

1 **CHAPTER 813. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**  
2 **EMPLOYMENT AND TRAINING**

3  
4 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
5 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**  
7

8 The Texas Workforce Commission (TWC) proposes amendments to the following sections of  
9 Chapter 813, relating to Supplemental Nutrition Assistance Program Employment and Training  
10 (SNAP E&T):

11  
12 Subchapter B. Access to Employment and Training Activities and Support Services, §813.11,  
13 §813.13, and §813.14

14 Subchapter D. Allowable Activities, §§813.31 - 813.34  
15

- 16 PART I. PURPOSE, BACKGROUND, AND AUTHORITY  
17 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS  
18 PART III. IMPACT STATEMENTS  
19 PART IV. COORDINATION ACTIVITIES  
20

21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of the proposed Chapter 813 rule change is to comply with the Agriculture  
23 Improvement Act of 2018 and other federal requirements.  
24

25 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

26 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
27 therefore, are not discussed in the Explanation of Individual Provisions.)  
28

29 **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**  
30 **SUPPORT SERVICES**

31 **TWC proposes the following amendments to Subchapter B:**  
32

33 **§813.11. Board Responsibilities Regarding Access to SNAP E&T Activities and Support**  
34 **Services**

35 Amended §813.11 adds clarification regarding Local Workforce Development Board (Board)  
36 responsibilities in monitoring SNAP E&T participation.  
37

38 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**  
39 **Services**

40 Amended §813.13 adds clarification regarding actions that Boards must take when a mandatory  
41 work registrant fails to respond to an outreach notification or fails to participate in SNAP E&T  
42 activities.  
43

44 **§813.14. Special Provisions Regarding Sanctions for Noncooperation**

45 Amended §813.14 amends the 120-hour monthly participation limitation to comply with 7 USC  
46 §2015(d)(4)(F)(ii).

1  
2 **SUBCHAPTER D. ALLOWABLE ACTIVITIES**

3 **TWC proposes the following amendments to Subchapter D:**

4  
5 **§813.31. Activities for Mandatory Work Registrants and Exempt Recipients Who**  
6 **Voluntarily Participate in SNAP E&T Services**

7 Amended §813.31 updates the activities that may be provided for SNAP E&T mandatory work  
8 registrants and exempt recipients who voluntarily participate in SNAP E&T services to comply  
9 with the requirements of the Agriculture Improvement Act of 2018.

10  
11 **§813.32. SNAP E&T Activities for ABAWDs**

12 Amended §813.32 adds, as an allowable SNAP E&T activity, employment and training  
13 programs for veterans operated by the US Department of Labor or the US Department of  
14 Veterans Affairs.

15  
16 **§813.33. Job Retention Activities**

17 Amended §813.33 updates Board requirements regarding the provision of job retention activities  
18 to comply with the requirements of the Agriculture Improvement Act of 2018 and offers  
19 flexibility to Boards regarding the job retention period.

20  
21 **§813.34. Job Retention Support Services**

22 Amended §813.34 updates Board requirements regarding the provision of job retention support  
23 services to comply with the requirements of the Agriculture Improvement Act of 2018 and offers  
24 flexibility to Boards regarding the job retention period.

25  
26 **PART III. IMPACT STATEMENTS**

27 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the  
28 rules will be in effect, the following statements will apply:

29  
30 There are no additional estimated costs to the state and to local governments expected as a result  
31 of enforcing or administering the rules.

32  
33 There are no estimated cost reductions to the state and to local governments as a result of  
34 enforcing or administering the rules.

35  
36 There are no estimated losses or increases in revenue to the state or to local governments as a  
37 result of enforcing or administering the rules.

38  
39 There are no foreseeable implications relating to costs or revenue of the state or local  
40 governments as a result of enforcing or administering the rules.

41  
42 There are no anticipated economic costs to individuals required to comply with the rules.

43  
44 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural  
45 communities as a result of enforcing or administering the rules.

1 Based on the analyses required by Texas Government Code, §2001.024, TWC has determined  
2 that the requirement to repeal or amend a rule, as required by Texas Government Code  
3 §2001.0045, does not apply to this rulemaking.  
4

#### 5 Takings Impact Assessment

6 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that  
7 affects private real property, in whole or in part or temporarily or permanently, in a manner that  
8 requires the governmental entity to compensate the private real property owner as provided by  
9 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas  
10 Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that  
11 would otherwise exist in the absence of the governmental action, and is the producing cause of a  
12 reduction of at least 25 percent in the market value of the affected private real property,  
13 determined by comparing the market value of the property as if the governmental action is not in  
14 effect and the market value of the property determined as if the governmental action is in  
15 effect. The Commission completed a Takings Impact Analysis for the proposed rulemaking  
16 action under Texas Government Code, §2007.043. The primary purpose of this proposed  
17 rulemaking action, as discussed elsewhere in this preamble, is to comply with the Agriculture  
18 Improvement Act of 2018 and other federal requirements.  
19

