

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

DIVISION 10. ELIGIBILITY AND FORMS **28 TAC §§5.4920 - 5.4926**

1. INTRODUCTION. The Texas Department of Insurance proposes new 28 TAC §§5.4920 - 5.4926, concerning alternative eligibility. The sections implement Insurance Code §2210.260, which was added by House Bill 3, 82nd Legislature, 1st Called Session, effective September 28, 2011. Insurance Code §2210.260 allows certain residential structures to be eligible for Texas Windstorm Insurance Association windstorm and hail insurance coverage with an alternative certification instead of the certificate of compliance (WPI-8) required under Insurance Code §2210.251.

The proposed sections establish structural components that qualify for an alternative certification, the procedure for obtaining an alternative certification, and the procedure for obtaining association insurance coverage under the alternative eligibility program. The following section-by-section summary provides greater detail.

Proposed §5.4920. Alternative Eligibility Program. Proposed §5.4920(a) introduces the alternative eligibility program and lists the sections that create it. Although Insurance Code §2210.260 does not use the word “program,” the department proposes to call the alternative eligibility requirements and activities “the alternative eligibility program.” This terminology is consistent with previous association insurance eligibility programs such as the certificate of compliance approval program addressed in §5.4906 of this division, and the certificate of compliance transition program addressed in §5.4907 of this division.

Section 5.4920(b) restates Insurance Code §2210.260(d) to confirm that the alternative eligibility program does not impose additional requirements on residential structures that are eligible for association insurance coverage under Insurance Code §2210.251 (a), (d), (e), and (f). This would include structures eligible under the certificate of compliance approval program addressed in §5.4906 of this division, because these structures were insured by the association on September 1, 2009, and thus qualify for coverage under Insurance Code §2210.251(f).

Policyholders that were insured under the certificate of compliance transition program addressed in §5.4907 of this division must comply with the alternative eligibility program requirements set out in §§5.4920 - 5.4926, including obtaining an alternative certification to renew coverage after August 31, 2013. This is because the association did not insure these structures on September 1, 2009. Structures covered in the certificate of compliance transition program do not need to separately enroll in the alternative eligibility program because they have been renewed under Insurance Code §2210.260 effective on and after September 28, 2011, the effective date of HB 3 and Insurance Code §2210.260.

Insurance Code §2210.251(d) and (e) apply to structures built before 1988. Structures eligible for association coverage under Insurance Code §2210.251(d) and (e) must have been built before January 1, 1988, and must either have been built in an area governed at the time by a building code recognized by the association or have been previously insured by an insurer authorized to engage in business in this state and have a certificate of compliance for each repair, alteration, enlargement, or remodeling

begun after that date. Structures eligible for association insurance coverage under those subsections may also qualify for coverage under §2210.251(f) if they were insured by the association on September 1, 2009. Structures not eligible for coverage under §2210.251(d), (e), or (f), may be eligible for coverage through the alternative eligibility program.

Section 5.4920(c) makes the alternative eligibility program part of the association's plan of operation. Insurance Code §2210.152 requires underwriting standards and application procedures to be part of the plan of operation. Additionally, Insurance Code §2210.251(a) requires structures to be inspected or approved by the department for compliance with the plan of operation.

Proposed §5.4921. Requirements for Obtaining and Renewing Alternative Eligibility Program Coverage. Proposed §5.4921 describes the requirements for obtaining and renewing coverage for an eligible residential structure in the alternative eligibility program. Structures eligible for alternative certification are those on which initial construction began before June 19, 2009, and for which the department has issued a WPI-8 for all alterations or repairs begun on or after June 19, 2009. June 19, 2009, is the effective date of Insurance Code §2210.258 and compliance with that section is required by §2210.260. Under §2210.258, structures that began construction on or after June 19, 2009, must have a WPI-8 for the initial structure and a WPI-8 for all alterations or repairs begun on or after June 19, 2009, to be eligible for association insurance coverage.

Additionally, proposed §5.4921(3) states that a person applying for association

insurance coverage must comply with the association's other eligibility and underwriting requirements.

Finally, §5.4921(4) addresses the initial period during which persons may obtain initial and renewal association insurance coverage through the alternative eligibility program without first obtaining a certificate of compliance. This period is set forth in Insurance Code §2210.260(d).

Proposed §5.4922. Alternative Certification. Section 5.4922 states the purpose of the alternative certification program and the requirements for obtaining an alternative certification.

