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Filing Company:

National Council on Compensation Insurance, Inc.

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B-1444NCCIs Basic Manual for Workers Compensation and Employers Liability Insurance

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Supporting Document Schedules

Satisfied - Item:	Interrogatory Response
Comments:	
Attachment(s):	B-1444 TX Interrogatory 07262021 Response.pdf
Item Status:	
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Satisfied - Item:	Response to 8/16/2021 Interrogatory
Comments:	
Attachment(s):	B-1444 TX Interrogatory 8.16.21 Response Final.pdf Revised Info Ex3 - TX Basic Manual Alpha Index.pdf
Item Status:	
Status Date:	

Satisfied - Item:	Response to 9/2/2021 Interrogatory
Comments:	
Attachment(s):	B-1444 TX Interrogatory 9.2.21 Response.pdf
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Satisfied - Item:	Response to 10/1/2021 Interrogatory
Comments:	
Attachment(s):	TX B-1444 10.1.2021 Interrogatory Response.pdf
Item Status:	
Status Date:	



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August 6, 2021

David Trautman
Texas Department of Insurance
333 Guadalupe Street
Austin, TX 78701

Re: B-1444—NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance
SERFF Tracking No.: NCCI-132867551
State Tracking No.: S692689

Dear Mr. Trautman:

Thank you for your July 21, 2021 objection letter regarding the above-referenced item filing. After review and consideration, we offer the following response.

Objection 1

Can you provide a side-by-side mapping that is in Class Code number order from the current manual? Pdf is good, but also an excel file would be great too.

Response 1

NCCI has created a numerical side-by-side comparison document for classification codes to help with your review of the filing. In the process of developing the requested comparison document, we identified a few additional revisions to the **Basic Manual**. We are also submitting these revisions at this time.

Exhibit 1 has been revised to

- revise the Catastrophe provisions rule to reflect the correct rule reference, "Premium for Terrorism is calculated on the basis of total payroll according to Rules for calculating the premium and Payroll rules." (page 66)
- include Code 4902—Golf Clubs—Mfg. or Assembling (page 503) and Code 2790—Shoe Form or Last Mfg. (page 675), and
- remove Code 3179—Refrigerator Mfg.—Metal—Domestic or Commercial—Manufacturing or Assembling the Refrigerating Unit and Code 3507—Construction or Agricultural Machinery Mfg.

Thank you for your consideration of this filing. If you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Terri Robinson". The signature is written in black ink on a white background.

Terri Robinson
Senior State Relations Executive



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September 14, 2021

David Trautman
Texas Department of Insurance
333 Guadalupe Street
Austin, TX 78701

Re: B-1444—NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance
SERFF Tracking No.: NCCI-132867551
State Tracking No.: S692689

Dear Mr. Trautman:

Thank you for your August 16, 2021 objection letter regarding the above-referenced item filing. After review and consideration, we offer the following responses.

Objection 1 - Texas Miscellaneous Values

References to "Texas Miscellaneous Values" seems inconsistent. Examples:

Response 1

Overall, the general references for Texas should state advisory loss costs miscellaneous values. As Texas is not a rate or NCCI residual market state, the use of the term rates is not appropriate. Revisions have been made as indicated below.

- Pg. 59: advisory loss costs miscellaneous values **Response:** No change. Reference is correct.
- Pg. 63: loss costs or rates miscellaneous values **Response:** Exhibit 1 for the rule, Rule for premium determination for partners or sole proprietors (Rule ID: BM-PART-RD016) has been revised based in accordance with Response 16.
- Pg. 119: Texas miscellaneous values **Response:** Exhibit 1 for the rule, Rule for including premium for non-F-classification operations subject to USL&HW Act (Rule ID: BM-FEDE-RF018) has been revised to advisory loss cost miscellaneous values.
- Pg. 132: Texas advisory miscellaneous values and Texas Advisory Miscellaneous Values **Response:** Exhibit 1 for the rules, Rule for use of advisory loss elimination ratio (LER) in the voluntary market (Rule ID: BM-TXPP-R11DA) and Advisory loss elimination ratio (LER) (Rule ID: BM-TXPP-RB9C3) have been revised to advisory loss cost miscellaneous values.
- Pg. 138: Texas Deductible Programs Miscellaneous Rule – the reference name seems incorrect **Response:** Exhibit 1 for the rule, Deductible options (Rule ID: BM-TXPP-D938D), has been revised to correct the reference Texas Deductible Programs Miscellaneous Rule to Texas Deductible Insurance rule.

- Pg. 343: Miscellaneous Values **Response:**Exhibit 1 for code 9186: Amusement Device Operator, Carnival, or Circus—Traveling—All Employees & Drivers (Phrase ID: BM-9186-ALA08) has been revised to change Miscellaneous Values to the advisory loss costs miscellaneous values.

Objection 2 - Texas premium algorithm

Line 19: second column, it should include a parenthesis before the word "Row" and after the number "18"

Response 2

Exhibit 1 for the Texas Workers Compensation Premium Algorithm (Rule ID: BM-BMPP-W0064) has been revised as requested.

Objection 3 - Texas premium algorithm

Line 19: The current manual says "Deductible Credit." The new manual says "Small Deductible Credit." Is it necessary to have the word "Small?" Isn't the Large Deductible credit reported here also?

Response 3

The rules in NCCI's **Basic Manual** are applicable to small deductible programs and are not applicable for large deductible programs. This is confirmed in the **Unit Statistical Reporting Guidebook** Part 8—Deductible Programs A. Small and Large Deductible Programs states.

There are two types of deductible programs, small and large. The basic distinction between the two programs is the size of the deductible. Small deductibles are less than \$100,000, while large deductibles are \$100,000 and greater.

Small deductible programs may be NCCI-filed programs or carrier independently filed programs, while all large deductible programs are only carrier independently filed programs.