20 The proposed rulemaking action will not create any additional burden on private real property.  
21 The proposed rulemaking action will not affect private real property in a manner that would  
22 require compensation to private real property owners under the United States Constitution or the  
23 Texas Constitution. The proposal also will not affect private real property in a manner that  
24 restricts or limits an owner's right to the property that would otherwise exist in the absence of the  
25 governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas  
26 Government Code, Chapter 2007.  
27

#### 28 Government Growth Impact Statement

29 TWC has determined that during the first five years the proposed amendments will be in effect:  
30 --the proposed amendments will not create or eliminate a government program;  
31 --implementation of the proposed amendments will not require the creation or elimination of  
32 employee positions;  
33 --implementation of the proposed amendments will not require an increase or decrease in future  
34 legislative appropriations to TWC;  
35 --the proposed amendments will not require an increase or decrease in fees paid to TWC;  
36 --the proposed amendments will not create a new regulation;  
37 --the proposed amendments will not expand, limit, or eliminate an existing regulation;  
38 --the proposed amendments will not change the number of individuals subject to the rules; and  
39 --the proposed amendments will not positively or adversely affect the state's economy.  
40

#### 41 Economic Impact Statement and Regulatory Flexibility Analysis

42 TWC has determined that the proposed rules will not have an adverse economic impact on small  
43 businesses or rural communities, as the proposed rules place no requirements on small businesses  
44 or rural communities.  
45

46 Mariana Vega, Director of Labor Market and Career Information, has determined that there is no

1 significant negative impact upon employment conditions in the state as a result of the rules.

2  
3 Courtney Arbour, Director, Workforce Development Division, has determined that for each year  
4 of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing  
5 the proposed rules will be to ensure compliance with the Agriculture Improvement Act of 2018  
6 and other federal requirements.

7  
8 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be  
9 within TWC's legal authority to adopt.

10  
11 **PART IV. COORDINATION ACTIVITIES**

12 In the development of these rules for publication and public comment, TWC sought the  
13 involvement of Texas' 28 Local Workforce Development Boards (Boards). TWC provided the  
14 concept paper regarding these rule amendments to the Boards for consideration and review on  
15 January 7, 2020. TWC also conducted a conference call with Board executive directors and  
16 Board staff on January 17, 2020, to discuss the concept paper. During the rulemaking process,  
17 TWC considered all information gathered in order to develop rules that provide clear and concise  
18 direction to all parties involved.

19  
20 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
21 Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas  
22 78778; faxed to (512) 475-3577; or emailed to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us).  
23 Comments must be received or postmarked no later than 30 days from the date this proposal is  
24 published in the *Texas Register*.

25  
26 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide  
27 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the  
28 effective administration of TWC services and activities.

29  
30 The proposed rules affect Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well  
31 as Texas Government Code, Chapter 2308.

1                   **CHAPTER 813. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**  
2   **EMPLOYMENT AND TRAINING**

3  
4                   **SUBCHAPTER B. ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES AND**  
5   **SUPPORT SERVICES**

6  
7                   **§813.11. Board Responsibilities Regarding Access to SNAP E&T Activities and Support**  
8   **Services.**

- 9  
10                   (a) A Board shall ensure that allowable SNAP E&T activities and support services, as  
11   set forth in Subchapters D and E, respectively, of this chapter, are provided as  
12   specified in the annual state plan of operations approved by the United States  
13   Department of Agriculture (USDA), to individuals who are:  
14  
15   (1)   classified as the General Population; or  
16  
17   (2)   ABAWDs.  
18  
19                   (b) A Board shall ensure that the monitoring of SNAP E&T requirements and  
20   participant activities is ongoing and frequent, as determined appropriate by the  
21   Board, and consists of:  
22  
23   (1)   tracking and reporting SNAP E&T participation hours;  
24  
25   (2)   tracking and reporting support services hours;  
26  
27   (3)   determining and arranging for any intervention needed to assist the individual  
28   in complying with SNAP E&T service requirements;  
29  
30   (4)   [monitoring and](#) ensuring progress toward achieving the goals and objectives in  
31   the employment plan; and  
32  
33   (5)   monitoring all other requirements.  
34  
35                   (c) A Board shall ensure that all ABAWDs in full-service SNAP E&T counties are  
36   provided with an offer of a work activity within 10 calendar days from the date of  
37   referral from HHSC.  
38  
39                   (d) A Board shall ensure that HHSC is notified in a timely manner if a mandatory work  
40   registrant fails to comply with participant responsibilities, as set forth in §813.12 of  
41   this subchapter.  
42  
43                   (e) A Board shall ensure that employment and training activities are conducted in  
44   compliance with the Fair Labor Standards Act (FLSA) (29 [USC U.S.C.](#) §201 et seq.),  
45   as follows:  
46

