

**CHAPTER 165. REJECTED RISK: INJURY PREVENTION SERVICES**  
**28 TAC §165.1**

**INTRODUCTION.** The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §165.1, concerning Identification and Notification of Certain Policyholders Insured by the Texas Mutual Insurance Company Acting as the Insurer of Last Resort. DWC adopts §165.1 without changes to the proposed text published in the January 20, 2023, issue of the *Texas Register* (48 TexReg 198). The rule will not be republished.

**REASONED JUSTIFICATION.** The amendments update obsolete Insurance Code references, add Texas Mutual Insurance Company's (Texas Mutual) physical address, and make updates for plain language and agency style. Section 165.1 requires Texas Mutual to give DWC a list of policyholders that need accident prevention services, including policyholders they insure as the insurer of last resort. It also requires policyholders who must get a safety consultation and are located outside of Texas to give information to Texas Mutual. The amendments are necessary to add Texas Mutual's physical address, so policyholders required to get a safety consultation and whose offices are outside of Texas know where to send information. The amendments also update Insurance Code references, so the public can find the applicable laws. Section 165.1 implements Insurance Code §§2054.354, 2054.504, and 2054.507, which were amended to apply to Texas Mutual by HB 3458, 77th Legislature, Regular Session (2001) and recodified by HB 2017, 79th Legislature, Regular Session (2005).

**SUMMARY OF COMMENTS.** DWC did not receive any comments on the proposed amendments.

**STATUTORY AUTHORITY.** The commissioner of workers' compensation adopts the amendments to 28 TAC §165.1 under Insurance Code §§2054.354, 2054.504, and 2054.507 and Labor Code §§402.00111, 402.00116, and 402.061.

Insurance Code §2054.354 provides that Texas Mutual must develop statistical and other information to allow Texas Mutual to distinguish between their writings in the voluntary market and as the insurer of last resort.

Insurance Code §2054.504 requires certain policyholders insured under Subchapter H to get a safety consultation.

Insurance Code §2054.507 requires that, if a safety consultant identifies a hazardous condition or practice, an accident plan will be developed for the policyholder.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to the division or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

**TEXT.**

**§165.1. Identification and Notification of Certain Policyholders Insured by the Texas Mutual Insurance Company Acting as the Insurer of Last Resort**

(a) The Texas Mutual Insurance Company must provide the division a list of the policyholders requiring accident prevention services (rejected risk employers). This list must include rejected risk employers that meet the criteria in Texas Insurance Code Chapter 2054, Subchapters H and K.

(b) A policyholder subject to Texas Insurance Code §2054.504, whose corporate office is located outside of Texas must, on receipt of notification by the Texas Mutual Insurance Company of the requirement to get a safety consultation as a condition of insurance, provide the Texas Mutual Insurance Company the following information:

(1) the name and title of the senior official in Texas with the authority to commit funds and to establish policy, procedures, and actions required to implement the accident prevention plan and address the exposures identified in the hazard exposure survey;

(2) the official's mailing address; and

(3) the official's business telephone number.

(c) Information required by subsection (b) of this section must be mailed to the Texas Mutual Insurance Company at 2200 Aldrich Street, Austin, Texas 78723-3474.

**CERTIFICATION.** The 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 March 6, 2023.



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Kara Mace  
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TDI, Division of Workers' Compensation

The commissioner adopts amendments to 28 TAC §165.1.



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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Commissioner's Order No. 2023-7840