

No. **4466**

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE

Date: May 16, 2016

Subject Considered:

**AMENDMENTS TO THE
NATIONAL COUNCIL ON COMPENSATION INSURANCE
BASIC MANUAL FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY
INSURANCE
NCCI FILING ITEM NO. 02-TX-2015**

The commissioner of insurance considered amendments to the National Council on Compensation Insurance *Basic Manual for Workers Compensation and Employers Liability Insurance* (NCCI's *Basic Manual*), proposed in *Item 02-TX-2015—Revisions to Basic Manual Rule 3-A-24-c—Terrorism and the Texas Workers Compensation Premium Algorithm* (TDI ECase No. 10294; SERFF Tracking No. NCCI-130225144).

After considering the filing, the commissioner adopts the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. NCCI filed *Item 02-TX-2015* on August 31, 2015, using the procedure adopted in Commissioner's Order No. 3142 for revisions to NCCI's workers compensation manuals.
2. As of its 2016 loss cost filing, NCCI will no longer include the terrorism advisory loss cost on the Texas Advisory Miscellaneous Values page in the *Basic Manual*, because it is not necessary to develop the final terrorism rate. The term "advisory loss cost" implies that a multiplier or deviation should be applied to determine the final terrorism rate. TDI requires carriers to file only their final terrorism rates.
3. *Item 02-TX-2015* updates the Texas terrorism exception and premium algorithm in NCCI's *Basic Manual*. It removes unnecessary references to the terrorism value and indicates that carriers must file terrorism rates with TDI in accordance with the Texas exception to *Basic Manual* Rule 3-A-24-c. It also replaces the term "terrorism value" with "terrorism rate" in the Texas Workers Compensation Premium Algorithm.
4. The TDI chief clerk has had copies of the full text of the filing and related exhibits since the filing date. The filing and exhibits are incorporated by reference into this order.
5. As filed, the changes in *Item 02-TX-2015* would apply to new and renewal policies with effective dates on or after 12:01 a.m., July 1, 2016.

6. On February 12, 2016, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2015/nccimanual.html, and distributed notice of the filing to electronic news subscribers.
7. TDI received no comments on the filing by the March 17, 2016, deadline.
8. Exhibit 2, *Item 02-TX-2015*, includes an audit noncompliance charge that NCCI filed for approval in Texas as *Item B-1429*. Exhibit 2 includes the audit noncompliance charge in the rating algorithm, subject to the commissioner's approval of *Item B-1429*. However, in Commissioner's Order No. 4448, dated May 9, 2016, the commissioner rejected *Item B-1429*.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter under Insurance Code Article 5.96 and Sections 2051.201, 2052.002, and 36.001.
2. Commissioner's Order No. 3142, dated March 21, 2014, established a procedure for the commissioner to consider changes to NCCI's manuals:
 - a) NCCI makes a filing;
 - b) TDI publishes notice of the filing on the TDI website and distributes notice of the filing to subscribers to TDI's electronic news, with at least a 30-day period for interested persons to submit comments or request a hearing; and
 - c) the commissioner issues an order approving the filing, approving the filing with changes, or rejecting the filing.
3. TDI gave proper and timely notice in compliance with Commissioner's Order No. 3142.
4. The proposed amendments to NCCI's *Basic Manual* are reasonable and consistent with Texas workers compensation statutes and rules, except for the rejected audit noncompliance charge in the premium algorithm in Exhibit 2.
5. Applying the changes in *Item 02-TX-2015* to new and renewal policies with effective dates on or after 12:01 a.m., July 1, 2016, is reasonable.

The commissioner approves NCCI's filing, *Item 02-TX-2015—Revisions to Basic Manual Rule 3-A-24-c—Terrorism and the Texas Workers Compensation Premium Algorithm*, without the audit noncompliance charge in Exhibit 2, for new and renewal policies with effective dates on or after 12:01 a.m., July 1, 2016.



David C. Mattax
Commissioner of Insurance