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ADOPTION OF REVISIONS TO

43 TAC §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50, 57.51, AND 57.52

INTRODUCTION. The Motor Vehicle Crime Prevention Authority (authority) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 57, §§57.9, 57.14; 57.27, 57.29, 57.48, 57.50 - 57.52. The authority adopts §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50-57.52 without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8834). The rules will not be republished.

The adopted revisions in Chapter 57 are necessary to bring the rules into alignment with statute; remove language that is redundant with statute; to clarify existing requirements; to modernize language; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and references or other language; to clarify existing requirements; and more specifically describe the authority’s methods and procedures.

REASONED JUSTIFICATION. The authority is conducting a review of its rules in Chapter 57 in compliance with Government Code, §2001.039. Notice of the authority’s Intention to Readopt Chapter 57 is published in this issue of the *Texas Register*. As a part of the rule review, the authority is adopting necessary amendments as detailed in the following paragraphs.

An adopted amendment adds new §57.9(f) to clarify that grantees who are in violation of the MVCPA’s non-supplanting requirement may be required by the Board to return supplanted funds to the MVCPA.

An adopted amendment to §57.14(b)(4) clarifies that a project eligible for grant funding to address a reduction in the sale of stolen auto parts can include projects designed to reduce the sale of stolen catalytic converters, in furtherance of Senate Bill (SB) 224, 89th Legislature, Regular Session (2023).

1 Adopted new §57.14(b)(6) adds “preventing stolen motor vehicles from entering Mexico” as a project goal
2 for which the MVCPA can provide grant funding, to align the rule with Transportation Code, Chapter 1006.

3 Adopted amendments to §57.27(a)(1), (a)(2), (c), (d) and (f) clarify language and improve
4 readability without changing the meaning of the rule. Adopted new §57.27(g) clarifies that MVCPA
5 grantees do not have a statutory right to a contested case proceeding to determine whether a deficient
6 condition described in §57.27(a) exists or has been resolved.

7 Adopted amendments to §57.29(d) and (e) modernize language and improve readability.

8 An adopted amendment to §57.48(b) updates the titles of two Comptroller of Public Accounts
9 forms used by insurers to pay the MVCPA fee with correct language and clarifies that the forms may be
10 obtained in electronic format on the Comptroller’s website.

11 An adopted amendment to §57.50 updates the section title to reflect the official agency name of
12 the Texas Department of Insurance. Adopted amendments to the body of the rule align the section with
13 Transportation Code, Chapter 1006.

14 Adopted amendments to §57.51(a), (b), and (c) add “designee,” “MVCPA,” and
15 “MVCPA board” in several places to clarify the initial submission procedures for insurers requesting refund
16 determinations. The adopted amendments improve readability through the use of consistent
17 terminology.

18 Adopted amendments to §57.52 update the section title to clarify that both penalties and interest
19 may be assessed for a late payment of the fee. Additionally, the adopted amendments add the word “late”
20 to the section title to clarify that a violation of the section can also occur for the late filing of the report of
21 the fee and result in a penalty being assessed against an insurer.

1 An adopted amendment to §57.52(a) and (a)(1) remove language concerning the late filing of the
2 report of the fee from subsection (a) and place it in new subsection (b) for clarity and ease of reference.
3 The adopted amendments for subsection (a) clarifies that an insurer shall be assessed a penalty for the
4 late payment of the fee in accordance with Tax Code, §111.061(a). Adopted new subsection (b) clarifies
5 that a penalty of \$50 will be assessed against an insurer for the late filing of the report of the fee. The \$50
6 penalty for the late filing of a report follows the Texas Comptroller’s Office current practice of charging a
7 \$50 fee involving a late filing of a report by a taxpayer.

8 An adopted amendment to new §57.52(c)(1) increases the time period in which an insurer may
9 submit a prescribed form to the MVCPA director to appeal the assessment of penalties and/or interest
10 against an insurer from thirty days to sixty days. Currently, billing statements are mailed out up to two
11 weeks after the balance shows and some insurers have complained that they did not receive notification
12 until after the thirty-day period has expired. The adopted amendment allows insurers sufficient additional
13 time to review the MVCPA director’s decision and consider whether to appeal.

14 Additional non-substantive amendments are adopted throughout Chapter 57 to correct
15 punctuation, grammar, and capitalization.