If a carrier chose to make a carrier independent filing for large deductible rules, the carrier would indicate the proper algorithm placement for how the large deductible credit would be determined.

Objection 4 - Texas premium algorithm

Hyperlinks: The current manual contained hyperlinks. Will the new manual include them? (probably more of a general question)

Response 4

The PDF of the manual does not fully recreate the appearance, functionality, and features that will be available to the user of the new online version of NCCI's Texas **Basic Manual** 2021 edition next year. However, the PDF contains the same regulatory approved rules and information and does contain hyperlinks to other sections of the manual.

The new online version of NCCI's Texas **Basic Manual** 2021 edition will offer different ways to view information online that will include links to rules and endorsements, search by manual, topic,

bookmarks, or Alphabetical Index, and the ability to create your own bookmarks or preferences for frequently used information.

Objection 5 - Texas premium algorithm

Line 13: Remove "or Negotiated Modifier"

Response 5

Exhibit 1 for the Texas Workers Compensation Premium Algorithm (Rule ID: BM-BMPP-W0064) has been revised as requested.

Objection 6 - Texas premium algorithm

Line 22: Charge for non-ratable catastrophe loading – should this still be in our algorithm?

Response 6

The nonratable catastrophe line item was carried over from the algorithm in NCCI's *Basic Manual* 2001 edition. NCCI agrees that since the nonratable catastrophe loading is not applicable in Texas, it should be removed from the algorithm. Exhibit 1 for the Texas Workers Compensation Premium Algorithm (Rule ID: BM-BMPP-W0064) has been revised to remove line 22.

Objection 7 - General

Pg. 10: This rule would not apply in Texas: Rules for adding states to residual market policies after the policy effective date

Response 7

Exhibit 1 for the rule, Rules for adding states to residual market policies after the policy effective date (Rule ID: BM-WORS-R7C89) has been revised to remove this rule.

Objection 8 - General

Pg. 14: Standard Exception Classifications - 3rd bullet at top for code 7380 - should not include messengers

Response 8

Exhibit 1 for the rule, Standard exception classifications (Rule ID: BM-STAN-SF4DC) has been revised to remove "messengers" from the phraseology for Code 7380.

Objection 9 - General

Pg. 26: Stories in Height - A story is defined as "every" 15 feet in height. "Every" is added. Should this be removed? This is a national rule.

Response 9

The word "every" was added to clarify when determining multiple stories that every 15 feet is considered one story. This is a national rule applicable in Texas. Item B-1433 was approved in Texas with Approval Circular CIF-2017-52.

Objection 10 - General

Pg. 28: Topic title "Construction or erection operations" should be "Construction, Erection, or Oil and Gas Field Operations"

Response 10

Exhibit 1 for the mini table of contents has been revised to include "Oil and Gas Filed Operations".

Objection 11 - General

Pg. 29

- a. Rule ID# BM-PROE-C415B. Title of rule should say: Construction, Erection, or Oil and Gas Field Operations
- b. Rule ID #BM-PROE-R8210. Title of rule should say: Rules for assigning classifications for construction, erection, or oil and gas field operations.

Response 11a

Exhibit 1 for the rule, Construction or erection operations (Rule ID: BM-PROE-C415B) has been revised as requested.

Response 11b

Exhibit 1 for the rule, Rules for assigning classifications for construction or erection operations Construction or erection operations (Rule ID: BM-PROE-B8210) has been revised as requested.

Objection 12 - General

Pg. 36: Rules for qualifying for interchange of labor for specific industries. Current rule says, "In order to qualify for the exceptions below..." Proposed rule says "To qualify for an industry-specific exception..." We think it should keep "below" since the exceptions follow.

Response 12

The first sentence for Exhibit 1 for the rule, Rules for qualifying for interchange of labor for specific industries (Rule ID: BM-INTL-R7480) has been revised to state, "To qualify for one of the industry-specific exceptions listed below, the employer must maintain accurate payroll records that reflect the type of work performed by each employee."

Objection 13 - General

Pg. 48: Rules for applying payroll limitations to bonuses. We do not find the 2nd bullet in the current manual. It says "divide the annual bonus for the policy period by the number of weeks the employee worked during the policy period to determine the average weekly bonus."

Response 13

As you state, Rule 2-D-5 for Payroll limitations of NCCI's **Basic Manual** 2001 edition does not include the wording you have indicated. This wording currently exists in NCCI's **Basic Manual User's Guide**, which provides an example for Rule 2-D for prorating bonuses and calculating the average weekly bonus.

NCCI is proposing the rule, Rules for applying payroll limitations to bonuses, in NCCI's Texas **Basic Manual** 2021 edition be enhanced to include the wording you have indicated. It does not change the intent of the rule. The additional wording provides users information to calculate the average weekly bonus.

Objection 14 - General

Pg. 53-55: State Payroll Determination Formulas Tables

- a. Code 7370 does not apply in Texas. Footnote says to use code 7382. That is how current version reads, but since this is a Texas Manual, it seems odd to be presented this way. It would be better for these tables to be state-specific and not include national information – is that possible?
- b. Code 4360: Footnote 6 references the max payroll limitation applying to this code and the current TX Miscellaneous Values pages lists a max weekly payroll for 4360; however, this code does not apply in TX effective 7/1/21. Therefore, the current and proposed manual appear to be incorrect.

Response 14a

When rewriting and modernizing the rules, we started with creating state-based manuals that include rules for each state only. Allowing for the state exception rule to be placed within the topic that it applies to, in lieu of exception pages at the end of the manual, makes it much easier to find and understand those exceptions. This allows for the elimination of state exception pages and for the production of a complete state-based **Basic Manual** that has all the rules and classification codes in one place. There are a few tables such as the Table of Classifications by Hazard Group, Schedule rating table, and the State Payroll Determination Formula Tables, where presenting the information for a single state was difficult. A decision was made to keep these types of tables in their current format, until a better formatting solution can be developed. Therefore, some tables include information for multiple states.

