

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

2  
3 ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.  
4 THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO  
5 FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

6  
7 The Texas Workforce Commission (Commission) adopts amendments, *without* changes, to the  
8 following sections of Chapter 815 related to Unemployment Insurance, as published in the  
9 December 1, 2006, issue of the *Texas Register* (31 TexReg 9686):

10  
11 Subchapter B, Benefits, Claims, and Appeals, §815.20

12  
13 Subchapter C, Tax Provisions, §815.107 and §815.109

14  
15 The Commission adopts the following new sections of Chapter 815 related to Unemployment  
16 Insurance, *without* changes, as published in the December 1, 2006, issue of the *Texas Register*  
17 (31 TexReg 9686):

18  
19 Subchapter C, Tax Provisions, §§815.116, 815.134, and 815.135

20  
21 Subchapter D, Farm and Ranch Labor, §815.150

22  
23  
24 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
25 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
26 **RESPONSES**

27  
28  
29 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

30 The purpose of the adopted Chapter 815 rules change is to:

31  
32 --implement House Bill (HB) 3250, enacted by the 79th Texas Legislature, Regular Session  
33 (2005), which amends Title IV of the Texas Labor Code, the Texas Unemployment  
34 Compensation Act (TUCA), Chapter 204, Subchapter E, Acquisition of Experience-Rated  
35 Employer, by limiting the conditions under which the transfer of Unemployment Insurance (UI)  
36 compensation experience between business entities may occur; and requiring the Commission to  
37 establish, by rule, procedures to identify the transfer or acquisition of a business for the purposes  
38 of identifying State Unemployment Tax Act (SUTA) dumping;

39  
40 --provide clear direction for UI claimants and employers, without creating an undue bureaucratic  
41 burden in navigating the UI and Tax systems; and

42  
43 --ensure operation of efficient, cost-effective systems that fulfill the requirements of state and  
44 federal law.

1 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
2 **RESPONSES**

3 (Note: Minor, nonsubstantive, editorial changes are made that do not change the meaning of the  
4 rules and, therefore, are not discussed in the Explanation of Individual Provisions.)  
5

6 **SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS**

7 **The Commission adopts amendments to Subchapter B, as follows:**  
8

9 **§815.20. Claim for Benefits**

10 Section 815.20 adds Internet filing as a method for unemployed individuals to file UI claims and  
11 specifies that the current restrictions to designated hours and days of claim filing do not apply to  
12 online initial claim filers or those who request payment of benefits online because the Internet is  
13 available 24 hours a day.  
14

15 **SUBCHAPTER C. TAX PROVISIONS**

16 **The Commission adopts amendments to Subchapter C, as follows:**  
17

18 **§815.107. Reports Required and Their Due Dates**

19 Section 815.107(a) specifies that employers may request, and the Agency may grant, a hardship  
20 exemption from filing reports and formats in the required format. The Agency does not intend to  
21 implement specific requirements for how the hardship exemption request must be submitted by  
22 an employer. The Agency will accept the notification by telephone or in writing, and will  
23 develop a system to provide confirmation numbers to employers who request hardship  
24 exemptions.  
25

26 Section 815.107(a)(3)(A)(i) lowers the existing threshold from 250 or more employees to 10 or  
27 more employees for employers who must file quarterly benefit wage credit reports on magnetic  
28 or electronic media. This rule change is effective July 1, 2007. The Agency will continue  
29 ongoing notification initiatives to ensure that entities covered by this new threshold understand  
30 that compliance will be required following the effective date of the rule change.  
31

32 Section 815.107(a)(3)(A)(ii) lowers the existing threshold from 250 or more employees to 10 or  
33 more employees for other entities, including agents reporting on behalf of multiple employers,  
34 who must file quarterly benefit wage credit reports on magnetic or electronic media. This rule  
35 change is effective July 1, 2007. The Agency will continue ongoing notification initiatives to  
36 ensure that entities covered by this new threshold understand that compliance will be required  
37 following the effective date of the rule change.  
38

39 Section 815.107(a)(3)(B) lowers the existing threshold from less than 250 employees to less than  
40 10 employees for employers who may file quarterly benefit wage credit reports on magnetic or  
41 electronic media. This rule change is effective July 1, 2007. The Agency will continue ongoing  
42 notification initiatives to ensure that entities covered by this new threshold understand that  
43 compliance will be required following the effective date of the rule change.  
44  
45

1 New §815.107(a)(3)(D) specifies that a quarterly benefit wage credit report filed in an approved  
2 medium shall contain both a wage credit report and a summary report. This rule change is  
3 effective July 1, 2007. The Agency will continue ongoing notification initiatives to ensure that  
4 entities covered by this new threshold understand that compliance will be required following the  
5 effective date of the rule change.  
6

