The Texas Education Agency (TEA) proposes an amendment to §101.5001, concerning the statewide testing calendar. The proposed amendment would modify the rule to provide clarification to new statutory provisions made by House Bill (HB) 3906, 86th Texas Legislature, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 101.5001(a) allows the commissioner of education to determine the school week during the school year in which the primary administrations of assessment instruments are administered.

HB 3906, 86th Texas Legislature, 2019, amended the TEC, §39.023(c-3), to prohibit scheduling the State of Texas Assessments of Academic Readiness (STAAR®) testing on the first instructional day of the week. The proposed amendment would modify the rule to provide clarification indicating that Monday is "the first instructional day of a week" for the purpose of scheduling assessment instruments.

FISCAL IMPACT: Lily Laux, deputy commissioner for school programs, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Laux has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that rule language is based on current law and provides school districts with clarification regarding "the first instructional day of a week." There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins August 30, 2019, and ends September 30, 2019. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on August 30, 2019. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Educ
STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §33.0812, which provides the commissioner the authority to establish the testing calendar; TEC, §39.023(c-3), as amended by House Bill 3906, 86th Texas Legislature, 2019, which limits the days in which testing may be scheduled for assessments under TEC, §39.023(a) and (c), by prohibiting testing on the first instructional day of a week.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §33.0812 and §39.023, as amended by House Bill 3906, 86th Texas Legislature, 2019.

§101.5001. Testing Calendar.

(a) In accordance with Texas Education Code (TEC), §33.0812, the commissioner of education shall determine the school week during the school year in which the primary administrations of assessment instruments are administered. For the purpose of scheduling assessment instruments under TEC, §39.023(a) and (c), the first instructional day of a week is Monday.

(b) Through publication on the Texas Education Agency website, the commissioner shall provide the University Interscholastic League (UIL) with a three-year calendar of dates, beginning with the 2006-2007 school year, reserved for testing on or before May 1 of the year preceding the three-year cycle of reserved testing dates.

(c) The commissioner may change the dates reserved for testing as necessary. The commissioner shall notify the UIL of any changes to the schedule for the primary administrations of the statewide assessments.

(d) If a change to the primary administration testing calendar creates a scheduling conflict between a UIL area, regional, or state competition and the statewide assessments, the commissioner shall determine whether those UIL events must be cancelled or rescheduled.