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To: Texas Workers' Compensation System Participants

From: Kara Mace, General Counsel

Date: [February 19, 2025](#)

Subject: Informal working draft on average weekly wage

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is accepting public comments on an informal working draft for amendments to 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](#) and [408.043](#), which govern calculating and adjusting an employee's average weekly wage for workers' compensation benefits.

The draft 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 draft 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 informal working draft will be posted on the website at <https://www.tdi.texas.gov/wc/rules/2025rules.html>.

Submit any written comments on the informal working draft 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

DWC is also accepting public comments on the following draft form. 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>.

- Revised: DWC Form-055, *Request to Adjust Average Weekly Wage for a Seasonal Employee*.

Submit any comments on the draft forms online at <https://forms.office.com/g/aiNpY8G9WT>.

The deadline to submit all comments is 5 p.m., Central time, on March 17, 2025.