7 **Comment:** One commenter expressed concern that the proposed rule change would require  
8 employers with large numbers of employees or with high staff turnover to enter quarterly  
9 reports manually, increasing the likelihood of typographical errors in the report. The  
10 commenter indicated that the rule change would be acceptable if TWC had an electronic  
11 means of transferring required elements of the report from the employer's computer systems  
12 to TWC's computer systems.  
13

14 **Response:** The Commission agrees that it is impractical to enter quarterly reports manually.  
15 Therefore, the Agency provides a free program--Quickfile--to enable employers to upload  
16 data online. Quickfile is available for download from the Agency's Web site at  
17 [www.twc.state.tx.us/ui/tax/quickfile.html](http://www.twc.state.tx.us/ui/tax/quickfile.html) and allows for the upload of report elements in a  
18 variety of commonly used data formats. The Agency's Tax Department will provide  
19 information to employers statewide about the rule change as well as their reporting options.  
20

#### 21 **§815.109. Payment of Contributions and Reimbursements**

22 Section 815.109(f) removes the 60-day limit on extensions past the due date for payment of  
23 contributions due.  
24

25 Removal of the 60-day limit on extensions provides the Agency with the flexibility necessary to  
26 respond to employers facing extreme circumstances, such as natural disasters, and is consistent  
27 with the corresponding extension provisions included in §815.107(b)(3).  
28

29 Section 815.109(g) requires all agents or other entities making a payment on behalf of an  
30 employer to furnish an allocation list on magnetic or electronic media using a format prescribed  
31 by the Agency. Currently, agents or other entities making a payment on behalf of 20 or more  
32 employers must furnish an allocation list on magnetic or electronic media.  
33

34 The number of service agents submitting remittance allocation lists for their clients using a paper  
35 list has diminished over the years; only a very small number still submit the list in this manner.  
36 The most efficient and widely used process, for both the Agency and the service agent, is an  
37 electronic submission of the allocation list with the electronic wage reports. This change is  
38 consistent with other initiatives to increase use of technology by all customers conducting  
39 business with the Agency.  
40

#### 41 **§815.116. Identification and Tracking of Transfers and/or Acquisitions of Businesses**

42 New §815.116 implements the portion of HB 3250 that requires the Commission, by rule, to  
43 establish procedures to identify the transfer or acquisition of a business.  
44

1 New §815.116(a) states that the Agency will employ an electronic method of tracking the  
2 reporting of employees and wages to help determine instances of improper reporting by  
3 employers.

4  
5 New §815.116(b) provides that to aid the Agency in its determination, upon request and as  
6 determined necessary by the Agency, employers shall provide information sufficient to enable  
7 the Agency to determine:

8 (1) the status of the employing unit under investigation and whether the employer is liable under  
9 the Act;

10 (2) the proper employer of the employees reported and verify whether the wages are reported by  
11 the proper entity;

12 (3) the relationship between the predecessor or successor entity and whether a mandatory  
13 transfer of compensation experience is in order; and

14 (4) the correct calculation of the tax rate assigned to the employer.  
15

16 **§815.134. Employment Status: Employee or Independent Contractor**

17 New §815.134 clarifies that, for the purposes of determining employee or independent contractor  
18 status, the Agency shall use the guidelines contained in §821.5 of this title.  
19

20 **§815.135. Voluntary Election by Employers**

21 New §815.135(a) specifies that employers electing coverage under Chapter 206 of TUCA shall  
22 make the election in writing on a form specified by the Agency or by a prescribed electronic  
23 equivalent.  
24

25 New §815.135(b) is added to specify that employers electing to pay reimbursements shall make  
26 the election in writing on a form specified by the Agency or by a prescribed electronic  
27 equivalent, and in compliance with Chapter 205, Subchapter A, of TUCA.  
28  
29

30 **SUBCHAPTER D. FARM AND RANCH LABOR**

31 **The Commission adopts new Subchapter D, as follows:**  
32

33 **§815.150. Definition of Terms**

34 New §815.150 defines terms relating to farm and ranch labor when used in implementing TUCA  
35 §201.028, §201.047, and §204.009.  
36

37 New §815.150(1) defines "agricultural association" as a nonprofit or cooperative association of  
38 farmers, growers, or ranchers incorporated or qualified under state law, which recruits, solicits,  
39 hires, employs, furnishes, or transports migrant or seasonal agricultural workers.  
40

41 New §815.150(2) defines "agricultural employer" as an individual who owns or operates a farm,  
42 ranch, processing establishment, cannery, gin, packing shed, or nursery or who produces or  
43 conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports migrant  
44 or seasonal agricultural workers.  
45

1 New §815.150(3) defines "farm labor contracting activity" as the recruiting, soliciting, hiring,  
2 employing, furnishing, or transporting of migrant or seasonal agricultural workers.