Response 14b

Code 4360 was discontinued in Texas effective 7/01/2021 as part of Item B-1437. Exhibit 1 for the rule, State payroll determination formulas table 2 - Code 7370, Code 9178, and Code 9179 (Rule ID: BM-PAYS-SCE3C) has been revised to remove Code 4360 from footnote #6. We will also update NCCI's **Basic Manual** 2001 edition to remove Code 4360.

Objection 15 - General

Pg. 56-57: Overtime. Current manual (Rule 2.C.) table says double time is paid for overtime and the total pay for such overtime is recorded separately... 1/2 of the total pay for double time must be excluded. The proposed manual says calculate extra pay as the difference between the regular pay rate and the overtime pay rate, multiplied by the number of overtime hours worked. Calculate overtime exclusion from the payroll as follows: If the records show regular pay and overtime pay in one combined total amount, and double time is paid for overtime, excluded from payroll one-half of the total pay.

Response 15

We are not sure of the exact question that the department is asking regarding the overtime rule. We believe the proposed rule is not changing how overtime pay is determined. The wording shown in underline below is in both the current and proposed rule. The proposed rule does expand in the beginning of the if statement, that total pay is equal to regular pay plus overtime pay. Outside of that, there are no differences in the rule.

NCCI's *Basic Manual* 2001 edition

The extra pay for overtime is excluded from [payroll](#) on which [premium](#) is calculated as indicated in the table below, provided that the insured's books and records are maintained to show overtime pay separately by employee and in summary by classification. Extra pay is the difference between the regular pay rate and the overtime pay rate multiplied by the number of overtime hours worked.

Calculating Overtime

If the record shows...	Then...
Extra pay earned for overtime separately . . .	The entire extra pay is excluded.
Total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime . . .	1/3 of this total pay must be excluded.
<u>Double time is paid for overtime and the total pay for such overtime is recorded separately . . .</u>	<u>1/2 of the total pay for double time must be excluded.</u>

Note: The only portion of the overtime payroll that is deductible is the amount in excess of wages that would have been applied if the overtime were compensated at the regular rate of pay.

NCCI's Texas **Basic Manual** 2021 edition

Exclusion of overtime payroll

Rules for calculating overtime exclusions from payroll

Rule ID: BM-OVEE-RA8B2

Effective Date: November 1, 2021

Exclude the extra pay for overtime from payroll on which premium is calculated, provided that the employer's records show overtime pay

- separately by employee, and
- in summary by classification.

Rule for calculating extra pay

Calculate extra pay as the difference between the regular pay rate and the overtime pay rate, multiplied by the number of overtime hours worked.

Calculate overtime exclusions from payroll as follows:

- If the records show extra pay for overtime separately by employee and in summary by classification, exclude from payroll the entire extra pay.
- If the records show regular pay and overtime pay in one combined total amount, and time-and-a-half is paid for overtime, exclude from payroll one-third of total pay.
- If the records show regular pay and overtime pay in one combined total amount, and double time is paid for overtime, exclude from payroll one-half of the total pay.

Exception to overtime exclusions from payroll

Do not exclude overtime pay from payroll assigned to any classification under the caption Stevedoring with an F-Classification code.

Objection 16 - General

Pg. 63: Partners or Sole Proprietor. Under Rule for Premium. Base the premium for each partner or sole proprietor, and any covered spouses, treated as an employee on the payroll amount in the loss costs or rate miscellaneous values. Should actually be found in Table 1 of payroll determination formulas on page50.

Response 16

NCCI's **Basic Manual** 2001 edition Rule 2-E-3 and the proposed Texas **Basic Manual** 2021 edition rule, Rule for premium determination for partners or sole proprietors, refers users to the loss costs miscellaneous values to obtain the payroll amount.

However, for Texas, the miscellaneous values do not have a payroll amount for partners or sole proprietors. To determine payroll, users are referred back to NCCI's **Basic Manual** 2001 edition Appendix F, which is now rule, State payroll determination formulas table 1 – partners/sole proprietor and executive officer in the proposed Texas **Basic Manual** 2021 edition.

Exhibit 1 for the rule, State payroll determination formulas table 1 – partners/sole proprietor and executive officer, has been revised as follows:

"Base the premium for each partner or sole proprietor, and any covered spouses, treated as an employee on the payroll determined using the formula in the state payroll determination formulas table 1."

Objection 17 - General

Pg. 65: Standard premium. Rules for determining total standard premium.

a. Standard Premium is a Texas exception rule but references being included in the proposed rule are from the national rule.

b. References:

- the workers compensation premium algorithm, or the assigned risk workers compensation premium algorithm if applicable, for additional information on applying rating elements including state special rating elements, and
- the appropriate data reporting manual for a different definition of standard premium that should be used for annual Financial Call data reporting to support ratemaking.

Response 17a and b

Texas adopted NCCI's *Basic Manual* 2001 edition rules effective 6/1/2014 and established state exceptions including an exception for *Basic Manual* Rule 3-A-20 for standard premium. This Texas exception does not include the national references to (a) the state pages for the application of rating elements, and (b) annual Financial Calls, which have a different definition of standard premium.

NCCI is proposing in the Texas *Basic Manual* 2021 edition, that Texas adopt these references as it does not change the intent of the Texas standard premium rule and provides additional direction for the user. Texas has a premium algorithm, participates in the annual Financial Call, and uses NCCI's data reporting manuals.

Objection 18 - General

Pg. 66: Rules for determining final earned premium. These rules are not in the Texas Exception or National Rule. (It is not hurting or impacting the rule but it's the fact that it is not in either rule.):

- a. If the actual payroll is split between multiple classifications, multiply each portion of the actual payroll by the rate for its corresponding classification, then add all amounts.
- b. Include all premium elements that apply to the employer in final earned premium.

