under Insurance Code §2210.008(b) and §36.001.

Insurance Code §2210.008(b) allows the Commissioner to adopt rules that are reasonable and necessary to implement Insurance Code Chapter 2210.

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.

CROSS-REFERENCE TO STATUTE. Section 5.4604 implements HB 3564 and Insurance Code §2210.2515. Sections 5.4606, 5.4621, 5.4626, and 5.4640 implement Insurance Code §2210.2551.

TEXT.

§5.4604. Certification Form for Completed Improvement.

(a) Persons must submit the following information when applying to TDI for a certificate of compliance for a completed improvement on a structure:

(1) a statement from a professional engineer licensed by the Texas Board of Professional Engineers [~~Engineer~~] and Land Surveyors that affirms that the engineer has:

(A) designed the improvement;

(B) affixed the engineer's seal on the design; and

(C) affirmed the design complies with the applicable building code under the plan of operation, and that the improvement was constructed in accordance with the design; or

(2) a sealed postconstruction evaluation report completed and submitted by a professional engineer licensed by the Texas Board of Professional Engineers [~~Engineer~~] and Land Surveyors that:

(A) confirms the improvement's compliance with the applicable building code under the plan of operation; and

(B) includes supporting evidence such as that identified in §5.4606 of this title (relating to Supporting Evidence for Sealed Postconstruction Evaluation Report and Design for Certificate of Compliance for Completed Improvement) for the engineer's postconstruction evaluation report.

(b) The following information must also be provided:

(1) the physical address (including street, street number, city, county, and ZIP code);

(2) whether the original transfer of title from the builder to the initial owner of the improvement has occurred or is expected to occur in the future;

(3) whether the improvement is substantially completed;

(4) the wind zone location;

(5) whether the structure is in a Coastal Barrier Resource System Unit;

(6) the property owner's name and contact information, or the name and contact information of the builder or contractor that made the completed improvement;

(7) the name and contact information of the engineer certifying the completed improvement;

(8) the date construction of the completed improvement began;

(9) the date of application for the certificate of compliance for the completed improvement;

(10) the name of the person submitting the application for the certificate of compliance for the completed improvement;

(11) the type of structure to which the completed improvement was made, including the structure's name or number and number of units, if applicable;

(12) the subject of the inspection (for example, entire structure, addition, alteration, or repair);

(13) the building code standard and applicable wind load standard under which the completed improvement was designed or inspected;

(14) the wind-speed conditions that the completed improvement is designed to withstand;

(15) the importance factor or risk category of the structure;

(16) the exposure category of the structure;

(17) information on the protection of exterior openings from windborne debris;

(18) the dates the completed improvement was inspected; and

(19) the signature and Texas Board of Professional Engineers and Land Surveyors registration number of the engineer certifying the completed improvement.

(c) The information required by [TDI will make available the Certification Form for Completed Improvement, Form WPI-2E on which the information in] subsections (a) and (b) of this section, also listed in Form WPI-2E, Application for Certificate of Compliance for Completed Improvement, must be submitted to TDI electronically using the TDI Windstorm system, which is available on the TDI website. [may be provided.]

(d) If an applicant applies using a sealed design, an engineer must maintain the evidence supporting that design, such as information listed in §5.4606(a)(8) of this title and §5.4623 of this title (relating to Information Required to Inspect Design Documents). TDI may request to view the sealed design and supporting documents, as applicable, to verify that there is a sealed design, designed by the engineer, and to verify the engineer's

affirmation that the design complies with the applicable building code under the plan of operation and the improvement was constructed in accordance with the design.

§5.4606. Supporting Evidence for Sealed Postconstruction Evaluation Report and Design for Certificate of Compliance for Completed Improvement.

(a) "Supporting evidence" includes:

- (1) product [~~Product~~] evaluations;
- (2) installation [~~Installation~~] instructions from the manufacturer for the product;
- (3) test [~~Test~~] data;
- (4) written [~~Written~~] evidence from inspections--for example, an inspection report;
- (5) photographs [~~Photographs~~];
- (6) video [~~Video~~] recording;
- (7) plans [~~Plans~~], either as-built plans (plans that demonstrate compliance with the applicable building code for the design of the structure), design drawings, shop drawings, or sketches; or
- (8) any [~~Any~~] other documentation or other form of evidence that supports statements made in the application, design, or postconstruction evaluation report submitted to TDI, as applicable.

(b) To verify that an engineer's postconstruction evaluation report confirms the completed improvement's compliance with the applicable building code under the plan of operation, as required under §5.4604 of this title (relating to Certification Form for Completed Improvement), it must include supporting evidence. TDI may also request supporting evidence, as applicable, to verify an engineer's application, sealed design, or

affirmation under §5.4604(a) of this title. The supporting evidence may include the following, as related to the part of the structure being certified.[:]

(1) Roof covering certifications.