3  
4 New §815.150(4) defines "farm labor contractor" as an individual, other than an agricultural  
5 employer, an agricultural association, or an employee of an agricultural employer or agricultural  
6 association, who, for any money or other valuable consideration paid or promised to be paid,  
7 performs any farm labor contracting activity.

8  
9 New §815.150(5) defines "farm and ranch labor" as all services performed:

10  
11 (A) on a farm or ranch in the employ of an individual in connection with cultivating the soil;  
12 raising or harvesting an agricultural or horticultural commodity, including the raising, shearing,  
13 feeding, caring for, training, and management of livestock, bees, poultry, and fur bearing  
14 wildlife; or

15  
16 (B) in the employ of the owner, tenant, or other operator of a farm or ranch, in connection with  
17 the operation, management, conservation, improvement, or maintenance of such farm or ranch  
18 and its tools and equipment, if the major part of such service is performed on a farm or ranch.

19  
20 New §815.150(6) defines "labor agent" as an individual in Texas who for a fee offers, attempts  
21 to procure, or procures employment for employees; or without a fee offers, attempts to procure,  
22 or procures employment for common or agricultural workers; or any individual who for a fee  
23 attempts to procure or procures employees for an employer; or without a fee offers or attempts to  
24 procure common or agricultural workers for employers; or any individual, regardless of whether  
25 a fee is received or due, who offers, attempts to supply, or supplies the services of common or  
26 agricultural workers to any individual.

27  
28 New §815.150(7) defines "migrant worker" as an individual who is employed in farm or ranch  
29 labor of a seasonal or temporary nature and who is required to be absent overnight from his or  
30 her permanent place of residence, provided the individual is not a temporary nonimmigrant alien  
31 who is authorized to work in agricultural employment in the United States under 8 U.S.C.  
32 §1101(a)(15)(H)(ii)(a) and §1184(c).

33  
34 New §815.150(8) defines "orchard" as a farm devoted primarily to the planting, cultivating,  
35 growing, or harvesting of fruits or nuts.

36  
37 New §815.150(9) defines "other farm or ranch laborer" as an individual employed in farm or  
38 ranch labor or who is neither a seasonal worker nor a migrant worker.

39  
40 New §815.150(10) defines "seasonal worker" as an individual who is employed in farm or ranch  
41 labor of a seasonal or temporary nature and is not required to be absent overnight from his or her  
42 permanent place of residence, provided the individual is not a temporary nonimmigrant alien  
43 who is authorized to work in agricultural employment in the United States under 8 U.S.C.  
44 §1101(a)(15)(H)(ii)(a) and §1184(c).

1 New §815.150(11) defines "truck farm" as a farm on which fruits, garden vegetables for human  
2 consumption, potatoes, sugar beets, or vegetable seeds are produced for market.

3  
4 New §815.150(12) defines "vineyard" as a farm devoted primarily to the planting, cultivating,  
5 growing, or harvesting of grapes.

6  
7  
8 The Agency hereby certifies that the proposed rules have been reviewed by legal counsel and  
9 found to be within the Agency's legal authority to adopt.

10  
11 The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the  
12 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
13 deems necessary for the effective administration of Agency services and activities.

14  
15 The adopted rules affect Texas Labor Code, Title 4.

1  
2 **CHAPTER 815. UNEMPLOYMENT INSURANCE**  
3

4 **SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS**  
5

6 **§815.20. Claim for Benefits.**  
7

8 An unemployed individual who has no current benefit year and who wishes to claim  
9 benefits shall report to a representative of the Agency in a manner, including telephonic,  
10 Internet, or other means, that the Agency may approve, and file a claim for benefits.  
11 Before receiving benefits a claimant shall register for work with the public employment  
12 office, including workforce centers, serving the individual's area of residence, as provided  
13 in paragraphs (3) and (7) of this section, unless exempt from the requirement.  
14