Response 18a

This wording can be found in NCCI's *Basic Manual* 2001 edition under the 2nd sentence of rule 3-A-13(a)(1). The rule states: It is calculated using actual payrolls multiplied by the rate for each classification.

Response 18b

This wording can be found in NCCI's Texas *Basic Manual* 2001 edition under the 3rd sentence of rule 3-A-13(a)(1). The rule states: Final earned premium includes the application of premium elements applicable to the employer.

Objection 19- General

Pg. 109: Waiver of Subrogation Specific (Named) v. Specific, Named – Using a comma rather than putting "Named" in parentheses seems to change the meaning and be confusing. It makes it seem like there are three options: specific, named, and blanket.

Response 19

Exhibit 1 for the rule, Rules for charging premium for the Waiver of Our Right To Recover from Others Endorsement (waiver of subrogation) (Rule ID: BM-WAIV-R3682) has been revised to change specific, named basis, to specific (named) basis.

Objection 20- General

Pg. 113

- a. Established v added: The original word "added" seems like a better fit under "Rule for applying the minimum premium for increased limits of liability for Admiralty law or FELA"
- b. The first column in the table at the bottom of the page includes additional wording - "Limits per accident/disease-aggregate (policy limit)" – does this change the meaning?

Response 20a

Exhibit 1 for the sub-block, Rule for applying the minimum premium for increased limits of liability for Admiralty law or FELA, under the rule, Rule for increasing limits of liability for Admiralty law or FELA classifications (Rule ID: BM-EMPI-R2974) has been revised to change "established" to "added".

Response 20b

No, NCCI does not believe the meaning has changed. The rule, Standard limits for bodily injury (Rule ID: BM-EMPS-SA940), shows standard limits for bodily injury by accident and bodily injury by disease for Admiralty law and FELA as \$25,000/\$25,000. The \$25,000 limit for bodily injury is for each accident and the bodily injury by disease is by policy limit. The rule, Admiralty law or FELA limits table (Rule ID: BM-EMPI-ACB16), provides the standard limit and increased limits that are available for employers liability insurance for Admiralty law or FELA. The wording "Limits per accident/disease-aggregate (policy limit)" in this table coincides with the limits that are available for this coverage.

Objection 21 - General

Pg. 116: Under References, it should be "NCCI's Basic Manual User's Guide," not "NCCI's Basic Manual"

Response 21

Exhibit 1 for the reference under the rule, Rules for providing voluntary compensation insurance (Rule ID: BM-VOLU-R0D3E) has been revised as requested.

Objection 22 - General

Pg. 118: Should "abrasives" be "abrasive?"

Response 22

Exhibit 1 for the sub-block, Rule for supplementary disease advisory loss cost with exposure to abrasive or sandblasting operations, under the rule, Rules for supplementary disease loading (Rule ID: BM-SUPD-R1E55) has been revised to change abrasives to abrasive.

Objection 23 - General

Pg. 119: Rule for including premium for non-F-class operations subject to USL&HW Act.

a. Consistency in naming: 2nd bullet refers to USL&HW Coverage Percentage factor and 3rd bullet refers to USL&HW Compensation Coverage Percentage factor. ("Compensation" is also in bullet under references)

b. 3rd bullet– Should read: do not apply the USL&HW Coverage percentage factor, or the factor developed by the carrier to the expense constant (remove "for the non-F-classification")

c. This rule should also include: To provide transportation, wages, maintenance, and cure coverage, you may increase the rates for admiralty law classifications up to 10%.

Response 23a

The use of the term USL&HW Compensation Coverage Percentage factor is correct based on the reference in the Texas advisory loss costs miscellaneous values page. Exhibit 1 for the 2nd bullet under the rule, Rule for including premium for non-F-classification operations subject to USL&HW Act (Rule ID: BM-FEDE-RF018) has been revised.

Response 23b

Exhibit 1 for the rule, Rule for including premium for non-F-classification operations subject to USL&HW Act (Rule ID: BM-FEDE-RF018) has been revised as requested.

Response 23c

Exhibit 1 for the rule, Rule for including premium for non-F-classification operations subject to USL&HW Act (Rule ID: BM-FEDE-RF018) has been revised to add the sub-block.

Rule for increasing Admiralty law classifications rates

To provide transportation, wages, maintenance, and cure coverage, you may increase the rates for Admiralty law classifications up to 10%.

Objection 24 - General

Pg. 120:

a. Rule for including premium for Admiralty law and FELA classifications subject to USL&HW Act. This rule should also include: To provide transportation, wages, maintenance, and cure coverage, you may increase the rates for admiralty law classifications up to 10%.

b. Rules for providing insurance to operations on waters not subject to Admiralty jurisdiction. It seems odd to say "If you provide insurance for operations on waters not subject to Admiralty jurisdiction, you must use policy and endorsement forms." rather than what the current manual says: "...must be provided by the Standard Policy and Endorsement Forms."

c. Rules for applying classifications and loss costs to oil, gas, or other mineral operations on or over water. 1st sentence says, "You may need to apply specific classifications and loss costs to non-over water (OW) classifications because non- OW loss costs do not include premium for operations subject to oil, gas, or other mineral operations on or over water." This sentence is unclear. We recommend going back to language in current manual (Rule 3A4.e.). Current manual says, "The rates for non-OW classifications do not include premiums for operations subject to Oil, Gas or Other Mineral Operations on or overwater."

Response 24a

Exhibit 1 for the rule, Rule for including premium for Admiralty law and FELA classifications subject to USL&HW Act (Rule ID: BM-FEDE-R8766) has been revised to add the sub-block.

