

No. **2021-6842**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 05/24/2021

Subject considered:

National Council on Compensation Insurance Filing
Item B-1438—Revisions to Basic Manual Classifications for Oil and Gas Field Operations

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) *Basic Manual for Workers Compensation and Employers Liability Insurance* (Basic Manual), as proposed in *Item B-1438—Revisions to Basic Manual Classifications for Oil and Gas Field Operations* (TDI ECase No. 20899; SERFF Tracking No. NCCI-131967955).

Background

The amendments in *Item B-1438* revise some class code descriptions for the oil and gas industry for flowback services and drill site preparation.

After considering the filing, Texas Department of Insurance (TDI) adopts the following findings of fact and conclusions of law.

Findings of Fact

1. NCCI filed *Item B-1438* with TDI on June 12, 2019, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. Flowback service providers are a type of specialty contractor that has emerged as a result of fracking. Since there is no mention of these providers in the Basic Manual, this filing addresses the proper classification for flowback services.

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3. Drill site preparation includes clearing land; building lease roads, slush pits, levees, or firewalls; and lease beautification or dirt work. This filing addresses the appropriate classification for these services.
4. *Item B-1438:*
 - a. Eliminates Texas exceptions to Rule 1-C-2-f and Rule 1-F-3-b, and adopts the proposed national rules;
 - b. Revises Codes 6202, 6206, and 6237 to address flowback services; and
 - c. Revises Code 6216 to address drill site preparation, including elimination of Texas special phraseology.
5. On December 12, 2019, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2019/nccimanual.html and distributed notice of the filing to electronic news subscribers.
6. TDI received one comment, from Texas Mutual Insurance Company (TMIC), on the filing by the January 13, 2020, deadline. TMIC recommended changes for both flowback services and drill site preparation.
7. At TDI's request, NCCI amended its filing on July 7, 2020, to align with TMIC's comments about flowback services. The amendment revised the class code descriptions of flowback services to match the class code scopes for Codes 6202 and 6206. No changes were made in response to comments about drill site preparation.
8. On November 9, 2020, TDI published notice of the amended filing on the TDI website at www.tdi.texas.gov/rules/2019/nccimanual.html and distributed notice of the filing to electronic news subscribers.
9. TDI received one comment letter, from TMIC, on the amended filing by the December 9, 2020, deadline. TMIC submitted the same comments again regarding drill site preparation.
10. TMIC agreed with NCCI's proposal that drill site preparation work performed before rig erection should be coded to applicable construction codes. However, TMIC wanted all drill site preparation work performed as part of gas or oil lease work—regardless of when it was performed (before, during, or after rig erection)—to be coded to applicable construction codes. TMIC also proposed adding "roustabouts" to Code 6216, because no other code describes the work performed by this type of generalist contractor working at an oil and gas lease location.

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11. TDI agreed with TMIC's comments that drill site preparation services should not be treated differently than other specialty contractors providing services on an oil and gas lease. Other specialty contractors are assigned to their specific class code when performing services at a drill site, just as on any other job site, and for all phases of the work.
12. At TDI's request, NCCI amended its filing on March 10, 2021, to align with TMIC's comments about drill site preparation. The amendment specifically adds "roustabouts" as a type of contractor in Code 6216. The amendment also removes the proposed exception that contractors who perform drill site preparation services during or after rig erection are assigned to Code 6216. Instead, contractors performing construction operations in support of the lease operator must be separately rated to the appropriate construction classifications.
13. On April 13, 2021, TDI published notice of the amended filing on the TDI website at www.tdi.texas.gov/rules/2019/nccimanual.html and distributed notice of the filing to electronic news subscribers.
14. TDI did not receive any comments on the amended filing by the May 13, 2021, deadline.
15. *Item B-1438* has been available for public inspection in SERFF and at TDI since the filing date.
16. NCCI proposed that the changes in *Item B-1438* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2021.
17. The amended filing, including exhibits, is incorporated by reference into this order.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and Insurance Code §§ 2051.002, 2051.201, 2052.002, 2053.002, 2053.011, and 2053.051.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendments to the NCCI Basic Manual are consistent with Insurance Code Article 5.96 and Insurance Code Chapters 2051, 2052, and 2053.