(A) Supporting evidence identifying all products and components included in the scope of the certification, including roof covering, fasteners, underlayment, roof deck, roof vents, skylights, and all other parts of the roof-covering assembly.

(B) Manufacturer's installation instructions, product evaluation reports, or test laboratory reports, and code-required installation requirements for all components included in the scope of certification (for example, see subparagraph (A) of this paragraph).

(C) Supporting evidence that the components of the installed building products meet or exceed the code-required design pressures.

(D) Supporting evidence verifying that the roof covering, roof vents, and skylights are installed according to the manufacturer installation instructions, product test reports, and specifications in the applicable windstorm building code.

(E) Applicable information listed in §5.4626 of this title (relating to Substantiating Information).

(2) Building product certifications.

(A) Supporting evidence identifying all products included in the scope of the certification, including windows, side-hinged doors, sliding doors, overhead doors (sectional or rolling), exterior wall coverings, and other applicable building products.

(B) Manufacturer's installation instructions; product evaluation, reports, or test laboratory reports; product certifications; and code-required installation requirements for the building products included in the scope of the certification.

(C) Supporting evidence verifying that design-pressure ratings for all building products meet or exceed the required design pressures as specified in the applicable windstorm building code for the installation.

(D) Supporting evidence verifying that the building products that are required by the applicable windstorm building code were certified by a certification agency, such as the Window ~~u~~ and Door Manufacturers Association or the American Architectural Manufacturers Association; are properly labeled; and have valid certifications.

(E) Supporting evidence recording all information on certification labels and verifying that the product test pressure exceeds code-required design pressure, and that building products are within the maximum size tested on each label and are installed exactly as tested.

(F) Supporting evidence specifying the minimum design pressures required by the applicable windstorm building code.

(G) Applicable information listed in §5.4626 of this title.

(H) Where the applicable windstorm building code requires windborne debris protection, supporting evidence either verifying the product is impact-resistant or protected with a windborne debris protection system. Where the applicable code requires windborne debris protection, the protection must be installed according to manufacturers' instructions and product test reports.

(3) Entire new building, existing building, or a new addition to an existing structure.

(A) Supporting evidence verifying complete load path as specified by the applicable windstorm building code, including connections between roof, walls, floor, and foundation.

(B) Supporting evidence verifying roof coverings as specified under paragraph (1) of this subsection.

(C) Supporting evidence verifying building products as specified under paragraph (2) of this subsection.

(D) Building plans, such as structural drawings from the engineer of record or as-built plans that demonstrate compliance with the applicable windstorm building code. The plans must show items such as lateral resisting elements, wall framing, roof framing, floor framing, and other pertinent elements of the structure that are included in the scope of work for the certification.

(E) Supporting evidence verifying the foundation system, such as existing plans or as-built plans. The plans must show the location of anchors, ties, or straps; pile locations; or other pertinent elements of the structural system that are included in the scope of work for the certification.

(F) For additions, supporting evidence verifying whether the addition is attached or detached from main structure. If the addition is attached, the supporting evidence must specify the load on the existing structure, the load imposed by the addition on the existing structure, and if the existing structure and the connection will satisfy the combined loading. Attached additions rely on the existing structure for stability and strength. Detached additions are independent of the existing structure. Supporting evidence must also verify load path from addition to existing structure, if applicable.

(G) Applicable information listed in §5.4626 of this title.

(c) Failure to provide the documents requested by TDI could result in a denial of a Certificate of Compliance for Completed Improvement (Engineered), Form WPI-8E, or other action taken by TDI as stated in §5.4640 of this title (relating to Oversight) or §5.4642 of this title (relating to Disciplinary Action).

(d) For each component inspected, including roof, window, door, garage door, or exterior cladding, the engineer listed on the certificate of compliance for completed improvement must retain the supporting evidence and applicable information described in this section for that component for five years from the date of the most recent certification application submitted on the structure.

(e) All supporting evidence must be submitted to TDI electronically using either the Windstorm system or by email to windstorm@tdi.texas.gov. The Windstorm system can be accessed on TDI's website.

§5.4621. Certification of Ongoing Improvements Inspected by Appointed Qualified Inspectors.

This section describes the procedure for the certification of ongoing improvements inspected by appointed qualified inspectors.