16 **SUMMARY OF COMMENTS.**

17 No comments on the proposed amendments were received.

18

19 **STATUTORY AUTHORITY.** The amendments are adopted under Transportation Code, §1006.101, which
20 requires the authority to adopt rules to implement the authority’s powers and duties.

21 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code
22 §1006.101, and §1006.153.

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Text.

§57.9. Nonsupplanting Requirement.

(a) State funds provided by this Act shall not be used to supplant state or local funds.

(b) Supplanting means the replacement of other funds with Motor Vehicle Crime Prevention Authority (MVCPA) grant funds. It shall also include using existing resources already available to a program activity as cash match.

(c) Positions which existed prior to new grant award approval and were funded from any source other than MVCPA grant funds are not eligible for grant funding or to be used as cash match.

(d) If a grant program is reduced by 20% or more from the previous year, and as a result, grant funded or match positions are transferred to other duties for the grant year, they may be returned to grant funding in the subsequent grant year. This exception is not available for any positions that have not been grant funded or used as match for more than one grant year.

(e) Each grantee shall certify that MVCPA funds have not been used to replace state or local funds that would have been available in the absence of MVCPA funds. The certification shall be incorporated in each grantee's expenditure report.

(f) Grantees that supplant funds may be required by the Board to return supplanted funds to the MVCPA.

1 §57.14. Approval of Grant Projects.

2 (a) The MVCPA board will approve funding for projects on an annual basis, subject to
3 continuation of funding through state appropriations and availability of funds.

4 (b) To be eligible for consideration for funding, a project must be designed to support one of the
5 following MVCPA program categories:

6 (1) Law Enforcement, Detection and Apprehension;

7 (2) Prosecution, Adjudication and Conviction;

8 (3) Prevention, Anti-Theft Devices;

9 (4) Reduction of the Sale of Stolen Vehicles or Parts, including catalytic converters;

10 (5) Educational Programs and Marketing; and

11 (6) Preventing stolen motor vehicles from entering Mexico.

12 (c) Grant award decisions by the MVCPA are final and not subject to judicial review.

13

14 §57.27. Withholding Funds from Grantees.

15 (a) The MVCPA may withhold funds from a grantee or projects operated by the grantee when:

16 (1) a determination is made that the grantee has failed to:

1 (A) comply with applicable federal or state laws, rules, regulations, policies, or the
2 grant agreements on which the award of the grant is predicated;

3 (B) submit required reports on time;

4 (C) provide a response to audit or monitoring findings on time;

5 (D) return any unused grant funds remaining on the expired grant within the
6 required timeframe;

7 (E) use funds appropriately; or

8 (F) commence project operations within 45 days of the project start date; or

9 (2) a determination is made that the grantee has submitted reports or records with
10 deficiencies, irregularities, or are delinquent.

11 (b) The MVCPA may reduce or withhold grant funds when MVCPA allocations are depleted or
12 insufficient funds are allocated.

13 (c) The MVCPA will notify grantees of deficient conditions prompting the withholding of grant
14 funds and the period of time within which to cure any deficiency.

15 (d) Grantees have 15 days after receiving a deficiency notification to request an appeal.

16 (e) The MVCPA director or MVCPA board designee will determine the outcome of the grant
17 appeal.

18 (f) Grant funds will be released to a grantee when the MVCPA director or MVCPA board designee
19 is provided with satisfactory evidence that the deficient conditions have been corrected.

20 (g) An appeal under this section is not a contested case under Government Code, Chapter 2001.

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§57.29. Termination for Cause.

(a) The MVCPA may terminate any grant for failure to comply with any of the following:

(1) applicable federal or state laws, rules, regulations, policies, or guidelines;

(2) terms, conditions, standards, or stipulations of grant agreements; or

(3) terms, conditions, standards, or stipulations of any other grant awarded to the grantee.

(b) Termination of grants for cause shall be based on finding that:

(1) deficient conditions make it unlikely that the objectives of the grant will be accomplished;

(2) deficient conditions cannot be corrected within a period of time adjudged acceptable by the MVCPA; or

(3) a grantee has acted in bad faith.

(c) The MVCPA shall notify grantees of the conditions and findings constituting grounds for termination.

(d) Unexpended or unobligated funds awarded to a grantee shall be returned to the MVCPA upon termination of a grant.

(e) A grantee may be determined ineligible for a future grant award if a grant awarded to the grantee is terminated for cause.