The department anticipates that most of the applications for alternative certification will result from private market withdrawals from the catastrophe area. Alternative eligibility program applicants may seek coverage for structures which do not have all certificates of compliance required for the structure under Insurance Code §2210.251. This will include structures that received a WPI-8 for a subsequent repair or alteration of the structure because their private market insurer required it.

The building code standards for the qualifying components listed in proposed §5.4924 have not changed since February 1, 2003. This is why proposed §5.4922 allows a structure to be covered through the alternative eligibility program based on a qualifying component on which the department has issued a WPI-8 based on standards in effect on or after February 1, 2003. Proposed §5.4922(b)(2) saves an applicant from having to replace an existing component with one built to the same standard simply to obtain an alternative certificate of compliance as required by proposed §5.4921(2).

Because the standards under which the department issues a WPI-8 for the qualifying components listed in proposed §5.9424 have not changed since February 1, 2003, it would be wasteful to require applicants to redo a repair to meet the same standard.

Proposed §5.4923. How to Obtain an Alternative Certification. Proposed §5.4923 explains the procedure for obtaining and lists the requirements for an alternative certification. An alternative certification provides evidence of insurability for association insurance coverage. An applicant for association insurance coverage, or someone on the applicant's behalf, including a qualified inspector, must submit an application to the department to inform the department that the inspection process is beginning. After the inspection process is complete, the applicant must submit an inspection verification form if the inspector determines that a qualifying component complies with windstorm building code standards.

Under proposed §5.4923(b), the department must receive completed inspection information within six months after final inspection of the qualifying component as required under Insurance Code §2210.251(l). If the department does not receive the information within six months, the applicant must go through the entire inspection process again.

Proposed §5.4923(a)(3) also allows a structure that has a previously-issued certificate of compliance for a qualifying component to be eligible for association insurance coverage. The department may have issued a certificate of compliance for only part of a structure for repair or other construction work. This situation may arise because many voluntary market insurers writing in the catastrophe area may have

required their insureds to obtain a certificate of compliance on repairs and other construction. If the insurer has since discontinued the coverage, the person may need to seek association insurance coverage. A certificate of compliance covering a qualifying component demonstrates that the qualifying component was inspected and found to comply with applicable windstorm building code standards. Thus, such a certificate of compliance is an acceptable way of demonstrating eligibility under the alternative eligibility program.

Proposed §5.4923 also lists the requirements for an alternative certification. The department may issue an alternative certification if a qualifying component of a structure is inspected and found to comply with windstorm building code standards. Windstorm building code standards for qualifying components are defined in §§5.4009 – 5.4011 of this subchapter. Qualifying components are listed in proposed §5.4924.

Proposed §5.4924. Qualifying Components. Proposed §5.4924 lists and defines qualifying structural building components: the entire roof, windborne debris protection for all exterior openings, and exterior wall coverings for the entire structure.

Insurance Code §2210.260(c) requires the commissioner to determine which components qualify a structure for the alternative eligibility program, taking into consideration those components most probable to generate losses for the association's policyholders and the cost to upgrade them. The department selected the three qualifying components in proposed §5.4924 on the basis of the association's review of 1,605 claims received between July 1, 2011, and December 31, 2011. The majority of the 1,605 claims (85 percent) involved roof damage and the amount paid on roof

damage claims averaged \$6,394. Nineteen percent of the claims involved damage to exterior wall coverings; these claims had an average cost of \$667. Just under eight percent of the claims involved damage to exterior openings; these claims had an average cost of \$823. In addition to the cost of damage to these three components themselves, it is important to consider other costs which result when one of them is compromised. The entire roof, windborne debris protection for all exterior openings, and exterior wall coverings for the entire structure protect the entire structure. Damage to one of the three qualifying components in proposed §5.4924 may result in additional damage to the interior of the structure or to personal property within it.

The department selected roofs as a qualifying structural building component because roof damage makes up such a large percentage of claims. Roofs are a component highly probable to generate losses for the association's policyholders. As required by Insurance Code §2210.260(c), the department considered the cost to upgrade a qualifying structural building component as well as the probable losses associated with that component. For a 2,000 square foot house, the department estimates a cost of between \$5,000 and \$8,000 to bring an entire roof into compliance. This is in addition to roofing inspection costs, which may range from \$275 to \$425. Although repair or replacement of an entire roof may be expensive, improvement in this component across insured structures would lead to a significant reduction in claims.