Rule for increasing Admiralty law classifications rates

To provide transportation, wages, maintenance, and cure coverage, you may increase the rates for Admiralty law classifications up to 10%.

Response 24b

The terms Standard and Advisory are being phased out of our current endorsements and when used when referencing the policy. In the past, the reasoning for the use of these designations was "Standard" meant that the form had been filed in all jurisdictions. This was the only approved form; no changes or additions could be made. On the other hand, an "Advisory" form had been filed as an option and could be altered (although, if altered, the carrier is required to file and gain approval on its own).

The term mandatory is also often confused. Some carriers use "standard" to mean the same as "mandatory." In actuality, the decision as to which endorsements must be attached to the policy is often determined by the coverage that is needed. On some forms, the wording in the Notes section will state that "this endorsement must be attached to the policy when . . ." or similar wording. That is the best way to determine which forms are mandatory.

NCCI requests that the rule, Rules for providing insurance to operations on waters not subject to Admiralty jurisdiction (Rule ID: BM-FEDE-RB3CE) be maintained as proposed.

Response 24c

The rule is advising the carrier that certain codes and loss costs do not include premium for operations subject to Oil, Gas or Other Mineral Operations on or overwater. This wording is similar to how the rule is currently written. While it is stated differently due the writing standard, NCCI believes the proposed rule is clear and context has not changed. Additionally, the sub-block, Rules for applying specific classifications and loss costs, further states in the 2nd bullet that the loss cost must be increased for the non-OW classification by the factor developed by the carrier (see below). This further supports the above wording that the loss cost for non-OW classifications does not include premiums for operations subject to Oil, Gas or Other Mineral Operations on or over water.

Rules for applying specific classifications and loss costs

If operations assigned to non-OW classifications include employees who are subject to oil, gas, or other mineral operations on or over water

- assign the non-OW classifications that describe the duties performed, and
- increase the loss cost and minimum premium for non-OW classifications by the factor developed by the carrier.

NCCI requests that the rule, Rules for providing insurance to operations on waters not subject to Admiralty jurisdiction (Rule ID: BM-FEDE-RB3CE) be maintained as proposed.

Objection 25 - General

Pg. 122: Under the title, "Types of workers" and in the list of topics should it include real estate salespersons?

Response 25

Exhibit 1 for the rule, Types of workers, has been revised to include real estate salespersons. Additionally, a rule ID and effective date have been added for this topic.

Objection 26 - General

Pg. 123: Rule for providing workers compensation coverage to volunteers. Should "classification" be plural in the following sentence: "Designate the volunteers or volunteer members or classification of volunteers to be covered in either the endorsement or in Item 4 of the Information Page."

Response 26

In the context of the rule, different volunteers could be classified to different classifications. Exhibit 1 for the rule, Rule for providing workers compensation coverage to volunteers (Rule ID: BM-TYPV-R8CCC) has been revised to classifications.

Objection 27 - General

Pg. 124: Overview of domestic workers-residences, In the first two bullet points, at the very end of each, one says "...considered full-time" and the other says "considered to be full-time" – seems they should be consistent.

Response 27

The first bullet under Exhibit 1 for the rule, Overview of domestic workers – residences (Rule ID: BM-TYPD-O0881) has been revised to state, "to be full-time".

Objection 28 - General

Pg. 129:

a. "The deductible options available for the deductible and negotiated deductible programs are the same for both programs and are.." – This is significantly different from what is currently stated in this rule and seems to be an interpretation of the statute. We have not applied the statute in this way and have allowed aggregate large deductibles.

b. Eligibility for per accident, per claim, and medical-only deductible. Should read Eligibility for deductible programs. The eligibility applies to all promulgated deductibles as well as negotiated deductibles.

Response 28a

NCCI believes that the proposed revision is not significantly different than the current rules. Additionally, the change was not based on statutory interpretation. The current rules, under D-1-a, b, and c indicate that there are three types of deductibles – per accident, per claim and medical-only. These three types apply to both negotiated and deductible coverage. This is consistent with the wording in the proposed Texas *Basic Manual* 2021 edition. The rules in NCCI's *Basic Manual* are applicable to small deductible programs and are not applicable for large deductible programs. This is confirmed in the *Unit Statistical Reporting Guidebook* Part 8—Deductible Programs A. Small and Large Deductible Programs states:

"There are two types of deductible programs, small and large. The basic distinction between the two programs is the size of the deductible. Small deductibles are less than \$100,000, while large deductibles are \$100,000 and greater.

Small deductible programs may be NCCI-filed programs or carrier independently filed programs, while all large deductible programs are only carrier independently filed programs."

Response 28b

The rule, Types of deductible coverage (Rule ID: BM-TXPP-TE192) states that the two types of deductible options are deductible coverage and negotiated deductible coverage. The rule further states under Deductible options that the available options of per accident, per claim and medical-only apply both to deductible and negotiated programs. NCCI requests that the title of the rule, Eligibility for per accident, per claim, and medical-only deductible (Rule ID: BM-TXPP-RCDDDB) not change as the rule is applicable to both deductible and negotiated programs. However, we have revised the rule to differentiate between the deductible options for deductible programs and negotiated deductible programs.

Objection 29 - General

Pg.130: Endorsement to provide negotiated deductible coverage. The sentence reads, "If you want to include a negotiated deductible in a Texas workers compensation policy, you must file its form of endorsement with the Texas Department of Insurance for approval before using..." Should "its" be changed to "your"endorsement?

Response 29

The use of "its" in this context is referring to the carrier. While it is grammatically correct, Exhibit 1 for the rule, Endorsement to provide coverage Rule ID: BM-TXPP-EB0B1 has been revised to replace "its" to "your" for clarity.

Objection 30 - General

Pg.131: Treatment of the payment or nonpayment of deductible amounts. The proposed rule left out wording from the current rule. The current rule says "The payment or nonpayment of deductible amounts by the employer is treated under the policyinsuring liability for workers compensation in the same manner as payment or nonpayment of premium." Is there a reason this language was removed?

