

1 **PROPOSAL OF REVISIONS TO**

2 **43 TAC §§57.9, 57.14, 57.27, 57.29, 57.48, 57.50, 57.51, AND 57.52**

3 **INTRODUCTION.** The Motor Vehicle Crime Prevention Authority (authority) proposes amendments to 43  
4 Texas Administrative Code (TAC) Chapter 57, §§57.9, 57.14; 57.27, 57.29, 57.48, 57.50 - 57.52.

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

10 **EXPLANATION.** The authority is conducting a review of its rules in Chapter 57 in compliance with  
11 Government Code, §2001.039. Notice of the department’s plan to review Chapter 57 is published in this  
12 issue of the *Texas Register*. As a part of the rule review, the authority is proposing necessary amendments  
13 as detailed in the following paragraphs.

14 A proposed amendment would add new proposed §57.9(f) to clarify that grantees who are in  
15 violation of the MVCPA’s non-supplanting requirement may be required by the Board to return supplanted  
16 funds to the MVCPA.

17 A proposed amendment to §57.14(b)(4) would clarify that a projects eligible for grant funding to  
18 address a reduction in the sale of stolen auto parts can include projects designed to reduce the sale of  
19 stolen catalytic converters, in furtherance of SB 224, 89<sup>th</sup> Legislature, Regular Session (2023). Proposed  
20 new §57.14(b)(6) would add “preventing stolen motor vehicles from entering Mexico” as a project goal  
21 for which the MVCPA can provide grant funding, to align the rule with Transportation Code Chapter 1006.

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

5 Proposed amendments to §57.29(d) and (e) would modernize language and improve readability.

6 A proposed amendment to §57.48(b) would update the titles of two Comptroller of Public  
7 Accounts forms used by insurers to pay the MVCPA fee with correct language and would clarify that the  
8 forms may be obtained in electronic format on the Comptroller’s website.

9 A proposed amendment to §57.50 would update the section title to reflect the official agency  
10 name of the Texas Department of Insurance. Proposed amendments to the body of the rule would align  
11 the section with Transportation Code Chapter 1006.

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

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

20 A proposed amendment to §57.52(a) and (a)(1) would remove language concerning the late filing  
21 of the report of the fee from subsection (a) and place it in new subsection (b) for clarity and ease of

1 reference. The amendments proposed for subsection (a) would clarify that an insurer shall be assessed a  
2 penalty for the late payment of the fee in accordance with Tax Code §111.061(a). New subsection (b)  
3 clarifies that a penalty of \$50 will be assessed against an insurer for the late filing of the report of the fee.  
4 The \$50 penalty for the late filing of a report follows the Texas Comptroller’s Office current practice  
5 involving a late filing of a report by a taxpayer.

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

12 Additional non-substantive amendments are proposed throughout Chapter 57 to correct  
13 punctuation, grammar, and capitalization.

14 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,  
15 has determined that for each year of the first five years the amendments as proposed are in effect, there  
16 will be no significant fiscal impact to state or local governments as a result of the enforcement or  
17 administration of the proposed amendments.

18 Director William Diggs has determined that there will be no measurable effect on local  
19 employment or the local economy as a result of the proposal.

20 **PUBLIC BENEFIT AND COST NOTE.** Mr. Diggs has also determined that for each year of the first five years  
21 the proposed amended sections are in effect, the anticipated public benefit as a result of enforcing or  
22 administering the amendments will be the simplification, clarification, and streamlining of agency rules.

1           Anticipated Cost to Comply with the Proposal. Mr. Diggs anticipates that there will be no costs to  
2 comply with the proposed amendments because the grant recipients can avoid the penalties and assessed  
3 costs described in the amendments proposed for §57.50 and §57.52(b) by complying with the rules and  
4 statutory requirements.

5 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
6 Code, §2006.002, the authority has determined that the proposed amendments will not have an adverse  
7 economic impact on small businesses, micro-businesses, and rural communities because there are no  
8 anticipated economic costs for persons required to comply with the proposed amendments. Therefore,  
9 the authority is not required to prepare a regulatory flexibility analysis under Government Code,  
10 §2006.002.

11 **TAKINGS IMPACT ASSESSMENT.** The authority has determined that no private real property interests are  
12 affected by this proposal and that this proposal does not restrict or limit an owner's right to property that  
13 would otherwise exist in the absence of government action and, therefore, does not constitute a taking  
14 or require a takings impact assessment under Government Code, §2007.043.