The department selected exterior wall coverings for the entire structure as a qualifying structural building component because they are also likely to generate losses for the association's policyholders, although to a lesser extent than roofs. For each of

the qualifying structural building components, costs will vary, but for a 2,000 square foot house, the department estimates a cost of \$10,000 to \$15,000 to upgrade the entire structure's exterior wall coverings. The department estimates inspection costs at between \$225 to \$275.

The department selected windborne debris protection for all exterior openings as a qualifying structural building component because it, along with the entire roof and exterior wall coverings, protect the building envelope, which encloses the entire structure. The department estimates a cost of \$5,000 to \$31,500 for a 2,000 square foot house. The wide range in costs to upgrade windborne debris protection corresponds to the wide range in product options. These range from manual shutter systems to shutter systems which can be closed by remote control. Inspection costs for windborne debris protection ranges from \$250 to \$500. Notably, proposed §5.4924(2) excludes wood structural panels, including plywood and oriented strand board, from the category of windborne debris protection for all exterior openings. An applicant may not use a previously issued certificate of compliance for windborne debris protection for all exterior openings based on the use of wood structural panels as windborne debris protection to obtain an alternative certification.

Proposed §5.4924(2) does not authorize wood structural panels as compliant with building code standards for the purpose of obtaining an alternative certification because of the difficulty in verifying their actual use in a storm. Wood structural panels must be installed over all exterior openings before a storm. Wood structural panels obtained at the time a policyholder applies for alternative certification may no longer be

in good condition, may be lost, or may have been used for some other purpose by the time a storm arrives. Subject to the windstorm building code standards, wood structural panels will continue to qualify as windborne debris protection for the purpose of obtaining a certificate of compliance on an entire structure or to maintain coverage on an entire structure.

Proposed §5.4925. Notice. Proposed §5.4925 requires the association to give affected policyholders as many as three written notices of the alternative certification requirements, so that the policyholders have time to obtain an alternative certification before August 31, 2013. The affected policyholders are those who obtained insurance through the transition program under §5.4907 of this division or under Insurance Code §2210.260, which creates what the proposed rule refers to as the alternative eligibility program. On and after August 31, 2013, Insurance Code §2210.260(d) prohibits the association from renewing coverage for a policyholder who does not have an alternative certification, unless the policyholder has coverage under §2210.251(d), (e), or (f).

Proposed §5.4925(b)(1) requires the association to send a notice via first class mail to all affected policyholders within 30 days after the effective date of the proposed rule. Under proposed §5.4925(2), the association must send a notice, again via first class mail, to affected policyholders at least six months before each policy's first possible renewal date which falls after August 30, 2013. Proposed §5.4925(b)(2) requires the association to send the notice no earlier than February 28, 2013.

Under proposed §5.4925(3), the association must send a notice via first class mail to affected policyholders at least two months before each policy's first possible

renewal date which falls after August 30, 2013. Proposed §5.4925(b)(3) requires the association to send the notice no earlier than June 30, 2013.

Pursuant to proposed §5.4925(c), the association need not send a second or third notice to policyholders who have obtained an alternative certification.

For example, if a policyholder obtained a policy through the transition program under §5.4907, and the policy began on August 30, 2011, the association could not renew the policy on August 30, 2014, if the policyholder did not have an alternative certification by that date. Proposed §5.4925 would require the association to send a notice 30 days after the rule's effective date. The association would send a second notice some time on or after February 28, 2013, but before February 28, 2014. The association would send a third notice some time on or after June 30, 2013, but before June 30, 2014. The association would not need to send notices once the policyholder obtained an alternative certification.

Although the statute does not require these notices, they are critical to informing affected policyholders that they must obtain an alternative certification well before the date by which they must do so. Policyholders who need to replace or upgrade a qualifying component will need sufficient time to complete the construction before the deadline. The notices required under this section will enable policyholders to plan for the possible expense and be eligible to renew association insurance coverage after August 30, 2013.

The association is the appropriate entity to give the notices because the association has the information to identify the policyholders who became eligible for

association insurance through the transition program or under §2210.260.

Insurance Code §2210.260(c) requires the department to adopt reasonable and necessary rules to implement that section. Requiring these notices is a reasonable and necessary way to ensure that applicants and policyholders receive information about the alternative eligibility program so they can take necessary steps to continue to be eligible for association insurance coverage.

