



January 13, 2020

Office of the Chief Clerk
Texas Department of Insurance
333 Guadalupe St.
Austin, TX 78701

Re: Comments on the National Council on Compensation Insurance's *Item B-1438--Revisions to Basic Manual Classifications for Oil and Gas Field Operations*

Dear Chief Clerk:

Texas Mutual Insurance Company (Texas Mutual) appreciates the opportunity to offer comments on the National Council on Compensation Insurance's (NCCI) filing of *Item B-1438--Revisions to Basic Manual Classifications for Oil and Gas Field Operations (Item B-1438)*.

Texas Mutual supports NCCI's efforts to create specialty classification codes for the diverse oil and gas lease operations and minimize the use of "Not Otherwise Classified" (NOC) codes for the oil and gas industry. Texas Mutual is also generally supportive of the specific changes proposed by NCCI in *Item B-1438*. However, Texas Mutual offers the following comments to bring forward certain concerns and recommendations related to the Proposals.

PROPOSAL 2: REVISE PHRASEOLOGIES TO ADDRESS FLOWBACK SERVICES

While Texas Mutual appreciates NCCI's efforts to revise the relevant phraseologies for special classifications in the *Basic Manual* to address flowback service providers as specialty contractors, there is a concern that revising the phraseologies to include specific references to such services is not necessary and, more importantly, has the potential to create confusion for insurance carriers and policyholders.

Specific references to flowback services are not necessary.

Liquid management, including flowback management, is work that is performed as a part of lease operations such as drilling, servicing, fracking, acidizing, and cementing operations, among others. Therefore, the basic classification codes for these business operations necessarily include flowback services, making specific references to flowback services in the phraseologies unnecessary. While specialty contractors can be hired to manage the flowback portion of an operation, the proper classification for the operation remains the basic classification for the relevant business operation.

Specific references to flowback services create confusion in the application of the relevant phraseologies.

The addition of specific references to flowback services in the phraseologies for Classification Codes 6202 and 6206 creates confusion for several reasons. First, specific references to “flowback services” calls into question the application of the phraseology to other services not specifically mentioned, such as other services related to drilling performed by specialty contractors.

Additionally, the phraseologies for 6202 Oil or Gas Well – Servicing & Drivers and 6202 Oil and Gas Well – Drilling or Redrilling reference “*flowback services when performed during drilling or redrilling operations*”. It is unclear from this description whether Classification Code 6202 includes both employees of a drilling company and employees of an independent specialty contractor performing flowback services for the drilling company.

There also appear to be confusing or inaccurate references to the phraseologies in two of the scope descriptions as follows:

- The phraseology for 6202 Oil or Gas Well – Servicing & Drivers is revised to state that flowback services are included when performed “*during drilling and redrilling*”. However, this phraseology applies to well servicing and does not apply to drilling and redrilling. The proposed language arguably indicates that flowback services provided to a well servicing company are not included in Code 6202 raising the question whether flowback services are included when performed in support of well servicing. Additionally, the question is raised whether flowback services provided by or to a well servicing contractor would not be included in Classification Code 6202.
- The phraseology for 6206 Oil and Gas Well – Acidizing and Cementing & Drivers is revised to state that flowback services are included when performed in support of “*fracturing operations*”. However, the phraseology applies to acidizing and cementing, not fracturing. This raises the question whether flowback services are included when performed in support of acidizing and cementing activities and whether flowback services provided by or to a cementing contractor would not be included in Classification Code 6206.

Based on the above concerns, Texas Mutual recommends that the proposed specific references to flowback services not be added to the referenced phraseologies. Texas Mutual does not believe the changes are necessary. Moreover, the specific references as proposed have the potential to create confusion in the application of the phraseologies.

PROPOSAL 3: REVISE TWO PHRASEOLOGIES TO ADDRESS DRILL SITE PREPARATION

NCCI’s Proposal would move specialty contractors performing drill site preparation operations such as clearing land; building lease roads, slush pits, levees, or firewalls; and lease beautification or dirt work from oil and gas Classification Code 6216 to the appropriate construction classifications. Texas Mutual supports this change in part and recommends two modifications to the Proposal as follows.

Application only to drill site preparation services.

NCCI’s *Basic Manual* requires a business operation to be classified to the most appropriate classification for the type of business operation at issue. Only when “no other classification more specifically describes the insured’s business” should a NOC classification code be used. *Basic Manual, Part 1, Rule 1 C.2.g.*

Classification Code 6216 is a NOC classification code for oil and gas operations conducted at an oil and gas lease location.

Texas Mutual has a concern about applying the changes proposed in Proposal 3 only to “drill site preparation services” when there are other specialty contractors providing services on an oil and gas lease that can “otherwise be classified” and are currently classified to their specialty. Specialty contractors should be classified as such without regard to the site or location of their work.

For example, an electrician on a lease site for the purpose of making electrical repairs should be classified as performing electrical work as on any other construction site and should not be classified as a NOC lease worker simply because the work performed is located on an oil and gas lease site. Conversely, there is no other classification code more specifically describing the work performed by generalist contractors such as roustabouts operating at an oil and gas lease location. Services such as these are appropriately assigned to Classification Code 6216.

Texas Mutual recommends modifying the proposed language in Proposal 3 so that it does not change current practice and exclude specialty contractors that can be otherwise classified to their specialty without regard to whether they are performing drill site preparation services.

Limitation of the changes made in the Proposal to operations prior to erection of a rig.

In addition, NCCI proposes applying the changes only to operations occurring prior to erection of an oil rig on the oil and gas lease site. Texas Mutual recommends removing this limitation and allowing the change to apply to all phases of work performed on an oil and gas lease. The presence of a rig at a lease site is simply not relevant to the risk associated with drill site preparation work. For example, lease site preparation companies constructing roads, pits, and levees prior to the erection of a rig may return to a lease site after the rig has been erected to make repairs to roads, pits, or levees. Exposure for the site preparation specialty contractor is the same whether the work is performed pre or post erection of the rig.

To address the above concerns, Texas Mutual recommends the following specific changes be made to Exhibit 9; Basic Manual-2001 Edition; Special Classifications – TX for Classification Code.

6216 | Oil or Gas Lease Work NOC—By Contractor & Drivers

Includes ~~roustabouts and the clearing of land, building of lease roads, slush pits, levees or fire walls, the laying or taking up of flow lines and water lines; the laying or taking up of small oil or gas lines not more than 4 inches in diameter; and installing of central pumping units; and lease beautification work.~~ Separately rate pipeline construction, tank building, rig or derrick erecting or dismantling, installation or recovery of casing, drilling, cementing, cleaning and swabbing of wells or well shooting. Not lease operation. Contractors performing construction operations in support of the lease operator must be separately rated to the appropriate construction classification. ~~Drill-site preparations including but not limited to clearing land; building lease roads, slush pits, levees, or fire walls; and lease beautification or dirt work performed by a contractor are classified to codes applicable to these operations, provided the services are performed prior to rig erection. Contractors who perform these services during or after rig erection are assigned to Code 6216.~~

Chief Clerk
January 13, 2020
Page 4

Thank you again for the opportunity to provide input on NCCI's *Item B-1438--Revisions to Basic Manual Classifications for Oil and Gas Field Operations*. Please contact me with any questions you may have or additional information you may need to evaluate the comments offered by Texas Mutual.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara K. Salyers". The signature is written in a cursive style with a large, looping initial "B".

Barbara K. Salyers
Director Legislative and Regulatory Affairs

cc: The Honorable Kent Sullivan, Commissioner of Insurance
Terri Robinson, State Relations Director, National Council on Compensation Insurance