

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Draft of
Proposed repeal of current 10 Texas Administrative Code (“TAC”) Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities **AND** New Proposed Rule at 10 TAC Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities

Disclaimer

Attached is a draft of the proposed repeal of the current 10 Texas Administrative Code (“TAC”) Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities **AND** the New Proposed Rule at 10 TAC Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities that was approved by the TDHCA Governing Board on October 13, 2016. This draft is as presented to the Board as there were no changes made by the Board and no public comment was presented on this proposed rule at the Board meeting. This document, including its preamble, is scheduled to be published in the October 28, 2016 edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment.

Public Comment

Public Comment Period: Starts: 8:00 a.m. Austin local time on October 28, 2016 Ends: 5:00 p.m. Austin local time on November 28, 2016.

Comments received after 5:00 p.m. Austin local time on November 28, 2016 will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs
Attn: Mark Leonard
P.O. Box 13941
Austin, Texas 78711-3941
Fax: (512) 475-1162
Email: htf@tdhca.state.tx.us

Written comments may be submitted in hard copy, fax, or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Preamble of 10 TAC Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities; proposed repeal

The Texas Department of Housing and Community Affairs (the “Department”) proposes the repeal of 10 TAC Chapter 21, §§21.1 - 21.6, concerning Minimum Energy Efficiency Requirements for Single Family Construction Activities. The purpose of the repeal is to propose a new rule that clarifies definitions, corrects dates of applicability, updates citations referring to the International Residential Code requirements, and improves readability. The proposed new rule is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that for each year of the first five years the rule is repealed, there are no foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the rule is repealed, the public benefit anticipated will be clarity of construction requirements, adherence to state governing statute, and increased home affordability via reduced household utility costs. There will be minimal economic cost to entities and lower utility costs to households.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed new rule will be from October 28, 2016, to November 28, 2016. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Mark Leonard, Energy Efficiency Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; emailed to htf@tdhca.state.tx.us; or faxed to (512) 475-1162. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M Austin Local Time, NOVEMBER 28, 2016.

STATUTORY AUTHORITY. The proposed repeal is pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and §2306.187, which authorizes the Department to develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities for Single Family dwellings.

The proposed repeal affects no other code, article, or statute.

Preamble of 10 TAC Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities; proposed new

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 21, §§21.1 - 21.6, concerning Minimum Energy Efficiency Requirements for Single Family Construction Activities. The purpose of the proposed new rule is to clarify definitions, correct dates of applicability, update citations referring to the International Residential Code requirements, and improve readability. The proposed repeal of existing Chapter 21 is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that for each year of the first five years the amendments are in effect, enforcing or administering new sections do not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the new sections will be clarity of construction requirements, adherence to state governing statute, and increased home affordability via reduced household utility costs. There will be minimal economic cost to entities complying with the amendments, and lower utility costs to households.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed amendments will be from October 28, 2016, to November 28, 2016. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Mark Leonard, Energy Efficiency Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; emailed to htf@tdhca.state.tx.us; or faxed to (512) 475-1162.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M Austin Local Time, NOVEMBER 28, 2016.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and §2306.187, which authorizes the Department to develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities for Single Family dwellings.

The proposed amendments affect no other code, article, or statute.

§21.1. Purpose.

§21.2. General Requirements.

§21.3. Definitions.

§21.4. New Construction and Reconstruction Activities.

§21.5. Manufactured Housing Unit Activities.

§21.6. Rehabilitation Activities.

§21.1. Purpose.

(a) Texas Government Code, §2306.187 requires that the Department develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities in Single Family Programs.

(b) This chapter describes the Minimum Energy Efficiency Requirements for all single family construction activities, which includes the Department's HOME Investments Partnership Program (HOME), Housing Trust Fund (HTF), Neighborhood Stabilization Program (NSP), Office of Colonia Initiatives (OCI) Programs, and other single family programs as developed by the Department.

§21.2. General Requirements. Unless otherwise noted, this Chapter only applies to single family programs. Program rules may impose additional requirements related to any provision of this Chapter.

(a) Local residential building codes that exceed some or all parts of this Chapter shall take precedence.

(b) A final inspection conducted by Administrators confirming compliance with this Chapter shall be required for release of final payment from the Department.

§21.3. Definitions.