- 15 (1) In case of a mass layoff by an employer, if the last employing unit involved  
16 makes an appropriate request, the Agency may accept, in lieu of an initial  
17 claim from each individual, a list furnished by the last employer of the  
18 individuals to be laid off and who wish to file initial claims for benefits. The  
19 list shall reflect, with respect to each individual, all information normally  
20 required on the initial claim by the Agency, except the reason for separation.  
21 If the Agency approves the request, the listing then may be used by the Agency  
22 as an initial claim for each individual on the list.  
23
- 24 (2) After an individual files a valid initial claim, which establishes the claimant's  
25 benefit year, the claimant may, during the benefit year, file subsequent  
26 continued claims, weekly or biweekly, by telephonic means, facsimile (fax)  
27 transmission, mail, common carrier, Internet, or other means as the Agency  
28 may approve in writing, but at intervals of no less than seven consecutive days.  
29 A claimant shall file all claims by telephonic means, in writing, or orally,  
30 during the hours, days, and weeks directed by Agency representatives. Internet  
31 filing is available 24 hours each day. If at any time during the benefit year,  
32 more than 30 days have elapsed since the filing of the claimant's last claim, the  
33 claimant shall file an additional or reopened claim for benefits as defined in  
34 §815.1 (relating to Definitions) and shall comply with all eligibility  
35 requirements for the claims. A claimant who exhausts regular benefits may  
36 file continued claims for extended benefits as referenced in §815.26 (relating  
37 to Extended Benefit Period Announcement) in the same manner in which the  
38 claimant filed claims for regular benefits, but the claimant's claims for  
39 extended benefits may be for benefit periods subsequent to the end of the  
40 claimant's benefit year.  
41
- 42 (3) An individual who files a claim for benefits shall comply with all requirements  
43 of the public employment office in which the claimant files an application for  
44 work that are necessary to establish a valid registration for work in that public  
45 employment office. The claimant shall comply with an Agency  
46 representative's requests, whether oral or written, that are reasonably designed

1 to inform the claimant of the claimant's rights and responsibilities in filing a  
2 claim for benefits. The claimant also shall:

3  
4 (A) provide evidence, upon request, to establish the claimant's correct Social  
5 Security account number;

6  
7 (B) file all claims in the manner directed by the Agency, whether on Agency-  
8 provided forms or by telephonic, Internet, or other means approved by the  
9 Agency for claims purposes;

10  
11 (C) supply all information within the claimant's knowledge, which is  
12 necessary to determine the claimant's rights to benefits under the Act;

13  
14 (D) sign all provided claims forms personally for the claims that are filed in  
15 person or by mail or common carrier; and

16  
17 (E) submit all claims filed by mail, common carrier, hand delivery, or by other  
18 means, including telephonic or Internet, as instructed by the Agency, in  
19 accordance with the terms of this section.

20  
21 (4) An individual may file a claim by mail, common carrier, hand delivery, or by  
22 other means as the Agency may approve, in writing in any of the following  
23 circumstances:

24  
25 (A) Conditions exist that make it impracticable for the Agency representative  
26 to take claims by telephonic, Internet, or other approved means; or

27  
28 (B) The Agency finds that the claimant has good cause for failing to file a  
29 claim by telephonic, Internet, or other approved means.

30  
31 (5) If a claimant's answer to a question on a claim filed with the Agency creates  
32 uncertainty about the claimant's credibility, or a lack of understanding, or the  
33 claimant's record shows that the claimant previously filed a fraudulent claim;  
34 then the claimant may be required to file written claims on an Agency-  
35 approved form in a manner prescribed by the Agency in writing. A claimant  
36 required to file a claim under this subsection shall continue to file the claim in  
37 the prescribed manner, until the Agency determines that the reason no longer  
38 exists and directs otherwise in writing.

39  
40 (6) The following provisions shall apply to the disqualification provisions of the  
41 Act, Chapter 207, Subchapter C, concerning disqualification for benefits.

42  
43 (A) The term "employment" in the Act, Chapter 207, Subchapter C, shall be  
44 interpreted and applied to mean employment as defined in the Act.

45  
46 (B) The disqualification to be imposed against an individual who has left work



1 to move with a spouse, as provided in the Act, §207.045(c), shall be  
2 construed to mean both a benefits (money payments) and a benefit period  
3 (time period) disqualification; and such disqualification shall be restricted  
4 in its application to apply only to the range from six weeks to 25 weeks.  
5

6 (C) Agency employees are authorized to administer oaths to claimants in an  
7 effort to verify that the requalifying requirements of the Act, Chapter 207,  
8 Subchapter C, concerning employment or earnings, have been satisfied.  
9

10 (D) An employer identified as the employer by whom the claimant was  
11 employed, for purposes of satisfying the requalifying requirements of the  
12 Act, Chapter 207, Subchapter C, shall be afforded 14 days within which to  
13 respond to notice by the Agency of the filing of an additional claim by the  
14 claimant.  
15

16 (E) In order to satisfy the requirement of the Act, Chapter 207, Subchapter C,  
17 concerning returning to employment and working for six weeks, a "work  
18 week" shall be defined as seven consecutive days during which the  
19 claimant has worked at least 30 hours.  
20