(1) Eligible structures. An appointed qualified inspector or a designated representative of an appointed qualified inspector may only inspect an ongoing improvement for which TDI has received the following information:

(A) the physical address (including street, street number, city, county, and ZIP code);

(B) the wind zone location;

(C) the type of structure the ongoing improvement is or is a part of, including the structure's name or number, and number of units, if applicable;

(D) the subject of the inspection (for example, entire structure, addition, alteration, or repair);

(E) the name and contact information of the appointed qualified inspector inspecting the ongoing improvement, or whose designated representative is inspecting the ongoing improvement;

- (F) the storm code, if applicable;
- (G) the date construction of the ongoing improvement began;
- (H) the date of application for the certificate of compliance for the ongoing improvement;
- (I) the name of the person submitting the application for the certificate of compliance for the ongoing improvement;
- (J) the owner's name and contact information;
- (K) the name and contact information of the builder or contractor making the ongoing improvement;
- (L) whether the structure is located inside or outside city limits; and
- (M) whether the structure is in a Coastal Barrier Resource Zone.

~~[(2) Application for Certificate of Compliance, Form WPI-1. TDI will make available the Application for Certificate of Compliance, Form WPI-1, on which the information in paragraph (1) of this section may be provided.]~~

(2) ~~[(3)]~~ Inspection. The appointed qualified inspector or a designated representative of the appointed qualified inspector must inspect for compliance with the applicable windstorm building code each ongoing improvement during each major construction phase, including the foundation stage; rough framing stage; final framing stage, including attachment of component and cladding items and installation of windborne debris protection; and installation of mechanical equipment. The appointed qualified inspector's designated representatives may assist in conducting inspections, but the appointed qualified inspector must closely monitor and provide direct supervision of any designated representative assisting with the inspection process.

(3) ~~[(4)]~~ Report. The appointed qualified inspector or a designated representative of the appointed qualified inspector must prepare all necessary construction inspection reports under §5.4625 of this title (relating to Inspection Reports).

(4) ~~[(5)]~~ Verification of compliance. If the appointed qualified inspector determines that the ongoing improvement meets the applicable windstorm building code standard, the appointed qualified inspector must submit the following information to TDI:

- (A) the information required by paragraph (1)(A) - (F) of this section;
- (B) the building code standard and applicable wind load standard with which the ongoing improvement complies;
- (C) the wind speed conditions the ongoing improvement is certified to withstand;
- (D) the dates the ongoing improvement was inspected;
- (E) the exposure category of the structure;
- (F) information on the protection of exterior openings from windborne debris;
- (G) the risk category of the structure;
- (H) the appointed qualified inspector's appointment number; and
- (I) the application number from TDI.

(5) Electronic Submission. The information required by paragraphs (1) and (4) of this section, listed on Form WPI-1 and Form WPI-2, respectively, must be submitted to TDI electronically using the TDI Windstorm system, which is available on the TDI website.

~~[(6) Inspection Verification Form, Form WPI-1. TDI will make available the Inspection Verification Form, Form WPI-2, on which the inspector can provide the information required by paragraph (5) of this section.]~~

(6) ~~[(7)]~~ Notification of noncompliance. If the appointed qualified inspector determines that the ongoing improvement does not meet the applicable windstorm building code standard, the appointed qualified inspector must inform the person seeking certification in writing. The notice must:

(A) list specific deficiencies in the construction and deviations from the design;

(B) list other items of concern relating to the windstorm inspection and certification; and

(C) describe remedial actions required for compliance.

(7) [~~(8)~~] Verification of noncompliance. If the remedial actions described in the notification of noncompliance in paragraph (6)(C) [~~(7)(C)~~] of this section are not taken, the appointed qualified inspector must submit the information required by paragraph (4) [~~(5)~~] of this section to TDI, certifying that the ongoing improvement does not meet the applicable windstorm building code standard.

(8) [~~(9)~~] Review. TDI will review the submitted information and any other relevant information, including information requested under §5.4626 of this title (relating to Substantiating Information), to determine whether the ongoing improvement meets the applicable windstorm building code standard.

(9) [~~(10)~~] Certification. If TDI determines that the ongoing improvement meets the windstorm building code standards, TDI will issue a form with the following information:

(A) the information described in paragraph (1)(A) - (C) of this section;

(B) the subject of the certification (for example, entire structure, addition, alteration, or repair);

(C) the building code standard and applicable wind load standard with which the ongoing improvement complies;

(D) the date construction of the ongoing improvement began;

(E) whether the occupancy type is considered residential, commercial, agricultural, or religious;

(F) the certification date;

- (G) TDI's certification number; and
- (H) the type of inspector.

§5.4626. Substantiating Information.

(a) On request from TDI, an appointed qualified inspector must provide information and evidence necessary to substantiate the appointed qualified inspector's verification that an ongoing improvement complies with the wind load requirements of the applicable building code.

(b) The appointed qualified inspector may provide the information and evidence described in subsection (a) of this section to TDI in the form of:

(1) product information on building components including manufacturer name, testing information, installation instructions, and model code evaluation reports or other building information as described in §5.4623 of this title (relating to Information Required to Inspect to Design Documents);

(2) information in windstorm plans, as described in §5.4623 of this title;

(3) inspection verification forms and other documents previously filed with TDI;

(4) as-built drawings;

(5) shop drawings;

(6) building product submittal information;

(7) photographs; and

(8) inspection reports, as described in §5.4625 of this title (relating to Inspection Reports).

