

TITLE 28. INSURANCE
PART 2. TEXAS DEPARTMENT OF INSURANCE,
DIVISION OF WORKERS' COMPENSATION
CHAPTER 110: REQUIRED NOTICES OF COVERAGE
Title 28 TAC §110.105

1. INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (division) adopts amendments to 28 Texas Administrative Code (TAC) §110.105 concerning *Employer Requirements for Notifying the Division of Termination of Coverage*. The amended sections are adopted without changes to the proposed text published in the January 26, 2018, issue of the *Texas Register* (43 TexReg 438). The public comment period closed on February 26, 2018, and the division did not receive comments. No request for a public hearing was submitted to the division.

In accordance with Government Code §2001.033, the division's reasoned justification for these rules is set out in this order, which includes the preamble. The following paragraphs include a detailed section-by-section description and reasoned justification of all amendments to §110.105.

2. REASONED JUSTIFICATION. In House Bill (HB) 2112, the 85th legislature amended or repealed certain reporting and notification requirements throughout the Labor Code, including Labor Code §406.007, *Termination of Coverage by Employer; Notice*. Labor Code §406.007(a) requires an employer who terminates workers' compensation insurance coverage to file a written notice with the division not later than the 10th day after the date the employer notified the insurance carrier to terminate the coverage. HB 2112, which became effective June 9th, 2017, amended §406.007(a) to

remove the requirement that the written notice be sent to the division by certified mail.

The amendment to §110.105 is necessary to implement this legislative change.

Section 110.105 addresses **Employer Requirements for Notifying the Division of Termination of Coverage**. Section 110.105 requires an employer who terminates workers' compensation insurance coverage to file written notice of the termination of coverage with the division within ten days and provides the required information the notice must contain. The division amended §110.105(b) to delete the requirement that the notice be filed "by certified mail or electronically on the form" and added "in the form and manner" to reflect the legislative changes. An employer may now submit the required notice a number of different ways, including electronically through the division's website, by fax, email, or mail. In conjunction with the adopted amendment, the DWC Form-005, *Employer Notice of No Coverage or Termination of Coverage*, was updated to provide information for each submission option.

3. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

The division did not receive comments on the proposed amendments.

4. STATUTORY AUTHORITY. Amended §110.105 is adopted under the authority of Labor Code §402.00111, *Relationship Between Commissioner of Insurance and Commissioner of Workers' Compensation, Separation of Authority, Rulemaking*; Labor Code §402.061, *Adoption of Rules*; and, Labor Code §406.007, *Termination of Coverage by Employer; Notice*.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary for the implementation and enforcement of the Act.

Labor Code §406.007 requires an employer who terminates workers' compensation insurance coverage to file a written notice with the division not later than the 10th day after the date the employer notified the insurance carrier to terminate the coverage.

5. TEXT.

§110.105. Employer Requirements for Notifying the Division of Termination of Coverage.

(a) An employer, as defined by Labor Code §406.001, who terminates workers' compensation insurance coverage shall file written notice of the termination of coverage with the division not later than the 10th day after the date on which the employer notified the insurance carrier under Labor Code §406.007 to terminate the coverage.

(b) The employer shall file the notice of termination required by subsection (a) of this section in the form and manner prescribed by the division. The notice shall contain:

(1) a statement of no workers' compensation insurance coverage, including policy termination effective date, policy number, insurance company name,

date the termination notice was sent to the insurance company, and date employees were or will be notified;

(2) a statement of whether the employer had a death, injuries that resulted in the injured employee's absence from work for more than one day, or knowledge of an occupational disease since the last report of no coverage;

(3) the employer business name;

(4) the federal employer identification number (FEIN);

(5) the employer's business mailing address;

(6) the employer's business type;

(7) the employer's North American Industry Classification System (NAICS) code;

(8) additional business locations (including name, FEIN, and address concerning each additional location); and

(9) the signature date and the name, title, telephone number, email address, and signature of the person providing the information required by this subsection.

(c) Termination of coverage by an employer takes effect on the later of:

(1) the 30th day after the date of filing the notice with the division under this section; or

(2) the cancellation date of the policy.

(d) Coverage shall be extended until the date on which the termination of coverage takes effect and the employer is obligated for premiums due for that period.

(e) Notwithstanding the other provisions of this section, if an employer switches workers' compensation insurance carriers, the original policy is considered canceled as of the date the new coverage takes effect. Employers shall notify the prior insurance carrier of the cancellation date of the original policy, in writing, within 10 days of the effective date.

(f) This section is effective January 1, 2013.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on _____, 2018.

Nicholas Canaday III
General Counsel
Texas Department of Insurance,
Division of Workers' Compensation

The commissioner adopts amendments to §110.105.

W. Ryan Brannan
Commissioner of Workers' Compensation

COMMISSIONER'S ORDER NO. _____

ATTEST:

X

Nicholas Canaday III
General Counsel
Texas Department of Insurance,
Division of Workers' Compensation

COMMISSIONER'S ORDER NO. _____