(a) Any capitalized terms that are defined in Texas Government Code, §2306, and Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), or other applicable Department program rules, have, when capitalized, the meanings ascribed to them therein.

(b) The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

(1) ENERGY STAR Certified Appliances, Equipment, and Products--Labeled appliances, equipment, and products that are independently certified to save energy without sacrificing features or functionality, meeting the US EPA's specifications for energy efficiency and performance.

(2) ENERGY STAR Certified Home--A new home that has earned the ENERGY STAR label and has undergone a process of inspections, testing, and verification to meet requirements set forth by the US EPA.

(3) ENERGY STAR Certified Manufactured Housing Unit--A home that has been designed, produced and installed by the home manufacturer to meet ENERGY STAR requirements for energy efficiency.

(4) RESNET--Residential Energy Services Network. RESNET is an independent, nonprofit organization established in 1995 to help homeowners reduce the cost of their utility bills by making their homes more energy efficient. RESNET-certified Home Energy Systems Raters are required to inspect, test, and verify homes for ENERGY STAR certification.

(5) Start of Construction Date--The date of the first excavation into readied soil, or any construction work other than site clearance and site preparation.

(6) WaterSense Labeled Fixtures--Labeled products that are backed by independent, third-party testing and certification, meeting the US EPA's specifications for water efficiency and performance.

(7) US EPA--United States Environmental Protection Agency.

§21.4. New Construction and Reconstruction Activities.

(a) Single family residential dwellings, as defined in §388.002 of the Health and Safety Code, that are newly constructed or reconstructed shall comply with §388 of the Health and Safety Code (Texas Building Energy Performance Standards).

(b) Effective January 1, 2012, the Texas State Energy Conservation Office adopted the 2009 International Residential Code (Chapter 11) as the state-mandated energy code for all residential construction, one- and two-family residences of three stories or less above grade.

(c) For construction activities that have a Start of Construction Date on or after September 1, 2016, the Texas State Energy Conservation Office through Health and Safety Code, Chapter 388 has adopted Chapter 11 of the 2015 International Residential Code as the energy code in Texas for single family residential construction.

§21.5. Manufactured Housing Unit Activities.

Manufactured Housing Units installed on or after January 5, 2017, the date of adoption of this rule, as replacement for sub-standard housing shall be ENERGY STAR certified.

§21.6. Rehabilitation Activities.

(a) All Rehabilitation activities with a Start of Construction Date on or after January 5, 2017, the date of adoption of this rule, shall comply with this Chapter

(b) If the proposed scope of work or the awarded construction contract for the Rehabilitation of an existing single family residential unit includes an item described in paragraphs (1) – (9) of this section, the following requirements shall apply:

(1) Replacement or installation of central heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of Chapter 14 of the 2015 International Residential Code;

(2) Replacement or installation of duct systems serving heating, cooling and ventilation equipment shall be installed in accordance with the provisions of Chapter 16 of the 2015 International Residential Code;

(3) If central heating and cooling equipment is replaced or installed, attic insulation shall be installed or increased according to Chapter 11, Figure N1102.1.2 of the 2015 International Residential Code, including insulation covering the top plates of exterior walls. Eave baffles and access hatches shall be installed as specified in Chapter 11, Sections N1102.2.3 – N1102.2.4 of the 2015 International Residential Code.

- (4) If ductless heating and cooling systems (also known as mini-split, multi-split or variable refrigerant flow (VRF) heat pump systems) are replaced or installed, they shall be ENERGY STAR certified;
- (5) If exhaust fans are replaced or installed in bathrooms or kitchens, they shall be ENERGY STAR certified and installed in accordance with Chapter 15 of the 2015 International Residential Code;
- (6) If windows are installed, they shall be ENERGY STAR certified windows, meeting the U-factor and Solar Heat Gain Coefficient for the climate zone of the dwelling as identified in Chapter 11, Table N1102.1.2 of the 2015 International Residential Code;
- (7) Electrical fixtures, equipment and appliances that are replaced or installed, where applicable, shall be ENERGY STAR certified products;
- (8) Plumbing fixtures that are replaced or installed, where applicable, shall be WaterSense labeled products;
- (9) Domestic water heaters, storage and tankless, when replaced or installed, shall meet the Federal Energy Conservation Standards required by 10 CFR 430.32, as they may be revised from time to time.