Proposed §5.4926. Alternative Eligibility Forms. Proposed §5.4926 adopts by reference three new forms for the alternative eligibility program. The department needs these forms to efficiently process applications and inspection information.

2. FISCAL NOTE. Alexis Dick-Paclik, director of the Inspections Office in the Property and Casualty Section, has determined that, for each year of the first five years the proposed sections will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. Ms. Dick-Paclik does not anticipate any measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Ms. Dick-Paclik also has determined that, for each year of the first five years the proposed sections are in effect, there will be public benefits resulting from the proposal and there will be costs to persons required to comply with the proposal.

A. Anticipated public benefits.

The proposal implements §2210.260 of the Insurance Code by establishing qualifying structural building components that may serve as the basis for an alternative certification and the procedure for obtaining an alternative certification. The alternative certification allows the association to provide insurance coverage for certain structures that do not have one or more certificates of compliance as required under Insurance Code §2210.251. The department selected the qualifying structural building components based on a review of association claims and input from a working group on forensic inspection. The department took into consideration those items that are most probable to generate losses for the association's policyholders and the cost to the insured to upgrade those items. The selected qualifying structural building components have historically resulted in significant insured loss claims against the association, but can be brought up to windstorm building code standards and inspected for compliance by relatively non-invasive means.

B. Estimated costs for persons required to comply with the proposal.

The association will incur additional costs by complying with the notice requirements in proposed §5.4925 because of this proposal. As provided in the Insurance Code Chapter 2210, the association is created for the purpose of providing windstorm and hail insurance in the designated catastrophe area, and, as such, must comply with this proposal.

Persons seeking association insurance coverage under the alternative eligibility program may incur cost; however, the sections do not require any person to obtain association insurance coverage under the alternative eligibility program. While no

person must purchase windstorm and hail insurance coverage from the association, current residential insurance market conditions on the Texas coast limit the ability of many coastal residents to purchase windstorm and hail insurance coverage from any source other than the association.

(1) The association.

Section 5.4925 requires the association to give notice of the alternative eligibility program to certain current and new policyholders. In response to a department inquiry, the association estimated that it will cost approximately \$16,000 to prepare the first notice and mail it to the approximately 16,000 policyholders who are eligible for the program. The cost of preparing and mailing the second and third rounds of notices will also be \$16,000 each. Thus, the department estimates that the association will spend approximately \$48,000 to comply with the proposal, minus the costs for policyholders who obtain an alternative certification and do not require a second or third notice. The association indicates that unanticipated situations and expenses may cause actual costs to differ.

(2) Policyholders.

New and current policyholders seeking to obtain association insurance coverage after September 1, 2012, or renew association insurance coverage after August 31, 2013, through the alternative eligibility program may incur costs for the construction, or repair, and inspection of qualifying structural building components. Costs will vary depending on the component's location; the condition and size of the structure; the availability of materials and labor; inspection fees; and other factors.

While costs vary, the department estimated the following replacement costs for the qualifying structural building components in a 2,000 square foot house:

- (1) roofing -- \$5,000-\$8,000;
- (2) windborne debris protection -- \$5,000-\$31,500; and
- (3) exterior wall coverings -- \$10,000-\$15,000.

These estimates are based on department staff's interviews with building contractors and manufacturers. The wide range of the estimate for windborne debris protection is due to the range of options for this component.

Inspection costs also vary, depending on the type and extent of construction, materials used, and the inspector's fee structure. Roofing inspection costs may range from \$275 to \$425. Exterior wall covering inspection costs may range from \$225 to \$275. Inspection costs for windborne debris protection for the entire house may range from \$250 to \$500. These estimates are based on department staff's interviews with appointed engineers.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

Government Code §2006.002(c) requires that if a proposed rule may have an adverse economic impact on small businesses or micro businesses, state agencies must prepare an economic impact statement that assesses the potential impact of the proposed rule on these businesses. The agency must also prepare a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule.

The association. The association has approximately 150 employees (including employees who are providing services by contract to the FAIR Plan) and net receipts well over \$6 million. In addition, the association is not a corporation, partnership, or sole proprietorship. It is an *association. . . composed of all property insurers authorized to engage in the business of property insurance in this state*, formed under the authority of the Insurance Code §2210.051. The association is not formed for the purpose of making a profit, but to provide a method by which adequate windstorm and hail insurance may be made available in certain designated portions of this state, as mandated by the Insurance Code §2210.001.