- 1 (1) ~~The~~the amount of time per week that a mandatory work registrant or exempt  
2 recipient who voluntarily participates in SNAP E&T services may be required  
3 to participate in activities that are not exempt from minimum wage and  
4 overtime under the FLSA shall be determined by the SNAP benefits amount  
5 being divided by the minimum wage, so that the amount paid to the mandatory  
6 work registrant or exempt recipient who voluntarily participates in SNAP E&T  
7 services would be equal to or more than the amount required for payment of  
8 wages, including minimum wage and overtime. ~~;~~and  
9
- 10 (2) ~~If~~if a Board provides activities that meet all the following criteria set forth in  
11 this paragraph, the ~~activities~~activity ~~are~~is considered "training" under FLSA  
12 and minimum wage and overtime are not required, as follows:  
13
- 14 (A) The training is similar to that given in a vocational school.
  - 15 (B) The training is for the benefit of the trainees.
  - 16 (C) Trainees do not displace currently employed workers.
  - 17 (D) Employers derive no immediate advantage from trainees' activities.
  - 18 (E) Trainees are not entitled to a job after training is completed.
  - 19 (F) Employers and trainees understand that trainees are not paid.
- 20  
21  
22 (f) A Board shall ensure that placement in work-based services does not result in the  
23 displacement of currently employed workers or impair existing contracts for services  
24 or collective bargaining agreements.  
25

26  
27  
28  
29  
30 **§813.13. Good Cause for Mandatory Work Registrants Who Participate in SNAP E&T**  
31 **Services.**  
32

- 33 (a) Good cause applies only to mandatory work registrants who are required to  
34 participate in SNAP E&T services. A Board shall notify HHSC of a SNAP E&T  
35 participant's noncompliance within seven days of the noncompliance. A Board also  
36 shall ensure that all good cause claims are forwarded to HHSC for determination  
37 before SNAP benefits are denied when mandatory work registrants state that they  
38 have a ~~legitimate~~reason for failing to:  
39
- 40 (1) ~~failing to~~respond to the outreach notification; and
  - 41 (2) ~~failing to~~participate in SNAP E&T activities.
- 42  
43 (b) For purposes of this chapter, the following are ~~legitimate~~reasons a Board may  
44 consider when making a good cause recommendation to HHSC after a SNAP E&T  
45

1 participant fails ~~for failing~~ to respond to outreach notifications or fails ~~failing~~ to  
2 participate in SNAP E&T activities:

- 3
- 4 (1) Temporary ~~temporary~~ illness or incapacitation;
- 5
- 6 (2) Court ~~court~~ appearance;
- 7
- 8 (3) Caring ~~caring~~ for a physically or mentally disabled household member who  
9 requires the recipient's presence in the home;
- 10
- 11 (4) No ~~no~~ available transportation and the distance prohibits walking; or no  
12 available job within reasonable commuting distance, as defined by the Board;
- 13
- 14 (5) Distance ~~distance~~ from the home of the mandatory work registrant who  
15 participates in SNAP E&T services, to the Workforce Solutions Office, or  
16 employment service provider requires commuting time of more than two hours  
17 a day (not including taking a child to and from a child care facility), the  
18 distance prohibits walking, and there is no available transportation;
- 19
- 20 (6) Farmworkers ~~farmworkers~~ who are away from their permanent residence or  
21 home base, who travel to work in an agriculture or related industry during part  
22 of the year, and are under contract or similar agreement with an employer to  
23 begin work within 30 days of the date that the individual notified the Board of  
24 his or her seasonal farmwork assignment;
- 25
- 26 (7) An ~~an~~ inability to obtain needed child care, as defined by the Board and based  
27 on any of the following reasons:
- 28
- 29 (A) Informal ~~informal~~ child care by a relative or child care provided under  
30 other arrangements is unavailable or unsuitable, and based on, where  
31 applicable, Board policy regarding child care. Informal child care may  
32 also be determined unsuitable by the parent;
- 33
- 34 (B) Eligible ~~eligible~~ formal child care providers, as defined in Chapter 809 of  
35 this title (relating to Child Care Services), are unavailable;
- 36
- 37 (C) Affordable ~~affordable~~ formal child care arrangements within maximum  
38 rates established by the Board are unavailable; ~~and~~
- 39
- 40 (D) Formal ~~formal~~ or informal child care within a reasonable distance from  
41 home or the work site is unavailable;
- 42
- 43 (8) An ~~an~~ absence of other support services necessary for participation;
- 44