21 (F) Disqualifying separations, new benefit year, and extended benefit period.  
22

23 (i) A claimant filing an initial claim, continued claim, or additional  
24 claim shall be disqualified from receiving benefits if the separation  
25 from the claimant's last work is a disqualifying separation as defined  
26 in the Act, Chapter 207.  
27

28 (ii) If a work separation in a previous benefit year is the last separation  
29 prior to a claimant's filing an initial claim that creates a new benefit  
30 year, then that work separation may result in a disqualification in the  
31 new benefit year in accordance with the provisions of the Act,  
32 Chapter 207.  
33

34 (iii) A disqualification resulting from a work separation in a benefit year  
35 shall continue during the extended benefit period until:

36 (I) the extended benefit period is terminated;

37 (II) the claimant qualifies to file a new initial claim; or  
38

39 (III) the claimant requalifies in accordance with the provisions of  
40 the Act, Chapter 207, under which the disqualification was  
41 imposed.  
42

43 (7) A claimant shall be eligible to receive benefits with respect to any week only if  
44 the individual demonstrates the availability for work required by the Act,  
45  
46

1 §207.021(a)(4), and, if required by §207.021(a)(8), by participating in  
2 reemployment services, including, but not limited to, job search assistance, if  
3 the claimant has been determined to be likely to exhaust regular benefits and  
4 needs reemployment services pursuant to a profiling system established by the  
5 Agency.

6  
7 (8) The following categories of claimants are exempt from the requirement to  
8 register for work:

9  
10 (A) individuals on temporary layoff with a definite date to return to work;

11  
12 (B) members in good standing in unions that maintain a hiring hall; and

13  
14 (C) individuals participating in a Shared Work plan as defined in the Act,  
15 Chapter 215.

16  
17 (9) Withholding from Benefits for Federal Income Tax.

18  
19 (A) An individual filing a new claim for unemployment compensation shall, at  
20 the time of filing the claim, be advised that:

21  
22 (i) unemployment compensation is subject to federal, state, and local  
23 income tax;

24  
25 (ii) requirements exist pertaining to estimated tax payments;

26  
27 (iii) the individual may elect to have federal income tax deducted and  
28 withheld from the individual's payment of unemployment  
29 compensation at the amount specified in the federal Internal  
30 Revenue Code; and

31  
32 (iv) the individual shall be permitted to change a previously elected  
33 withholding status.

34  
35 (B) Amounts deducted and withheld from unemployment compensation shall  
36 remain in the unemployment fund until transferred to the federal taxing  
37 authority as a payment of income tax.

38  
39 (C) The Agency shall follow all procedures specified by the United States  
40 Department of Labor and the federal Internal Revenue Service pertaining  
41 to deducting and withholding of income tax.

42  
43 (D) Amounts shall be deducted and withheld under this section only after  
44 amounts are deducted and withheld under any other provisions of the Act.

45  
46 (10) An employer's protest to an initial, additional, or continued claim made in

1 accordance with the Act, §208.004, may be delivered by telephonic means,  
2 which includes a verification procedure approved by the Agency in writing,  
3 mail, common carrier, facsimile (fax), Internet, or other means approved by the  
4 Agency in writing and as prescribed in the Agency's notice of claim form.  
5

## 6 **SUBCHAPTER C. TAX PROVISIONS**

7

### 8 **§815.107. Reports Required and Their Due Dates.**

9

10 (a) All reports and forms required by the Agency or the Act shall be filed with the  
11 Agency in one of the following formats unless a different format is approved in  
12 writing by the Agency, a hardship exemption is requested from and granted by the  
13 Agency, or as specified in this chapter.  
14

15 (1) General Format of Reports and Forms and Methods of Submission. The  
16 reports and forms referenced in this section shall be filed using:

17 (A) forms printed by the Agency;

18 (B) magnetic or electronic media in a format prescribed by the Agency; or

19 (C) any other manner approved and prescribed by the Agency in writing.  
20  
21  
22  
23

24 (2) Content. The reports and forms shall contain all facts and information  
25 necessary to a determination of the amounts due by the employing unit. The  
26 Agency may require the furnishing of additional information as it deems  
27 necessary for the proper administration of the Act.  
28

29 (3) Magnetic and Electronic Media Reporting.