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§57.48. Motor Vehicle Years of Insurance Calculations.

(a) Each insurer, in calculating the fees established by Transportation Code §1006.153, shall comply with the following guidelines:

(1) The single statutory fee of \$5 is payable on each motor vehicle for which the insurer provides insurance coverage during the calendar year regardless of the number of policy renewals; and

(2) When more than one insurer provides coverage for a motor vehicle during the calendar year, each insurer shall pay the statutory fee for that vehicle.

(3) "Motor vehicle insurance" as referred to in Transportation Code, Chapter 1006, means motor vehicle insurance as defined by the Insurance Code, Article 5.01(e). This definition shall be used when calculating the fees under this section.

(4) All motor vehicle or automobile insurance policies as defined by Insurance Code, Article 5.01(e), covering a motor vehicle shall be assessed the \$5 fee except mechanical breakdown policies, garage liability policies, non-resident policies and policies providing only non-ownership or hired auto coverages.

(b) Insurers must report assessment information to the Comptroller using the Insurance Motor Vehicle Crime Prevention Authority Semiannual Fee Report form and the Insurance Motor Vehicle Crime Prevention Authority Semiannual Fee Report-July through December.

§57.50. Report to Texas Department of Insurance.

1 If the MVCPA determines that an insurer failed to pay or intentionally underpaid the fee required
2 by Transportation Code, §1006.153, the MVCPA shall notify the Texas Department of Insurance, and the
3 Texas Department of Insurance may for that reason revoke the insurer's certificate of authority.

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5 §57.51. Refund Determinations.

6 (a) An insurer that seeks a determination of the sufficiency or a refund of a semi-annual payment
7 must file an amended report for each period and submit a written claim to the MVCPA director or the
8 MVCPA board designee requesting a determination or a refund not later than four years after the date
9 the semi-annual payment was made to the state comptroller.

10 (b) The MVCPA director or the MVCPA board designee shall review the claim and obtain from the
11 insurer any additional information, if any, that may be necessary or helpful to assist in the MVCPA
12 determination. If an insurer refuses to provide the requested information, the refund shall be denied in
13 whole or in part.

14 (c) The MVCPA director or the MVCPA board designee is authorized to employ or retain the
15 services of a third party, such as the state comptroller, to assist in the determination. The MVCPA director
16 or the MVCPA board designee shall prepare a written report to the MVCPA based on the director's or the
17 designee's review and shall contain findings, conclusions, and a recommendation.

18 (d) The MVCPA shall base its determination on the documentary evidence considered by the
19 director or the MVCPA board designee. The MVCPA decision shall be based on a majority vote of the
20 MVCPA board. The MVCPA decision is final and is not subject to judicial review.

1 (e) Upon determining that an insurer is entitled to a refund, the MVCPA shall notify the
2 comptroller and request the comptroller to draw warrants for the purpose of refunding overpayments.

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4 §57.52. Assessment of Penalty and/or Interest for Late Payment of the Fee, Late Filing of Report; Appeal
5 Procedures.

6 (a) Penalty for Late Payment of Fee.

7 (1) A penalty shall be assessed against an insurer for the delinquent payment of the fee
8 required under Transportation Code §1006.153(b-1).

9 (2) The penalty for the delinquent payment of the fee shall be assessed in accordance
10 with Tax Code §111.061(a).

11 (3) Interest accrues in the manner described in Tax Code §111.060 on any fee paid after
12 the due date.

13 (b) Penalty for Late Filing of the Report. A \$50 penalty shall be assessed against an insurer for the
14 delinquent filing of any report of the fee.

15 (c) Appeal Procedures.

16 (1) An insurer that is assessed a penalty or interest by the MVCPA under Transportation Code
17 §1006.153 may appeal the assessment by submitting an MVCPA prescribed form to the MVCPA Director
18 within sixty (60) days of the date of the assessment.

19 (2) An insurer shall provide the MVCPA with any written documentation or evidence
20 demonstrating the reasons for the late payment of the fee or late filing of the report.

1 (3) The MVCPA shall make a final decision on an insurer's appeal at a regularly scheduled
2 open meeting of the MVCPA board. A final decision on the appeal shall be made by a majority vote of the
3 MVCPA board.

4 (4) An appeal under this section is not a contested case under Government Code, Chapter
5 2001.