

PETITIONER § **BEFORE THE**
STAFF OF THE TEXAS § **COMMISSIONER OF**
DEPARTMENT OF INSURANCE § **INSURANCE**

**PETITION FOR ADOPTION OF AMENDMENTS TO THE TEXAS BASIC MANUAL OF
RULES, CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS'
COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE**

The staff of the Texas Department of Insurance files this petition to amend the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance. The staff proposes the adoption of amendments to Rule IV A. and Appendix B. in the manual to better conform the manual's instructions to the statutory requirements for workers' compensation classification codes.

The proposed amendments to Rule IV A. would clarify that a carrier may select classification codes to use when issuing a quote or when issuing a new or renewal workers' compensation policy; and a carrier may change, add, and delete classification codes on a workers' compensation policy. When selecting, changing, or adding classification codes for a workers' compensation policy, a carrier may only use classification codes contained in the manual.

The proposed amendments to Appendix B. 1. would delete the provision that requires current policies to show the classifications approved for the expiring policy with payrolls updated to reflect current conditions, as the other proposed amendments make this provision unnecessary.

The proposed amendments to Appendix B. 2. would clarify that a carrier may change, add, and delete classification codes on a workers' compensation policy, as long as the carrier uses classification codes contained in the manual.

The proposed amendments to Appendix B. 3. would delete the provision that classification codes assigned by an insurance company to a policy covering an employer who previously was a non-subscriber to the workers' compensation law may be subject to change by TDI, and clarify that a carrier may select classification codes to use when issuing a quote or when issuing a new or renewal workers' compensation policy, as long as the carrier uses classification codes contained in the manual.

The proposed amendments would delete Appendix B. 4. because TDI will no longer determine classification codes, and the proposed amendments would renumber Appendix B. 5. to accommodate the other amendments.

Article 5.96 authorizes TDI 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.

I. Proposal for Consideration and Adoption

- (1) Staff proposes the consideration and adoption of amendments to Rule IV A. of the manual. The proposed amendments to Rule IV A. are attached as Exhibit A.
- (2) Staff proposes the consideration and adoption of amendments to Appendix B. of the manual. The proposed amendments to Appendix B. are attached as Exhibit B.
- (3) Staff proposes that the amendments to Rule IV A. and Appendix B. of the manual be effective 15 days after adoption of the changes is published in the Texas Register.

II. Background and Justification

Historically, TDI has responded to telephone and written inquiries concerning workers' compensation classifications applicable to businesses. Insurance Code §2053.051(a)(1) requires TDI to determine hazards by class, and §2053.053 states that insurance companies writing workers' compensation policies may not use hazard classifications other than the classifications established by TDI. However, no statute requires TDI to make these classification code assignments.

Currently, Rule IV A. and Appendix B. 2. of the manual require that TDI approve changes in classification codes on current or expired policies. Usually, a request to change a classification code for a business comes from an insurance company or an insurance agent. The company or agent submits to TDI a description of operations with a request to change the classification. After reviewing the information submitted, TDI staff responds to the request for a change in the classification code and either agrees to the change

requested, approves a change to a different classification code, or approves no change in classification code. Most of the time, TDI staff approves the classification code suggested by the insurance company. No statute requires TDI to approve a change in classification code, though insurers must use the TDI-established classification codes.

Appendix B. 1. states that policies shall show classifications approved for the expiring insurance and payroll updated to reflect current conditions. Appendix B. 2. states that companies may only change classifications for current insurance policies after TDI approves of the change. Appendix B. 3. states that the classification codes applicable to a policy for an employer who has previously not carried workers' compensation coverage should be assigned based on the insurance company's best judgment, but that the codes may be subject to change by TDI. Appendix B. 4. states that if an insurance company is not sure which classification codes apply to an operation not described by a classification code listed on the policy, TDI will determine the classification.

No statute requires TDI to assign classification codes in these situations. If the proposed amendments to Rule IV A. and Appendix B. are adopted, companies will decide which code to use based on the ones that are available in the manual.

In an effort to better conform the manual's instructions to the statutory requirements for workers' compensation classification codes, TDI staff recommends the changes to Rule IV A. and Appendix B. outlined in this petition and exhibits. These changes will make the process of changing classification codes more efficient for insurance companies, because they will be able to act without having to wait for TDI approval, and more efficient for TDI, because TDI will not have to use its resources to approve classification codes.

III. Requested Action

Staff respectfully requests that

- (1) the commissioner adopt the proposed amendments to Rule IV A. of the manual as specified in Exhibit A;
- (2) the commissioner adopt the proposed amendments to Appendix B. of the manual as specified in Exhibit B; and

- (3) the revisions to Rule IV A. and Appendix B. of the manual be effective 15 days after notice of adoption of the changes is published in the Texas Register.