Response 30

NCCI did not include the wording, "under the policy insuring liability for workers compensation" in the rule, Treatment of the payment or nonpayment of deductible amounts (Rule ID: BM-TXPP-R2295). This is because the rule, Texas Deductible Insurance (Rule ID: BM-TXPP-T6CD5) states, "Each carrier transacting or offering to transact workers compensation insurance in Texas must offer deductibles to employers meeting the eligibility requirements." As this is the overarching rule for all of the other rules under the deductible rule, NCCI did not feel it was necessary to indicate that this rule applies to workers compensation insurance policies.

Objection 31 - General

Pgs. 131-132:

- a. Remove "in the voluntary market" in the LER rules.
- b. The current rule says the following, "The policy premium credit is calculated using the published LER on the Texas Miscellaneous Values in combination with the appropriate carrier expenses." Not seeing highlighted language in proposed rule.

Response 31a

Exhibit 1 for the rule, Rule for use of advisory loss elimination ratio (LER) in the voluntary market (Rule ID: BM-TXPP-R11DA) has been revised as requested.

Response 31b

Exhibit 1 for the rule, Rule for use of advisory loss elimination ratio (LER) in the voluntary market (Rule ID: BM-TXPP-R11DA) has been revised to add in combination with the appropriate carrier expenses.

Objection 32 - General

Pg. 135: It would be better to say "Prior to a group's formation and renewal, the forms information outlined in this section must be filed with the Department" since all of the items being filed are not forms. Similarly, at the bottom of pg. 136, it says "forms" under "Certificate of approval" which I realize is what is in the current manual, but better to say "information."

Response 32

Exhibit 1 for the rule, Group filing requirements (Rule ID: BM-TXPP-GD354) has been revised as requested.

Objection 33 - General

Pg. 136: the address/mail code can be updated to:

Texas Department of Insurance

WC Group Purchase Program

Mail Code **PC-PCL**

P.O. Box 12030

Austin, TX 78711-2030

Email: PropertyCasualty@tdi.texas.gov

Response 33

Exhibit 1 for the rule, Submission of forms, plans, reports, and applications (Rule ID: BM-TXPP-SFB43) has been revised as requested.

Objection 34 - General

Pg. 136: Under "Certificate of approval," third sentence – it's the control number that needs to be on all the filings, not the Certificate of Approval. Please use current language to make this more clear.

Response 34

Exhibit 1 for the rule, Certificate of approval (Rule ID: BM-TXPP-C06EC) has been revised as requested.

Objection 35 - General

Pg. 144: The Schedule Rating Table includes all states, but for Texas it only includes the maximum modification + or -40, footnote 2, and it says, "See Texas Schedule Rating Special Rules". Since this is a Texas manual, can you remove the other states from the table?

Response 35

When rewriting and modernizing the rules, we started with creating state-based manuals that include rules for each state only. Allowing for the state exception rule to be placed within the topic that it applies to, in lieu of exception pages at the end of the manual, makes it much easier to find and understand those exceptions. This allows for the elimination of state exception pages and for the production of a complete state-based **Basic Manual** that has all the rules and classification codes in one place. Adversely, there are a few tables such as the Table of Classifications by Hazard Group, Schedule rating table, and the State Payroll Determination Formula Tables, where presenting the information for a single state was difficult. A decision was made to keep these types of tables in their current format, until a better formatting solution can be developed. Therefore, some tables include information for multiple states.

Objection 36

Pg. 150: PEO rule at top says, "These rules and definitions apply to employee leasing arrangements or professional employer organization (PEO) arrangements for voluntary market policies only." Highlighted needs to be removed.

Response 36

Exhibit 1 for the rule, Professional employer organizations (Rule ID: BM-ELTX-P765A) has been revised as requested.

Objection 37 - General

Pg. 152: The current manual contains a link to an endorsement. Will the new manual include links to the endorsements? (general question)

Response 37

NCCI is undergoing multiple stages with the transformation of our manuals. The first part of the process is to modernize our content with an emphasis on structure and format for online consumption. The PDF of the manual does not fully recreate the appearance, functionality, and features that will be available to the user of the new online version of NCCI's Texas **Basic Manual** 2021 edition next year. However, it will contain the same regulatory approved rules and information in both the PDF and the online version.

NCCI will offer different ways to view information online that will include links to rules and endorsements, search by manual, topic, bookmarks, or Alphabetical Index, and the ability to create your own bookmarks or preferences for frequently used information.

Objection 38 - General

Pg.155: Endorsements on a client policy basis. In table, for the Texas Professional Employer Organization (PEO) Client Endorsement. Change Purpose to following: Provides coverage for covered employees of the client(s) under the client policy.

Response 38

As part of our modernization effort, the use of client(s) as suggested is not part of our writing standard. NCCI has revised the rule Endorsements on a client policy basis (Rule ID: BM-ELTX-M2D88) to state, "client or clients".

Objection 39 - Hazard group

1472 – says HG change is eff 7/1/21 for TX, but doesn't appear to have changed for TX in B-1442

Response 39

Exhibit 1 has been revised to remove TX from the Hazard group A-G effective date column. TX is listed in a separate row for Code 1472 showing an effective date of 06/01/2014.

Objection 40 - Hazard group

Hazard group 4352 – says HG change is eff 7/1/21 for TX, but this code doesn't apply for TX

Response 40

Exhibit 1 has been revised to remove TX from the Hazard group A-G effective date column.

Objection 41 - Hazard group

5020 – says HG change is eff 7/1/21 for TX, but this code doesn't apply for TX

Response 41

Exhibit 1 has been revised to remove TX from the Hazard group A-G effective date column.