Based on these factors, the association does not meet the definition of a small or micro business under Government Code §2006.001(a)(1) and (2), and, therefore, Government Code §2006.002(c) does not require an analysis of the economic impact of this proposal on the association.

Small and micro businesses. The department has determined that this proposal may have an adverse economic effect on small or micro businesses seeking alternative certification. These businesses are those that occupy structures that are insured under the association's residential property form. The rule would subject these businesses to the cost of inspecting and upgrading qualifying structural building components. Under Government Code §2006.002(c), before adopting a rule that may have an adverse economic effect on small or micro businesses, an agency must prepare a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the proposed rule.

Government Code §2006.002(c)(1) requires the economic impact statement to estimate the number of small or micro businesses subject to the proposed rule. The association does not track how many of its residential policyholders operate businesses from structures insured under the association's residential policy form. In addition, it is not known how many small and micro businesses would seek coverage through the alternative eligibility program. Therefore, it is not possible to precisely estimate the number of small or micro businesses subject to the proposed rule.

Insurance Code §2210.260 requires that, for the department to issue an alternative certification, at least one qualifying structural component must have been inspected and determined to comply with windstorm building code standards. Section 2210.260 requires the commissioner to adopt rules establishing the qualifying structural components based on those most probable to generate losses for the association's policyholders, taking into account the cost to the insured to upgrade those items, and rules necessary to implement the section, which include the procedure for obtaining an alternative certification for the qualifying structural components.

Thus, the regulatory flexibility analysis for small and micro businesses must consider three options. For the purposes of this analysis, the department has considered the following options: to not adopt the proposed section, to establish different qualifying structural components, and to waive the alternative certification requirement.

Nonadoption.

Insurance Code §2210.260(c) requires the department to adopt reasonable and necessary rules to implement the section and to establish which qualifying components may qualify for an alternative certification. The statute does not specify the components; without rules, alternative certifications will not be available for any residential property, thus defeating the purpose of Insurance Code §2210.260. For this reason, and because the statute requires rules, the department has rejected this option.

Adopting different qualifying components for small and micro businesses.

The department considered establishing other components as qualifying structural building components to serve as the basis for an alternative certification. These included roof deck attachment and roof-to-wall framing anchorage. The department determined that neither of these components were among the most probable to generate losses, based on association estimates, but would require significant cost to retrofit to an existing structure. The qualifying structural components listed in proposed §5.4924 were chosen by considering that fact that they are the most probable to generate losses for the association's policyholders and also taking into consideration the cost to upgrade them.

Allowing small or micro businesses to get an alternative certification for components that are not the most probable to generate losses and that would require significant cost to upgrade would be contrary to Insurance Code §2210.260. Requiring upgrades to the components more, rather than less, probable to generate losses reduces risk of loss to the association and policyholders. Further, structures insured under the association's residential insurance policy that are used for small and micro

businesses do not differ from other residential structures. Thus, the department rejected the option of choosing different qualifying components for small and micro businesses.

Exempting small and micro businesses from the alternative certification requirements.

Insurance Code §2210.260 authorizes the department to issue an alternative certification to a structure that has a qualifying structural building component inspected and determined to comply with the windstorm building code standards. The alternative certification qualifies the structure for association insurance coverage. Thus, under statute, the department cannot issue an alternative certification if a qualifying component is not shown to comply with windstorm building code standards. The rule cannot avoid this statutory requirement, thus, the department has rejected this option.

5. TAKINGS IMPACT ASSESSMENT. The department has determined that this proposal affects no private real property interests, 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. Therefore, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To have your comments considered, you must submit written comments on the proposal no later than 5:00 p.m. on July, 23, 2012, to Sara Waitt, General Counsel, Mail Code 113-2A, Texas Department of

Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be simultaneously submitted to Alexis Dick-Paclik, Director of the Inspections Office in the Property and Casualty Section, Mail Code 105-5G, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. You must submit any request for a public hearing separately to the Office of Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104 before the close of the public comment period.

The commissioner will consider the adoption of the new proposed sections in a public hearing under Docket No. 2737 scheduled for July 12, 2012, at 9:30 am in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas. The commissioner will consider written and oral comments presented at the hearing.

7. STATUTORY AUTHORITY. The department proposes the new sections under Insurance Code §§2210.008, 2210.151, 2210.152, 2210.260, and 36.001.