15 **GOVERNMENT GROWTH IMPACT STATEMENT.** The authority has determined that each year of the first  
16 five years the proposed amendments are in effect, no government program would be created or  
17 eliminated. Implementation of the proposed amendments would not require the creation of new  
18 employee positions or elimination of existing employee positions. Implementation would not require an  
19 increase or decrease in future legislative appropriations to the authority or an increase or decrease of fees  
20 paid to the authority. The proposed amendments do not create a new regulation or expand or repeal a  
21 regulation. The amendments proposed to create new §57.52(c)(1) would limit a regulation by increasing  
22 the time an insurer has to appeal the assessment of penalties and/or interest from thirty days to sixty

1 days. Lastly, the proposed amendments do not affect the number of individuals subject to Chapter 57's  
2 applicability and will not affect this state's economy.

3 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
4 comments by 5:00 p.m. CST on December 9, 2024. A request for a public hearing must be sent separately  
5 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*  
6 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,  
7 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public  
8 testimony presented at the hearing.

9 **STATUTORY AUTHORITY.** The amendments are proposed under Transportation Code, §1006.101, which  
10 requires the authority to adopt rules to implement the authority's powers and duties.

11 **CROSS REFERENCE TO STATUTE.** The proposed amendments would implement Transportation Code  
12 §1006.001, and §1006.153.

13

14 Text.

15 §57.9. Nonsupplanting Requirement.

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

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

20 (c) Positions which existed prior to new grant award approval and were funded from any source

1 other than MVCPA grant funds are not eligible for grant funding or to be used as cash match.

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

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

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

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12 §57.14. Approval of Grant Projects.

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

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

17 (1) Law Enforcement, Detection and Apprehension;

18 (2) Prosecution, Adjudication and Conviction;

- 1 (3) Prevention, Anti-Theft Devices;
- 2 (4) Reduction of the Sale of Stolen Vehicles or Parts, including catalytic converters; ~~and~~
- 3 (5) Educational Programs and Marketing; and[-]
- 4 (6) Preventing stolen motor vehicles from entering Mexico.

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

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7 §57.27. Withholding Funds from Grantees.

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

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

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

12 (B) submit required reports on time;

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

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

16 (E) use funds appropriately; or

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

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

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

5                   (c) The MVCPA will notify grantees of deficient conditions prompting the [for] withholding of grant  
6 funds and the period of time within which to cure any deficiency.

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

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

10                  (f) Grant funds [Funds] will be released to a grantee when the MVCPA director or MVCPA board  
11 designee is provided with satisfactory evidence that the deficient conditions have been [are] corrected.

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

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14 §57.29. Termination for Cause.

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

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

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

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



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

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

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

6 (3) a grantee has acted in bad faith.

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

9 (d) Unexpended or unobligated funds awarded to a grantee shall ~~[,]~~ be returned to the MVCPA  
10 upon termination of a grant ~~[, revert to the MVCPA].~~

11 (e) A grantee may be determined~~[adjudged]~~ ineligible for a future grant award if a grant awarded  
12 to the grantee is terminated for cause.

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14 §57.48. Motor Vehicle Years of Insurance Calculations.

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

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

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

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

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

8 (b) Insurers must report assessment information to the Comptroller using the [The] Insurance  
9 Motor Vehicle Crime Prevention Authority Semiannual Fee Report form and the Insurance [Instructions  
10 for the Computation of the] Motor Vehicle Crime Prevention Authority Semiannual Fee Report-July  
11 through December [of the Comptroller of Public Accounts are adopted by reference. The form and  
12 instructions are available from the Comptroller of Public Accounts, Tax Administration, P.O. Box 149356,  
13 Austin, Texas 78714-9356. Each insurer shall use this form and follow those instructions when reporting  
14 assessment information to the Comptroller].

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16 §57.50. Report to Texas Department of Insurance.

17 If the MVCPA determines that an insurer failed to pay or intentionally underpaid the fee required  
18 by Transportation Code, §1006.153, the MVCPA shall notify the Texas Department of Insurance, and the  
19 Texas Department of Insurance may for that reason [with the request that the department] revoke the  
20 insurer's certificate of authority.

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§57.51. Refund Determinations.

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

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

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

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

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

1 §57.52. Assessment of Penalty and/or Interest for Late Payment of the Fee, Late Filing of Report; Appeal  
2 Procedures.

3 (a) Penalty for Late Payment of Fee [~~or Filing of Report~~].

4 (1) A penalty shall be assessed against an insurer for the delinquent payment of the fee  
5 required under Transportation Code §1006.153(b-1) [~~or the delinquent filing of any report of the fee~~  
6 ~~required~~].

7 (2) The penalty for the delinquent payment of the fee [~~or late filing of the report~~] shall be  
8 assessed in accordance with Tax Code §111.061(a).

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

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

13 (c)[(b)] Appeal Procedures.

14 (1) An insurer that is assessed a penalty or interest by the MVCPA under Transportation Code  
15 §1006.153 may appeal the assessment by submitting an MVCPA prescribed form to the MVCPA Director  
16 within sixty [~~thirty~~] (60)[~~30~~] days of the date of the assessment.

17 (2) An insurer shall provide the MVCPA with any written documentation or evidence  
18 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.

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