Objection 42 - Hazard group

5516 – says HG change is eff 7/1/21 for TX, but this code doesn't apply for TX

Response 42

Exhibit 1 has been revised to only show AK and UT in the Hazard group A-G effective date column.

Objection 43 - Hazard group

8045 – HG changed eff 7/1/21 for TX, but the right column does not show this.

Response 43

Exhibit 1 has been revised to add TX to the Hazard group A-G effective date column.

Objection 44 - Hazard group

3240 - 06/1/2004: FL, none of the other FL codes have a date. Prior form does not have date.

Response 44

Thank you for pointing out that Code 3240 for FL has the effective date in the Class Code applies in column. The 06/01/2004 date for FL is correct, and we are leaving this row as shown. In future updates to the Table of classifications by hazard group, NCCI will consider adding or removing dates for Florida, where appropriate.

In addition to your requested information in the August 16, 2021, objection letter, NCCI has identified the need to revise additional rules as indicated below.

1. The following phraseologies were included in the proposed Texas **Basic Manual** 2021 edition but are not applicable in Texas and have been removed:
 - Code 6504 Food Products Mfg. NOC
 - Code 6004 Wrecking--Marine
2. The construction symbol (●) was inadvertently not included for Code 6202 Oil or Gas Well—Drilling or Redrilling & Drivers and has been added.
3. Lines 3 and 23 of the Texas Workers Compensation Premium Algorithm (Rule ID: BM-BMPP-W0064) have been revised to change USL&H to USL&HW. This change reflects the proper short cite and is consistent with updates that were made where the Act is currently cited in the Basic Manual 2021 edition.

Finally, Revised Exhibit 1 - TX Basic Manual_9.13 and Revised Info Ex3 - TX Basic Manual Alpha Index have been submitted for your review.

Thank you for your consideration of this item. If you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Terri Robinson". The signature is written in a cursive style with a small dash above the letter 'i' in "Robinson".

Terri Robinson
Senior State Relations Executive

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September 24, 2021

David Trautman
Texas Department of Insurance
333 Guadalupe Street
Austin, TX 78701

Re: B-1444—NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance
SERFF Tracking No.: NCCI-132867551
State Tracking No.: S692689

Dear Mr. Trautman:

Thank you for your September 02, 2021 objection letter regarding the above-referenced item filing. After review and consideration, we offer the following response.

Objection 1

2501 has a mix of national and Texas phraseologies in Class Lookup.

Response 1

The state indicator code element of the **Class Look-Up** tool is designed to return whether a result is a national, state special, or state exception phraseology. In this case, it is indicating national phraseologies that apply in Texas and Texas-specific phraseologies for Code 2501.

Objection 2

4740 Gasoline Recovery & Divers - This code is now national. Used to be code 4743. When you go to Scopes Manual for 4740, it says N/A for Texas.

Response 2

NCCI has confirmed that Code 4743: Gasoline Recovery & Drivers was discontinued and replaced by Code 4740: Gasoline Recovery & Drivers per Item B-1435. Exhibit 1 is correct as proposed. NCCI will update the **Scopes® Manual** to remove the "N/A" for Texas.

Objection 3

4766 Explosives or Ammunition Mfg. & Drivers. In Class Lookup Note: Separate rate Projective or Shell Mfg as 3639. Proposed manual says 3632.

Response 3

Code 3639: Explosives or Ammunition—Projectile or Shell Mfg. & Drivers was discontinued and replaced by Code 3632: Explosives or Ammunition Mfg.—Projectile or Shell Mfg. per Item B-1435. The proposed filing corrects the phraseology note to reference Code 3632 instead of Code 3639, as Code 3639 is no longer applicable in Texas. Exhibit 1 is correct as proposed. The **Class Look-Up** tool will be updated effective 11/01/2021 to show the correct reference.

Objection 4

4902 Golf Clubs-Mfg or Assembly-Not in Class Lookup.

Response 4

Exhibit 1 has been revised to include the phraseology for Code 4902: Golf Clubs—Mfg. or Assembling as applicable in Texas. Additionally, NCCI will update the **Class Look-Up** tool to reflect that this national phraseology is applicable in Texas.

Objection 5

4279 Dress Pattern Mfg-Paper-Not in Class Lookup.

Response 5

Exhibit 1 is correct as proposed to show Code 4279: Dress Pattern Mfg.—Paper as applicable in Texas. Code 4282: Dress Pattern Mfg.—Paper was discontinued and replaced by Code 4279: Dress Pattern Mfg.—Paper per Item B-1435. NCCI will update the **Class Look-Up** tool to reflect that this national phraseology is applicable in Texas.

Objection 6

6003 Wrecking—Marine-Not in Class Lookup.

Response 6

Code 6003: Wrecking—Marine was unintentionally included in Item B-1444, as it is not applicable in Texas. Exhibit 1 has been revised to remove this phraseology.

Objection 7

6237 Oil or Gas Well--Instrument Logging, Radio Activity, or Survey Work in Wells & Drivers Class Lookup has "Code 6202 is not assigned at the same job or location to which Code 6237 applies."

New Manual - Code 6202 must not be assigned at the same job or location where Code 6206 applies. Looked at B-1438 and wording shows code 6237 and not 6206.

Response 7

Exhibit 1 has been revised for Code 6237: Oil or Gas Well—Instrument Logging, Radio Activity, or Survey Work in Wells & Drivers to replace Code 6206 with Code 6237 in the phraseology note.

Objection 8

6306 Caisson Work--All Operations to Completion & Drivers: Proposed manual applies the "up to completion of the substructure only" to all four items, whereas perhaps it was only meant for concrete work

Response 8

The current phraseology note wording states, "Includes pile driving, excavation, masonry, or concrete work up to completion of the substructure only."

The proposed phraseology note wording states, "This phraseology includes the following operations up to completion of the substructure only: (a) concrete work, (b) excavation, (c) masonry, and (d) pile driving."

