

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

The staff of the Texas Department of Insurance (Department) has filed Petition No. W-0411-02-I proposing amendments to the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Basic Manual) for consideration by the Commissioner, concerning changes to the statutory references in Part Two C.8. of the Workers' Compensation and Employer Liability Insurance Policy (the policy), the Federal Coal Mine Health and Safety Act Coverage Endorsement (WC 00 01 02), and the Outer Continental Shelf Lands Act Coverage Endorsement (WC 00 01 09 A); and editorial changes to Part Two B, C, and D of the policy and the Information Page (WC 00 00 01). The petition was filed on April 13, 2011.

Staff requests that the proposed revisions to the policy, the Federal Coal Mine Health and Safety Act Coverage Endorsement, the Outer Continental Shelf Lands Act Coverage Endorsement, and the Information Page, all of which are contained in the Basic Manual, be available for use for policies with an effective date of July 1, 2011; and be required for use for policies with an effective date on or after January 1, 2012.

Article 5.96 and §2052.002 of the Texas Insurance Code authorize the filing of this petition and the action requested of the Commissioner. Article 5.96 authorizes the Department to prescribe, promulgate, adopt, approve, amend, or repeal standard 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 2052.002 requires the Commissioner to prescribe standard policy forms and a uniform policy for workers compensation insurance.

The proposed amendments to the policy change the name of the Federal Coal Mine Health and Safety Act of 1969 to the Federal Coal Mine Safety and Health Act, update

the statutory reference to the United States Code (U.S.C.) for the Federal Coal Mine Safety and Health Act, and update the statutory reference to the U.S.C. for the Outer Continental Shelf Lands Act.

The proposed amendments to WC 00 01 02 amend the name of the Federal Coal Mine Health and Safety Act of 1969 to the Federal Coal Mine Safety and Health Act and update the statutory reference in the U.S.C. from “30 USC §§ 931-942” to “30 U.S.C. §§801-945.”

While the staff is aware that in 1977, the Federal Coal Mine Health and Safety Act of 1969 was renamed the Federal Mine Safety and Health Act (Mine Act), the proposed statutory citation, 30 U.S.C. §§801-945, is correct, and the proposed amendments are necessary to make the policy and information page consistent with the workers’ compensation and employers’ liability policy and information page used in most other states, thereby promoting efficiency and accuracy among policyholders and insurance companies doing business in multiple states.

The proposed amendment to WC 00 01 09 A updates the statutory reference to the U.S.C. from “43 USC Sections 1331-1356” to “43 U.S.C. §§1331-1356a.”

The proposed amendments to Part Two B, C, and D include minor editorial changes to make those subsections consistent with other parts of the policy.

The proposed amendments to WC 00 00 01 replace the words “Blank Insurance Company” with “Insurer” in the space for the name of the insurance company writing the workers’ compensation coverage.

The amendments are necessary to ensure that the relevant statutes are cited correctly in the policy, to ensure consistency within the policy, and to ensure clarity. While staff is aware that the change being recommended in the petition does not reflect the current common name of 30 U.S.C. §§801-945, the changes proposed are necessary to make

the policy, endorsements, and information page consistent with the ones in use in most other states.

Copies of the full text of the staff petition and the proposed exhibits are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas, 78714-9104. For further information or to request copies of the petition and proposed exhibits, please contact Sylvia Gutierrez at ChiefClerk@tdi.state.tx.us, (512) 463-6327 (Reference No. W-0411-02-I).

These amendments are subject to the Commissioner's consideration for approval without a hearing. Any comments or requests for a hearing may be filed with the Office of the Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, Austin, Texas, 78714-9104, within 15 days of publication of this notice. An additional copy of the comments should be simultaneously submitted to Nancy Moore, Deputy Commissioner, Workers' Compensation Classification and Premium Calculation Division, Texas Department of Insurance, P.O. Box 149104, Mail Code 105-2A, Austin, Texas, 78714-9104.

This notification is made pursuant to Article 5.96 of the Texas Insurance Code, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).