Section 2210.008(b) authorizes the commissioner to adopt reasonable and necessary rules to implement Chapter 2210. Section 2210.151 authorizes the commissioner to adopt the association's plan of operation by rule. Section 2210.152 provides that the association's plan of operation provide for the efficient, economical, fair, and nondiscriminatory administration of the association and include both underwriting standards and other provisions the department considers necessary to implement the purposes of Chapter 2210.

Section 2201.260 authorizes the commissioner to adopt reasonable and necessary rules to implement this section. The rules adopted under §2210.260 must establish which structural building components are considered qualifying structural building components for the purposes of subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the department's powers and duties under the Insurance Code and other laws of the state.

8. CROSS REFERENCE TO STATUTE. The following statutes are related to this proposal:

RULE	STATUTE
§§5.4920 - 5.4926	Insurance Code §§2210.008, 2210.151, 2210.152, and 2210.260.

9. TEXT.

DIVISION 10. ELIGIBILITY AND FORMS

§5.4920. Alternative Eligibility Program.

(a) The department establishes the alternative eligibility program to implement Insurance Code §2210.260 and to provide a means for a person to obtain association insurance coverage on a residential structure without obtaining all certificates of compliance required under Insurance Code §2210.251.

(b) The alternative eligibility program does not impose additional requirements on residential structures that are insured or insurable under Insurance Code §2210.251 (d), (e), and (f) and §5.4906 of this division (relating to Certificate of Compliance Approval Program).

(c) The following sections of this division constitute the alternative eligibility program, are a part of the association's plan of operation, and control over any conflicting provisions in §5.4001 of this subchapter (relating to Plan of Operation):

(1) Section 5.4921 (relating to Requirements for Obtaining and Renewing Alternative Eligibility Program Coverage);

(2) Section 5.4922 (relating to Alternative Certification);

(3) Section 5.4923 (relating to How to Obtain an Alternative Certification);

(4) Section 5.4924 (relating to Qualifying Components);

(5) Section 5.4925 (relating to Notice); and

(6) Section 5.4926 (relating to Alternative Eligibility Forms).

(d) The windstorm building code standards referenced in this division are those set out in the association's plan of operation.

§5.4921. Requirements for Obtaining and Renewing Alternative Eligibility

Program Coverage. A residential structure is eligible for association insurance coverage under the alternative eligibility program if:

(1) initial construction on the structure began before June 19, 2009;

(2) the department has issued a Certificate of Compliance (Form WPI-8) for all alterations, remodeling, enlargements, repairs, or additions to the structure for which construction began on or after June 19, 2009;

(3) the person applying for association insurance coverage complies with all other association eligibility and underwriting requirements, including maintaining the structure in an insurable condition and payment of premium; and

(4) the structure has an alternative certification as defined in §5.4922 of this division (relating to Alternative Certification):

(A) on and after September 1, 2012, for initial coverage; and

(B) on and after August 31, 2013, for renewal coverage.

§5.4922. Alternative Certification.

(a) An Alternative Certification (Form WPI-12) provides evidence of insurability for association insurance coverage through the alternative eligibility program.

(b) The department may issue an alternative certification if a qualifying component, as defined in §5.4924 of this division (relating to Qualifying Components):

(1) has been inspected and approved by a department inspector or an appointed qualified inspector, and the department has determined that the qualifying component meets the windstorm building code standards, as set forth in the plan of operation, in effect on the day that the department receives the Alternative Certification Application (Form WPI-1-AC), except as provided in §5.4924(2)(A)(i) of this division; or

(2) the department has previously issued a Certificate of Compliance (Form WPI-8) certifying the entire qualifying component and the certificate of compliance is based on windstorm building code standards in effect on or after February 1, 2003, except as provided in §5.4924(2)(A)(ii) of this division.

(c) A department inspector or appointed qualified inspector must inspect the qualifying component. Only an appointed qualified inspector who is a Texas licensed professional engineer may inspect completed construction.

§5.4923. How to Obtain an Alternative Certification.

(a) To obtain an alternative certification, a person, or the person's agent or representative, including an appointed qualified inspector, must submit the required information to the department.