30 (A) Required Magnetic or Electronic Media. Regarding filing of quarterly  
31 benefit wage credit reports as required by §207.004 of the Act, the  
32 following shall file benefit wage credit reports on magnetic or electronic  
33 media using a format prescribed by the Agency:  
34  
35

36 (i) Employers who have to file a report on 10 or more employees in any  
37 one calendar quarter; and

38 (ii) Other entities, including agents reporting on behalf of multiple  
39 employers, who have to file reports on a cumulative total of 10 or  
40 more employees in any one calendar quarter.  
41  
42

43 (B) Voluntary Use of Magnetic or Electronic Media. Employers, including  
44 agents reporting on behalf of multiple employers, who file a benefit wage  
45 credit report on a cumulative total of less than 10 employees in any one

1 calendar quarter, as defined in §207.004 of the Act, may voluntarily elect  
2 to use magnetic or electronic media reporting.

3  
4 (C) A magnetic or electronic media wage report may contain information from  
5 more than one employer.

6  
7 (D) A quarterly benefit wage credit report filed in an approved medium shall  
8 contain both a wage credit report and a summary report.

9  
10 (b) General Deadlines for Filing Reports and Forms.

11  
12 (1) Unless otherwise provided in this subchapter, any report or form shall be  
13 completed and filed with the Agency within 10 days after the requested report  
14 or form is:

15  
16 (A) mailed to the individual or employing unit at the address on record with  
17 the Agency; or

18  
19 (B) personally delivered to the individual or employing unit by an Agency  
20 representative.

21  
22 (2) Failure to receive notice regarding the reports shall not relieve the individual or  
23 employing unit of the responsibility of filing the reports by the date the reports  
24 are due.

25  
26 (3) Good Cause for Extending Deadlines. When good cause is shown, the Agency  
27 may extend the due date for filing of a report required under this section;  
28 however, the extension shall be effective only if authorized in writing by an  
29 Agency representative.

30  
31 (c) Status Reports.

32  
33 (1) Status Reports in General. Each employing unit shall file with the Agency a  
34 status report within 10 days from the date upon which the employing unit  
35 becomes subject to the Act.

36  
37 (2) Status Reports for New Acquisitions. Any employing unit in the state of Texas  
38 that acquires another business or substantially all of the assets of another  
39 business shall file a new status report with the Agency within 10 days of the  
40 date on which the employing unit made the acquisition.

41  
42 (3) Status Reports for Additional Information. Each employing unit shall file  
43 additional status reports at any time upon the request of the Agency.

44  
45 (4) Evidence in Support of Status Reports. Employing units filing status reports  
46 with the Agency shall:

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(A) file with the Agency all facts necessary to a determination of the taxable status of the employing unit; and

(B) if requested, file with the Agency evidence to establish the correctness of information contained in the employing unit's status reports.

(d) Quarterly Reports from Taxed Employers. Each taxed employer, other than a domestic employer who has elected to report and pay annually under §201.027(b) of the Act, shall file with the Agency, within the month during which contributions for any period become due, and not later than the date on which contributions are required to be paid to the Agency, an employer's quarterly report showing for the preceding calendar quarter:

- (1) the total amount of remuneration paid for employment (or showing that no remuneration was paid during the quarter);
- (2) the total amount of wages paid for employment (as defined in the Act, §201.081 and §201.082);
- (3) the amount of wages for benefit wage credits (as defined in the Act, §207.004) paid to each individual employee;
- (4) the name and Social Security number of each individual to whom the wages were paid; and
- (5) any other information requested on the employer's quarterly report, including all facts and information necessary to make a determination of the amount of contributions due.

(e) Quarterly Reports from Reimbursing Employers and Group Representatives of a Group Account. Each reimbursing employer and the group representative of a group account shall file an employer's quarterly report, by the end of the month following each calendar quarter, that furnishes the following information for the preceding calendar quarter, information specified in paragraphs (1)–(4) of subsection (d) of this section, and any other information necessary to make a determination of the amount of reimbursements due.

(f) Benefits Financed by the Federal Government. Each employer that has employees whose benefits are to be financed by the federal government shall file a separate quarterly report furnishing the names of the employees, their Social Security numbers, and the wages paid to each. The report shall be filed by the end of the month following each calendar quarter.

(g) Annual Reports from Domestic Employers.