- 1 (9) ~~Receiving receipt of~~ a job referral that results in an offer below the federal  
 2 minimum wage, except when a lower wage is permissible under federal  
 3 minimum wage law;
- 4
- 5 (10) ~~An an-~~ individual or family crisis or a family circumstance that may preclude  
 6 participation, including substance abuse and mental health and disability-  
 7 related issues, provided that the mandatory work registrant who participates in  
 8 SNAP E&T services engages in problem resolution through appropriate  
 9 referrals for counseling and support services; ~~or~~
- 10
- 11 (11) ~~An an-~~ individual is a victim of family violence.
- 12
- 13 (c) A Board shall ensure that good cause is monitored at least on a monthly basis and  
 14 results are shared with HHSC if there is a change in the circumstances surrounding  
 15 the good cause exception.
- 16

17 **§813.14. Special Provisions Regarding Sanctions for Noncooperation.**

18

19 ~~General population-Mandatory~~ mandatory work registrants who are scheduled to  
 20 participate more than 120 hours per month may not be sanctioned for noncooperation  
 21 after 120 hours have been reached, as described in the Food and Nutrition Act, 7  
 22 ~~USC U.S.C.~~ §2015(d)(4)(F)(ii). The 120 hours include hours in all SNAP E&T activities,  
 23 including any hours worked for paid or unpaid compensation.

24

25 **SUBCHAPTER D. ALLOWABLE ACTIVITIES**

26

27 **§813.31. Activities for Mandatory Work Registrants and Exempt Recipients Who**  
 28 **Voluntarily Participate in SNAP E&T Services.**

29

30 The following activities may be provided for SNAP E&T mandatory work registrants and  
 31 exempt recipients who voluntarily participate in SNAP E&T services, subject to the  
 32 limitations specified in §813.32 of this subchapter:

33

- 34 (1) Supervised job search services that shall:
- 35
- 36 (A) incorporate job readiness, job search training, directed job search, and  
 37 group job search, and may include the following:
- 38
- 39 (i) Employability ~~job skills~~ assessment;
- 40
- 41 (ii) Counseling ~~counseling~~;
- 42 ~~(iii) job search skills training~~;
- 43
- 44 ~~(iii) (iv) -~~ Information ~~information~~ on available jobs;
- 45



1 ~~(iv)(v)~~ Occupational~~occupational~~ exploration, including information on  
2 local emerging and demand occupations;

3  
4 ~~(v)(vi)~~ Interviewing~~interviewing~~ skills and practice interviews;

5  
6 ~~(vi)(vii)~~ Assistance~~assistane~~e with applications and résumés~~resumes~~;

7  
8 ~~(vii)(viii)~~ Job~~job~~ fairs;

9  
10 ~~(viii)(ix)~~ Life~~life~~ skills; ~~or~~

11  
12 ~~(ix)(x)~~ Guidance~~guidance~~ and motivation for development of positive  
13 work behaviors necessary for the labor market; and

14  
15 (B) limit the number of weeks a mandatory work registrant or exempt  
16 recipient who voluntarily participates in SNAP E&T services can spend  
17 as follows:

18  
19 (i) ABAWDs shall not be enrolled for more than four weeks, and the  
20 job search activity shall be provided in conjunction with the  
21 workfare activity, as described in §813.32(a)(4)(D) of this  
22 subchapter.

23  
24 (ii) General Population mandatory work registrants and exempt  
25 recipients who voluntarily participate in SNAP E&T services shall  
26 not be enrolled:

27  
28 (I) for more than four weeks of consecutive activity under this  
29 paragraph;

30  
31 (II) for more than six weeks of total activity in a federal fiscal  
32 year.

33  
34 (iii) Job search, when offered as part of other SNAP E&T activities, is  
35 allowed for more time than the limitations set forth in clauses (i) and  
36 (ii) of this subparagraph if the job search activities comprise less  
37 than half of the required time spent in other activities.

38  
39 (2) Vocational~~vocational~~ training that shall:

40  
41 (A) relate to the types of jobs available in the labor market;

42  
43 (B) be consistent with employment goals identified in the employment plan,  
44 when possible; and  
45

1 (C) be provided only if there is an expectation that employment will be  
2 secured upon completion of the training.