(1) Option 1: for inspections by an appointed qualified inspector, completed Alternative Certification Application (Form WPI-1-AC) and Inspection Verification for Alternative Certification (Form WPI-2-AC); or

(2) Option 2: for inspections by a department inspector, a completed Form WPI-1-AC; or

(3) Option 3: for qualifying structural components for which the department previously issued a certificate of compliance, a completed Form WPI-1-AC; and written notice that the department has issued a Form WPI-8 for at least one qualifying component.

(b) Forms WPI-1-AC and WPI-2-AC are adopted by reference in §5.4926 of this division (relating to Alternative Eligibility Forms).

(c) The department must receive complete inspection information within six months after the final inspection of the qualifying component, under Insurance Code §2210.251(l). If the department does not receive the information within six months, a person may submit a new Form WPI-1-AC and may have the structure reinspected. The department may issue a Form WPI-12 based on the second inspection.

§5.4924. Qualifying Components. Each of the following is a qualifying structural building component (qualifying component):

(1) The entire roof.

(A) Roof includes the outermost covering of the roof and any other parts of the roof needed to ensure the entire roof complies with the applicable building code standards.

(B) Entire roof means all roof surfaces attached to the structure, including porches, overhangs, lean-tos, breezeways, carports, garages, and other roof surfaces.

(C) Roof covering materials include asphalt shingles, concrete and clay tile, metal roof shingles, metal roof panels, modified bitumen, and any other code-approved roof covering system.

(2) Windborne debris protection for all exterior openings.

(A) Windborne debris protection includes all materials and construction needed to ensure that the windborne debris protection for all exterior openings complies with the applicable building code standards, except that for the purposes of obtaining an alternative certification:

(i) notwithstanding any provision in this subchapter, wood structural panels, including plywood and oriented strand board, are not authorized as being compliant with the applicable building code standards; and

(ii) a previously issued certificate of compliance for windborne debris protection may not be used to obtain a certificate of compliance if the certificate of compliance was based on the use of wood structural panels as windborne debris protection.

(B) Exterior openings include exterior doors, windows, garage doors, skylights, and other openings.

(C) Windborne debris protection includes shutter systems and other impact resistant products, except as provided in subparagraph (A) of this paragraph.

(3) Exterior wall coverings for the entire structure.

(A) Exterior wall coverings include all materials and construction needed to ensure that the exterior wall coverings attached to the entire structure comply with the applicable building code standards.

(B) The entire structure includes porches, carports, garages, lean-tos, and other parts attached to the structure.

(C) An exterior wall covering is the outermost layer of an exterior wall.

(D) Exterior covering materials include wood, vinyl, and fiber cement siding; masonry and stone veneer; stucco; and other exterior wall covering products.

§5.4925. Notice.

(a) The association must give written notice to each policyholder who obtained association insurance coverage on or after September 1, 2009, through:

(1) the transition program under §5.4907 of this division (relating to Certificate of Compliance Transition Program); or

(2) under Insurance Code §2210.260.

(b) The association must give notice by first class mail:

(1) to all policyholders described in subsection (a) of this section within 30 days after the effective date of this rule;

(2) to each policyholder described in subsection (a) of this section at least six months before, but no earlier than February 28, 2013, the first date on which the policy may be renewed which falls after August 30, 2013; and

(3) to each policyholder described in subsection (a) of this section at least two months before, but no earlier than June 30, 2013, the first date on which the policy may be renewed which falls after August 30, 2013.

(c) Subsection (b) does not apply to policyholders who have obtained an alternative certification; the association does not need to give notice to policyholders who have obtained an alternative certification.

(d) Each notice must:

(1) inform policyholders that, after August 30, 2013, the association will not renew the insurance coverage of policyholders who do not have an alternative certification;

(2) explain what an alternative certification is;

(3) list the qualifying components;

(4) explain how to obtain an alternative certification;

(5) say which rules apply to alternative certifications; and

(6) tell policyholders where they can get more information.

§5.4926. Alternative Eligibility Forms.

(a) The commissioner of insurance adopts by reference the following forms for the alternative eligibility program:

(1) Application for Alternative Certification (Form WPI-1-AC), effective May 1, 2012;

(2) Inspection Verification for Alternative Certification (Form WPI-2-AC), effective May 1, 2012; and

(3) Alternative Certification (Form WPI-12), effective May 1, 2012.

(b) These forms are available on the department website or by mail from Texas Department of Insurance, Windstorm Inspections, 333 Guadalupe, P.O. Box 149104, MC 103-1E, Austin, Texas 78714-9104.