

**TEXAS DEPARTMENT OF INSURANCE  
EXEMPT FILING NOTIFICATION PURSUANT TO TEXAS INSURANCE CODE  
CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96**

**ADOPTION OF AMENDMENTS TO THE TEXAS BASIC MANUAL OF RULES,  
CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS'  
COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE SECTION I.A. OF  
THE TEXAS EXPERIENCE RATING PLAN AND RULE D.3. OF THE APPENDIX**

The Commissioner of Insurance (Commissioner) adopts the amendments proposed by the staff of the Texas Department of Insurance (Department) in a petition (Reference No. W-0411-03-I) to amend the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Basic Manual), filed on April 18, 2011. Notice of the proposal was published in the April 29, 2011 issue of the *Texas Register* (36 TexReg 2738). The amendments are subject to the Commissioner's consideration for approval without a hearing. No hearing was requested, and no comments were received on the proposal. The amendments are adopted without changes to the proposed text.

The following amendments are adopted: Section I.A. of the Basic Manual Texas Experience Rating Plan and Rule D.3. of the Basic Manual Appendix are amended to allow a copy of the experience modifier calculation to be "made available" to the insured rather than requiring that a copy of the experience modifier be "furnished" or "forwarded" to the insured. With the adoption of this change in wording, the experience modifier can be made available electronically or by mail.

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The Commissioner has determined that the amendments to the Basic Manual are necessary to enable insurers to make a free copy of the experience modifier available electronically or by mail. Historically, one copy of the experience modifier calculation has been mailed to the insured. Mailing paper copies of important documents was the standard before creating and sending reliable electronic copies became feasible, due to a variety of factors, including appropriate standardized, widely available technology to receive and verify the authenticity of such documents. Sending the experience modifier calculation by mail required time to transport the document as well as other resources, such as fuel, ink, and paper. Electronic transmission allows for quicker, easier access to the experience modifier calculations than was possible at the time the earlier rule was enacted. Though the amendments enable insurers to make a free copy of the experience modifier available electronically, the insured would still be able to choose to receive a hard copy of the experience modifier free of charge.

The staff petition and related exhibits have been on file with the Office of the Chief Clerk of the Department since April 18, 2011, and are incorporated by reference into this Commissioner's Order.

This adoption is made pursuant to Article 5.96 and §2053.052 of the Texas Insurance Code. Article 5.96 exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001), authorizing the Department to prescribe, promulgate, adopt, approve, amend, or repeal standard

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and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Section 2053.052 requires the Commissioner to adopt a uniform experience rating plan for workers' compensation insurance.

The Department hereby certifies that the amendments to the Basic Manual have been reviewed by legal counsel and found to be a valid exercise of the Department's authority.

Issued in Austin, Texas on May 31, 2011.

Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance

**IT IS THEREFORE THE ORDER** of the Commissioner of Insurance that the amendments to the Basic Manual proposed by the staff petition (Reference No. W-0411-03-I), as described herein and set forth in the exhibits attached to this Order and incorporated into this Order by reference, apply to the distribution of all experience modifiers issued on or after July 1, 2011.

**AND IT IS SO ORDERED.**

Mike Geeslin  
Commissioner of Insurance

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Recommended by:

Nancy Moore  
Deputy Commissioner, WC Classification and Premium Calculation Division  
Texas Department of Insurance

ATTEST:

Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance

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