3  
4 (3) Nonvocational~~nonvocational~~ education that shall increase employability, such  
5 as:

6  
7 (A) enrollment and satisfactory attendance in:

8  
9 (i) a secondary school; or

10  
11 (ii) a course of study leading to a high school diploma or a certificate of  
12 general equivalence;

13  
14 (B) basic skills and literacy;

15  
16 (C) English proficiency; or

17  
18 (D) postsecondary education, leading to a degree or certificate awarded by a  
19 training facility, career school or college, or other educational institution  
20 that prepares individuals for employment in current and emerging  
21 occupations that do not require baccalaureate or advanced degrees;

22  
23 (4) Work~~work~~-experience, as authorized by 7 USC~~U.S.C.~~ §2015(d)(4)(B)(iv) and  
24 by ~~the Workforce Investment Act in 20~~ CFR~~C.F.R.~~ §663.200(b), for  
25 mandatory work registrants who need assistance in becoming accustomed to  
26 basic work skills; that shall:

27  
28 (A) occur in the workplace for a limited period of time;

29  
30 (B) be made in either the private for-profit, the nonprofit, or the public  
31 sectors; and

32  
33 (C) be paid or unpaid;

34  
35 (5) Unsubsidized~~unsubsidized~~ employment;~~or~~

36  
37 (6) Other~~other~~ activities approved in the current SNAP E&T state plan of operations;

38  
39 **§813.32. SNAP E&T Activities for ABAWDs.**

40  
41 (a) Boards shall ensure that SNAP E&T activities for ABAWDs are limited to  
42 participating in the following:

43  
44 (1) Services~~services~~ or activities under the Trade Act of 1974, as amended by the  
45 Trade Act of 2002;

1 (2) ~~Activities activities-~~under ~~the~~ Workforce Innovation and Opportunity Act (29  
2 USC U.S.C. §3111; et seq.)~~Workforce Investment Act (29 U.S.C. §2801, et~~  
3 ~~seq.);~~

4  
5 (3) Education ~~education~~ and training, which may include:

6 (A) vocational training as described in §813.31(2) of this subchapter; or

7 (B) nonvocational education as described in §813.31(3) of this subchapter;  
8 and

9  
10 (4) Workfare ~~workfare~~ activities that shall:

11 (A) be designed to improve the employability of ABAWDs through actual  
12 employment experience or training, or both;

13 (B) be unpaid job assignments based in the public or private nonprofit  
14 sectors;

15 (C) have hourly requirements based on the ABAWD's monthly household  
16 SNAP allotment divided by the number of ABAWDs in the SNAP  
17 household, as provided by HHSC and then divided by the federal  
18 minimum wage; and

19 (D) include a four-week job search period ~~before~~prior to placement in a  
20 workfare activity.

21 (b) Boards shall ensure that ABAWDs who are referred to a ~~Texas~~ Workforce Solutions  
22 Office Center and subsequently become engaged in unsubsidized employment for at  
23 least 20 hours per week are not required to continue participation in SNAP E&T  
24 services because they have fulfilled their work requirement, as described in 7  
25 USC U.S.C. §2015(o)(2)(A). ~~Additionally~~In addition, Boards shall ensure that HHSC  
26 is notified when ABAWDs obtain employment.

27  
28 (c) An employment and training program for veterans operated by the US Department  
29 of Labor or the US Department of Veterans Affairs, as tracked by HHSC, is an  
30 allowable SNAP E&T activity for ABAWDs.

### 31 §813.33. Job Retention Activities.

32 (a) Boards ~~shall offer~~may provide job retention activities:

33 (1) similar to the SNAP E&T activities described in §813.31(1) - (3) of this  
34 subchapter, and as specified in the annual SNAP E&T state plan of operations  
35 and any subsequent amendments approved by USDA;

1 (2) for a minimum of 30 days and not more than ~~up to~~ 90 days to SNAP recipients  
2 who participated in SNAP E&T activities and obtained full-time employment;  
3 and

4  
5 (3) in full-service or minimum-service counties as funding permits and as  
6 specified in paragraphs (1) and (2) of this subsection.  
7

8 (b) Boards shall ensure that SNAP eligibility is verified each month that job retention  
9 activities are provided.  
10

11 **§813.34. Job Retention Support Services.**  
12

13 Boards ~~shall offer~~ ~~may provide~~ job retention support services for a minimum of 30 days  
14 and not more than ~~up to~~ 90 days to assist:  
15

16 (1) mandatory work registrants who obtain part-time employment while  
17 participating, or after successfully participating, in SNAP E&T activities; and  
18

19 (2) exempt recipients who participated in SNAP E&T activities and obtained full-  
20 time employment.