- 1 (1) Making the Election. An election to report wages paid and pay contributions  
2 on an annual basis must be made in a format or on a form authorized by the  
3 Agency by the deadline specified in §201.027 of the Act.  
4
- 5 (2) Each domestic employer that qualifies under the Act and who has made an  
6 election as referenced in paragraph (1) of this subsection, shall file with the  
7 Agency, by January 31 of the year after the wages were paid, in a format  
8 consistent with subsection (a) of this section, a domestic employer's annual  
9 report showing the following for the preceding calendar year in which wages  
10 were paid.  
11
- 12 (A) The information specified in paragraphs (1)–(4) of subsection (d) of this  
13 section subtotaled for each quarter; and  
14
- 15 (B) Other information called for on the domestic employer's annual report  
16 including all facts and information necessary to make a determination of  
17 the amount of contributions due.  
18
- 19 (3) Penalties and interest incurred under this section shall be the same as  
20 applicable to other employer reporting requirements as provided in Chapter  
21 213 of the Act and this subchapter.  
22

23 **§815.109. Payment of Contributions and Reimbursements.**  
24

- 25 (a) When, in any calendar year, an individual or employing unit becomes an employer  
26 (other than a reimbursing employer) subject to this Act, the employer shall, on or  
27 before the last day of the month following the month during which the employer  
28 became a subject employer, file a report as specified in §815.107 and pay  
29 contributions with respect to all completed calendar quarters in the calendar year.  
30 Contributions for the quarter during which the employer becomes a subject employer  
31 shall be due on the first day of the month immediately following the quarter and shall  
32 be paid on or before the last day of the month. Contributions shall accrue quarterly  
33 and shall become due on the first day of the month immediately following the  
34 calendar quarter. They shall be paid to the Agency on or before the last day of the  
35 month. The provisions in subsection (a) of this section shall apply unless otherwise  
36 provided in §201.027 of the Act.  
37
- 38 (b) Reimbursements shall become due on the last day of the month following the end of  
39 each quarter and shall be paid to the Agency on or before the last day of the next  
40 month.  
41
- 42 (c) When the last day for payment of contributions or reimbursements falls on a  
43 Saturday, Sunday, or a legal holiday on which the Agency office is closed, the  
44 payment may be made on the next regular business day.  
45
- 46 (d) An employer or other entity, including agents paying on behalf of multiple

1 employers, which paid contributions in the preceding state fiscal year of \$250,000 or  
2 more, and which is reasonably anticipated to do the same in the current fiscal year, is  
3 required to transfer payment amounts of contributions by electronic funds transfer on  
4 or before the date the contributions are due, unless the Agency in writing has  
5 approved another method or form of payment. Except as otherwise provided in this  
6 subsection, employers, including agents, may voluntarily transfer payment of  
7 contributions by electronic funds transfer on or before the date the contributions are  
8 due, unless the Agency in writing has approved another method or form of payment.  
9 The transfers, when applicable, shall be subject to the provisions of the Texas  
10 Government Code §404.095, and to rules adopted by the state comptroller pursuant  
11 to that section.  
12

- 13 (e) Additional tax resulting from a chargeback adjustment is due on the first day of the  
14 second month following the month in which the Agency mailed the statement or  
15 letter notifying the employer of the change in tax rate and additional tax due.  
16 Amounts due from such chargeback adjustments shall be paid and must be received  
17 by the Agency on or before the last day of this second month.  
18
- 19 (f) When good cause is shown, the Agency may extend the due date for the payment of  
20 contributions or reimbursements. The extension shall not be effective unless it is  
21 authorized in writing by the Agency. In the event the Agency for good cause shown  
22 extends the due date for payment of contributions or reimbursements, the payments  
23 shall be made to the Agency on or before the thirtieth day following the extended  
24 due date.  
25
- 26 (g) An agent or other entity making a payment on behalf of employers shall furnish an  
27 allocation list on magnetic or electronic media using a format prescribed by this  
28 Agency, unless the Agency has approved another format and method in writing.  
29 This list shall be furnished with the remittance, and the remittance shall be allocated  
30 to the credit of the employers according to the order in which the employers appear  
31 on the list.  
32

33 **§815.116. Identification and Tracking of Transfers and/or Acquisitions of Businesses.**  
34

- 35 (a) An electronic method of tracking the reporting of employees and wages will be  
36 employed by the Agency to assist in ascertaining instances of improper reporting by  
37 employers.  
38
- 39 (b) To aid the Agency in this determination, upon request and as determined necessary  
40 by the Agency, employers shall provide information sufficient to enable the Agency  
41 to determine:  
42
- 43 (1) the status of the employing unit under investigation and whether the employer  
44 is liable under the Act;  
45

- 1 (2) the proper employer of the employees reported and whether the wages are  
2 reported by the proper entity;
- 3
- 4 (3) the relationship between the predecessor or successor entity and whether a  
5 mandatory transfer of compensation experience is required under §204.083 of  
6 the Act; and
- 7
- 8 (4) the correct calculation of the tax rate assigned to the employer.
- 9

10 **§815.134. Employment Status: Employee or Independent Contractor.**

11  
12 Subject to specific inclusions and exceptions to employment enumerated in Chapter 201  
13 of the Act, the Commission shall use the guidelines referenced in §821.5 of this title as  
14 the official guidelines for use in determining employment status.

