

**TEXAS DEPARTMENT OF INSURANCE**  
**NOTIFICATION OF WORKERS' COMPENSATION FILING BY**  
**THE NATIONAL COUNCIL ON COMPENSATION INSURANCE**  
***ITEM 02-TX-2014***

The National Council on Compensation Insurance (NCCI) filed *Item 02-TX-2014—Update Federal Mine Safety and Health Act References and Eliminate Per Passenger Seat Surcharge (Basic Manual and Forms Manual)* (TDI ECase No. 6776) with the Texas Department of Insurance under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142. As proposed, *Item 02-TX-2014* would be in effect for policies with an effective date on or after 12:01 a.m. on January 1, 2015.

*Item 02-TX-2014* updates references to the Federal Mine Safety and Health Act of 1977 (Act), which amended the Federal Coal Mine Health and Safety Act of 1969, in the following rules in the *NCCI Basic Manual* and in the following rules and forms in the *NCCI Forms Manual*. TDI staff does not expect these changes to affect premiums.

- *NCCI Basic Manual* Rule 3-A-12 – Coal Mine Disease Charge (Federal Coal Mine Safety and Health Act)
- *NCCI Basic Manual* Rule 3-A-20 – Standard Premium
- *NCCI Forms Manual* Rule 4 – Form/Endorsement Numbering System
- *NCCI Forms Manual* – Information Page Notes (WC 00 00 01 A)
- *NCCI Forms Manual* – Part Two C. 8. of the Workers Compensation and Employers Liability Insurance Policy (WC 00 00 00 B)
- *NCCI Forms Manual* – Federal Coal Mine Safety and Health Act Coverage Endorsement (WC 00 01 02 A)

*Item 02-TX-2014* also proposes to eliminate the per passenger seat surcharge. This surcharge applies to an insured's employees, other than the flight crew, while passengers on the insured's noncommercial, nonscheduled aircraft. The current passenger seat surcharge is \$100 per passenger seat, subject to a maximum of \$1,000 per aircraft.

*Item 02-TX-2014* also proposes that aircraft losses be reported to the applicable classification code, instead of to Statistical Code 0088—Aircraft Operation—Passenger Seat Exposure, which is the code for the per passenger seat surcharge. With the aircraft losses reported under the applicable classification code rather than under Statistical Code 0088, the calculation of the risk's experience rating modification will include those losses, subject to the single-claim and

multiple-claim loss limitations. The loss limitations also apply for the aircraft losses in the ratemaking process.

To eliminate the per passenger seat surcharge and update the statistical code for aircraft losses, *Item 02-TX-2014* proposes the following amendments:

- Delete the general inclusion in *NCCI Basic Manual* Rule 1-B-3 for aircraft travel by employees.
- Delete the aircraft seat surcharges from standard premium in *NCCI Basic Manual* Rule 3-A-20.
- In the *NCCI Basic Manual*, add the footnote for Code 7421—Aircraft or Helicopter Operation—Transportation of Personnel in Conduct of Employer’s Business—Flying Crew to the Texas Special Classifications.
- Amend the Texas Workers Compensation Premium Algorithm in the *NCCI Basic Manual* to eliminate the aircraft seat surcharge from the calculation of premium.
- Delete the Aircraft Premium Endorsement (WC 00 04 01) in the *NCCI Forms Manual*, as it will be obsolete.

TDI staff expects these changes to cause a slight decrease in premium initially. However, TDI staff anticipates that including the aircraft losses in the risk’s experience rating modification and in class ratemaking will eventually have a minor premium impact on affected policyholders. Policyholders could begin to see the impact of the changes in two years, when the aircraft losses, which would be subject to the single-claim and multiple-claim loss limitations, would have been fully incorporated into future loss costs and experience modifications.

*Item 02-TX-2014* proposes to update language in certain forms due to the United States Supreme Court’s decision in *Atlantic Sounding Co., Inc. et al. v. Townsend*, 129 S.Ct. 2561 (2009) on punitive damages awarded due to the insured’s willful withholding of maintenance and cure, and to update other statutory references in certain forms and endorsements. TDI staff does not expect these updates to affect premiums. *Item 02-TX-2014* proposes amendments to the following forms in the *NCCI Forms Manual*:

- *NCCI Forms Manual* – Part Two C. 8, 10, and 12 of the Workers Compensation and Employers Liability Insurance Policy
- *NCCI Forms Manual* – Outer Continental Shelf Lands Act Coverage Endorsement (WC 00 01 09 B), and

- *NCCI Forms Manual* – Maritime Coverage Endorsement (WC 00 02 01 A).

TDI has prepared this description of the proposed amendments. You may review a copy of NCCI's filing in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

The commissioner may issue an order approving these amendments without a hearing. To comment on the filing or request a hearing, please submit two copies of your comments or request by 5 p.m., Central time, on July 25, 2014. Refer to TDI ECase No. 6776. Send one copy by mail to the Office of the Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [chiefclerk@tdi.texas.gov](mailto:chiefclerk@tdi.texas.gov). Send the other copy by mail to Nancy Moore, Team Lead, Workers' Compensation Classification and Premium Calculation, Texas Department of Insurance, Mail Code 105-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [nancy.moore@tdi.texas.gov](mailto:nancy.moore@tdi.texas.gov).

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