(c) All information required by this section must be submitted to TDI electronically using the Windstorm system or by email to windstorm@tdi.texas.gov. The Windstorm system can be accessed on TDI's website.

(d) ~~[(e)]~~ For each structure inspected, an appointed qualified inspector must retain the substantiating evidence and information described in this section for five years from the date of the most recent inspection verification form submitted on the structure.

§5.4640. Oversight.

(a) Inspection oversight. An appointed qualified inspector is subject to TDI's regulatory authority, which includes oversight inspections conducted by TDI. TDI oversees all aspects of the inspection and notification of compliance of ongoing improvements by an appointed qualified inspector under Insurance Code Chapter 2210 and this chapter.

(b) Certificate of compliance oversight.

(1) Ongoing Improvements. As part of TDI's oversight, TDI may audit the inspections on structures for which it has received an Application for Windstorm Inspection Certificate of Compliance, Form WPI-1, or an Inspection Verification, Form WPI-2, including structures for which TDI has issued a Certificate of Compliance, Form WPI-8. If TDI determines that a structure does not meet the windstorm building code standards, TDI will not issue a Form WPI-8~~]; or if TDI has issued a Form WPI-8 on a structure that is subsequently found not to be in compliance with the windstorm building code standards, TDI may rescind the Form WPI-8].~~

(2) Completed Improvements.

(A) TDI may deny an application for certificate of compliance if the postconstruction evaluation report or Certification Form for Completed Improvement, Form WPI-2E, is not fully documented as required under §5.4604 of this title (relating to Certification Form for Completed Improvement) or §5.4606 of this title (relating to Supporting Evidence for Sealed Postconstruction Evaluation Report and Design for Certificate of Compliance for Completed Improvement). TDI may audit, inspect, or both audit and inspect structures for which it has received a Certificate of Compliance [a

~~Certification Form]~~ for Completed Improvement submission in its Windstorm system [7-
Form WPI-2E].

(B) TDI may submit a formal complaint to the Texas Board of Professional Engineers and Land Surveyors related to the engineering work of a professional engineer, as reflected in the sealed postconstruction evaluation report or other materials submitted by an engineer under §5.4604 and §5.4606 of this title.

(C) ~~[TDI may rescind a Certificate of Compliance for Completed Improvement (Engineered), Form WPI-8E, if TDI finds that the improvement does not comply with the applicable building code under the plan of operation.]~~ TDI may audit, inspect, or both audit and inspect structures for which TDI has issued a Certificate of Compliance for Completed Improvement (Engineered), Form WPI-8E.

(c) Types of oversight audits. TDI may conduct an oversight audit of an appointed qualified inspector by any one, or a combination, of the following methods.[:]

(1) TDI may conduct an audit of an appointed qualified inspector based on documents and other information submitted to TDI.[:~~or~~]

(2) TDI may conduct an on-site audit at the appointed qualified inspector's place of employment or ongoing improvement for which TDI has received a Form WPI-1 or a Form WPI-2.

(d) Notification of audits.

(1) In all audits in which TDI asks the appointed qualified inspector to bring substantiating information to the audit, TDI will expect the audit to take place no less than 15 days after the appointed qualified inspectors receives notice of the audit.

(2) The appointed qualified inspector may request a shorter time frame if a notice period in this subsection would cause a delay in the construction schedule.

(e) Information for oversight audits. In the process of conducting an oversight audit, TDI may require the appointed qualified inspector to provide:

(1) documentation described in §5.4626 of this title (relating to Substantiating Information); and

(2) any other information maintained by the appointed qualified inspector that will demonstrate that the ongoing improvement complies with the appropriate windstorm building code standards, and that the ongoing improvement is eligible for association insurance.

(f) Burden of verification. Oversight audits, the appointed qualified inspector bears the burden of verifying, under §5.4622 of this title (relating to Inspection Verification), that the ongoing improvement complies with the wind load requirements of the applicable building code.

(g) Requirement to provide information. The appointed qualified inspector must provide information related to an audit in the same manner and time frame as required in §5.4615(5) of this title (relating to General Responsibilities of Appointed Qualified Inspectors). Failure to provide the information requested by TDI under this section may result in the nonissuance [~~or rescission~~] of a Certificate of Compliance, Form WPI-8 for the ongoing improvement, and the appointed qualified inspector may be subject to disciplinary action by TDI, as described in §5.4642 of this title (relating to Disciplinary Action).

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 September 8, 2022.

DocuSigned by:

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Allison Eberhart, Deputy General Counsel
Texas Department of Insurance