

No. **3788**

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF INSURANCE**

**Date: Jan 21 2015**

**Subject Considered:**

**AMENDMENTS TO THE  
NATIONAL COUNCIL ON COMPENSATION INSURANCE  
FORMS MANUAL  
(NCCI ITEM NO. 04-TX-2014)**

The commissioner of insurance considers amendments to the *NCCI Forms Manual for Workers Compensation and Employers Liability Insurance (NCCI Forms Manual)*, as proposed in *Item 04-TX-2014—Establishment of National Experience Rating Endorsements and Withdrawal of Texas Experience Rating Forms and Endorsements* (TDI ECase No. 8081).

The commissioner adopted the *NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (NCCI ER Plan Manual)* for experience rating modifications effective on or after July 1, 2015. The adoption of the *NCCI ER Plan Manual* in Texas requires the withdrawal of six Texas experience rating forms and two endorsements, and it requires the approval of two national experience rating endorsements in the *NCCI Forms Manual*. TDI does not expect these changes to affect premiums. The notice of filing of *Item 04-TX-2014* TDI published stated that the adoption of the *NCCI ER Plan Manual* in Texas requires the withdrawal of five Texas experience rating forms. That was a typographical error—the names of the six forms to be withdrawn were correctly listed in the notice.

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

**FINDINGS OF FACT**

1. NCCI filed a request on September 25, 2014, to establish certain national experience rating endorsements and to withdraw certain Texas experience rating forms and endorsements from the *NCCI Forms Manual*. A copy of the full text of the filing and related exhibits has been on

file with the TDI chief clerk since then. The filing and exhibits are incorporated by reference into this order.

2. TDI published notice of the filing on the TDI website on October 29, 2014, at [www.tdi.texas.gov/rules/2014/nccimanual.html](http://www.tdi.texas.gov/rules/2014/nccimanual.html), and distributed notice of the filing to electronic news subscribers on November 3, 2014.
3. Comments on the filing were due by 5 p.m., Central time, on December 3, 2014.
4. TDI received no comments or requests for a hearing on the filing.
5. *Item 04-TX-2014* withdraws the following forms and endorsements from the *NCCI Forms Manual*:
  - Texas Experience Rating Form (ERM 1.2), which has been superseded by NCCI's experience rating modification worksheet.
  - Texas Accidents Involving Two or More Persons Form (ERM 4.1), which is no longer needed because carriers are required to report all losses under the *NCCI Statistical Plan Manual for Workers Compensation and Employers Liability Insurance*, adopted in Texas for reporting statistical data for Texas workers' compensation policies with an effective date on or after 12:01 a.m., January 1, 2015. The Texas claim limitations for experience modification calculation losses in the *NCCI ER Plan Manual* apply.
  - Texas Report of Experience for Self Insurers Forms (ERM-6A, 6B, and 6C). Adopting the *NCCI ER Plan Manual* replaced Texas Forms ERM-6A, 6B, and 6C with NCCI's Workers Compensation and Experience Rating for Non-Affiliate Data Form (ERM-6).
  - Texas Request for Information Form (WC-RFI). Adopting the *NCCI ER Plan Manual* replaced the Texas Form WC-RFI with NCCI's Confidential Request for Ownership Information Form (ERM-14).
  - Texas Experience Rating Modifier Endorsement (WC 42 04 03 A), which is replaced with the national Experience Rating Modification Factor Endorsement (WC 00 04 03).
  - Texas Anniversary Rating Date Endorsement (WC 42 04 02 A). Adopting the *NCCI ER Plan Manual* eliminated the Anniversary Rating Date rule and added the Rating Effective Date rule. Since the Anniversary Rating Date rule no longer applies in Texas, there is no need for the Texas Anniversary Rating Date Endorsement.
6. *Item 04-TX-2014* adds the following endorsements for use in Texas to the *NCCI Forms Manual*:

- NCCI Experience Rating Modification Factor Endorsement (WC 00 04 03). This replaces the Texas Experience Rating Modifier Endorsement (WC 42 04 03 A) and allows multistate carriers to use this NCCI endorsement when the policy is issued to notify an insured, if an experience rating modification factor is not available.
- NCCI Notification of Change in Ownership Endorsement (WC 00 04 14), which will be used in conjunction with Rule 3-E-3 of the *NCCI ER Plan Manual* to notify insureds of their obligation to report changes in ownership or combinability status to the carrier.

**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: 1) NCCI makes a filing; 2) 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 3) 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. Amending the *NCCI Forms Manual* as *Item 04-TX-2014* proposes is reasonable, and is consistent with Texas workers’ compensation statutes and rules.

The commissioner approves NCCI’s filing (*Item 04-TX-2014—Establishment of National Experience Rating Endorsements and Withdrawal of Texas Experience Rating Forms and Endorsements*) with no changes, for policies with an effective date on or after 12:01 a.m., July 1, 2015.



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David C. Mattax  
Commissioner of Insurance