15  
16 **§815.135. Voluntary Election by Employers.**

- 17
- 18 (a) Each employer electing coverage under Chapter 206 of the Act shall make this  
19 election in writing on an Agency-specified form or electronic equivalent.
- 20
- 21 (b) Each employer electing to pay reimbursements for benefits, rather than  
22 contributions, shall make this election:
  - 23
  - 24 (1) in writing on the Agency-specified form or electronic equivalent; and
  - 25
  - 26 (2) in compliance with the requirements of Chapter 205, Subchapter A, of the Act.
  - 27

28 **SUBCHAPTER D. FARM AND RANCH LABOR**

29  
30 **§815.150. Definition of Terms.**

31  
32 The following words and terms shall apply to the Act, §201.028, §201.047, and  
33 §204.009, concerning farm and ranch labor, and shall have the following meanings unless  
34 the statute or context clearly indicates otherwise.

- 35
- 36 (1) Agricultural association -- Any nonprofit or cooperative association of farmers,  
37 growers, or ranchers incorporated or qualified under state law, which recruits,  
38 solicits, hires, employs, furnishes, or transports migrant or seasonal agricultural  
39 workers.
- 40
- 41 (2) Agricultural employer -- Any individual who owns or operates a farm, ranch,  
42 processing establishment, cannery, gin, packing shed, or nursery or who  
43 produces or conditions seed, and who either recruits, solicits, hires, employs,  
44 furnishes, or transports any migrant or seasonal agricultural workers.
- 45



- 1 (3) Farm labor contracting activity -- The recruiting, soliciting, hiring, employing,  
2 furnishing, or transporting of migrant or seasonal agricultural workers.  
3
- 4 (4) Farm labor contractor -- Any individual, other than an agricultural employer,  
5 an agricultural association, or an employee of an agricultural employer or  
6 agricultural association, who, for any money or other valuable consideration  
7 paid or promised to be paid, performs any farm labor contracting activity.  
8
- 9 (5) Farm and ranch labor -- Includes all services performed:  
10
- 11 (A) On a farm or ranch in the employ of an individual in connection with  
12 cultivating the soil; raising or harvesting an agricultural or horticultural  
13 commodity, including the raising, shearing, feeding, caring for, training,  
14 and management of livestock, bees, poultry, and fur bearing wildlife; or  
15
- 16 (B) In the employ of the owner, tenant, or other operator of a farm or ranch, in  
17 connection with the operation, management, conservation, improvement,  
18 or maintenance of such farm or ranch and its tools and equipment, if the  
19 major part of such service is performed on a farm or ranch.  
20
- 21 (6) Labor agent -- An individual in Texas, who for a fee offers, attempts to  
22 procure, or procures employment for employees; or without a fee offers,  
23 attempts to procure, or procures employment for common or agricultural  
24 workers; or any individual, who for a fee attempts to procure or procures  
25 employees for an employer; or without a fee offers or attempts to procure  
26 common or agricultural workers for employers; or any individual, regardless of  
27 whether a fee is received or due, who offers, attempts to supply, or supplies the  
28 services of common or agricultural workers to any individual.  
29
- 30 (7) Migrant worker -- An individual who is employed in farm or ranch labor of a  
31 seasonal or temporary nature and who is required to be absent overnight from  
32 his or her permanent place of residence, provided the individual is not a  
33 temporary nonimmigrant alien who is authorized to work in agricultural  
34 employment in the United States under 8 U.S.C. §1101(a)(15)(H)(ii)(a) and  
35 §1184(c).  
36
- 37 (8) Orchard -- A farm devoted primarily to the planting, cultivating, growing, or  
38 harvesting of fruits or nuts.  
39
- 40 (9) Other farm or ranch laborer -- An individual employed in farm or ranch labor  
41 or who is neither a seasonal worker nor a migrant worker.  
42
- 43 (10) Seasonal worker -- An individual who is employed in farm or ranch labor of a  
44 seasonal or temporary nature and is not required to be absent overnight from  
45 his or her permanent place of residence, provided the individual is not a  
46 temporary nonimmigrant alien who is authorized to work in agricultural

1 employment in the United States under 8 U.S.C. §1101(a)(15)(H)(ii)(a) and  
2 §1184(c).

3  
4 (11) Truck farm -- A farm on which fruits, garden vegetables for human  
5 consumption, potatoes, sugar beets, or vegetable seeds are produced for  
6 market.

7  
8 (12) Vineyard -- A farm devoted primarily to the planting, cultivating, growing, or  
9 harvesting of grapes.