The transformed wording is correct in that the wording applies to all four operations and should be maintained as proposed. The operations described are all components of caisson work and are to be included up to the completion of the substructure only.

Objection 9

6306 Cofferdam Work--All Operations to Completion & Drivers: Proposed manual applies the "up to completion of the substructure only" to all four items, whereas perhaps it was only meant for concrete work

Response 9

The current phraseology note wording states, "Includes pile driving, excavation, masonry, or concrete work up to completion of the substructure only."

The proposed phraseology note wording states, "This phraseology includes the following operations up to completion of the substructure only: (a) concrete work, (b) excavation, (c) masonry, and (d) pile driving."

The transformed wording is correct in that the wording applies to all four operations and should be maintained as proposed. The operations described are all components of cofferdam work and are to be included up to the completion of the substructure only.

Objection 10

6504 Food Products Mfg. NOC: This phraseology and notes are not in the Class Lookup tool

Response 10

Code 6504: Food Products Mfg. NOC was unintentionally included in Item B-1444, as it is not applicable in Texas. Exhibit 1 has been revised to remove this phraseology.

Objection 11

6843 Ship Building--Iron or Steel--NOC & Drivers: Think a) and c) go together (all yard operation and shops directly connected with the construction of hull.)

Response 11

The current phraseology note wording states, "Includes fabrication or assembling of ship plates or frames, all yard operations and shops directly connected with the construction of hull."

The proposed phraseology note wording states, "This phraseology includes (a) all yard operations, (b) assembly or fabrication of ship frames or plates, and (c) shops directly connected with the construction of hulls."

The transformed wording is correct in that the wording applies to all three operations and should be maintained as proposed. The operations described are all components of ship building. Shops and yards are listed separately because employers may have either of these components or both.

Objection 12

7225 Automobile Towing & Drivers: It appears the proposed manual changed the meaning here. The current phraseology does not seem to indicate that auto recovery or repossession companies provide towing, roadside service, or repairs

Response 12

The current phraseology note wording states, "Includes towing or wrecker companies, road rangers, or freeway patrol companies providing towing, roadside service, or repairs, and automobile recovery or repossession companies. Includes mechanics and the operation of an impound lot operated by a towing company."

The proposed phraseology note wording states, " (a) automobile recovery or repossession companies, (b) freeway patrol companies, (c) road rangers, and (d) towing or wrecker companies.

Services provided

Employers included in this phraseology provide services such as

- automobile recovery or repossession
- repair
- roadside service, or
- towing.

Included operations

This phraseology includes mechanics and the operation of impound lots by a towing company."

Auto recovery or repossession companies are included in this phraseology note. The intent of the "Services provided" sub-block is only to explain services that may be provided by employers classified to this phraseology. If a recovery or repossession operation also performed roadside assistance, they would still be classified to Code 7225.

The transformed wording is correct and should be maintained as proposed. The nature of automobile recovery or repossession companies' operations involves towing, so the list of "Services provided" is accurate and consistent with the original manual language. The "Services

provided" list is not an all-inclusive list, and some services may not be provided by auto recovery or repossession companies.

Objection 13

7610 Motion Picture--Production--In Studios or Outside--All Operations & Clerical, Drivers: "Digital marketing" should be "digital media processing"

Response 13

Exhibit 1 has been revised for Code 7610: Motion Picture—Production—In Studios or Outside—All Operations & Clerical, Drivers to change "Digital marketing" to "digital media processing" in the phraseology note.

Objection 14

7855 Railroad Construction--Laying or Relaying of Tracks or Maintenance of Way by Contractor--No Work on Elevated Railroads & Drivers: The phraseology note in the Class Lookup tool is not in the proposed manual

Response 14

Exhibit 1 is correct as proposed to show Code 7855: Railroad Construction—Laying or Relaying of Tracks or Maintenance of Way by Contractor—No Work on Elevated Railroads & Drivers with no note. Per FYI-CW-2014-06, Texas retained its state exception to this phraseology, which does not have a phraseology note. The **Class Look-Up** tool will be updated to remove the national phraseology as applicable in Texas.

Objection 15

8017 Store--Five and Ten Cent--Retail & Drivers: The proposed manual includes much more phraseology notes than the Class Lookup tool

Response 15

Texas has two different phraseologies applicable to five and ten cent stores assigned to Code 8017. They are

- Code 8017: Store—Five and Ten Cent—Retail & Drivers, and
- Code 8017: Five and Ten Cent Store—Retail & Drivers.

For consistency, Exhibit 1 is proposing that the phraseology note for Code 8017: Store—Five and Ten Cent—Retail & Drivers be updated to match the phraseology note for Code 8017: Five and Ten Cent Store—Retail & Drivers.

Objection 16

8058 Store--Home Improvement--Store Employees: There is a random "scope" included at the end of the note

Response 16

Exhibit 1 has been revised to remove the word "Scope" from the phraseology for Code 8058: Store—Home Improvement—Store Employees.

Objection 17

8720 We are unable to locate certain phraseologies in the Class Lookup for this code.

The following phraseologies were removed from codes 4511 and 8742 and reassigned to 8720 based on Commissioners Order 2020-6625 for B-1439:

- Racetrack Operation-Horse-Officials & Stewards;
- Boiler Inspection;
- Elevator Inspection;
- Marine Appraiser or Surveyor;
- Inspection of Risk for Insurance or Valuation Purposes NOC-Visual Inspection Only;
- Insurance Claim Adjusters-Outside; and
- Claim Adjusters or Special Agents -Insurance Company-Outside

8720 Construction--Job Site Salespersons and Estimators is in the Class Lookup for Texas three times.

8720 Racetrack Operation—Horse or Dog—Racing Officials Other Than Starters or Their Assistants. Not finding this phraseology previously in Texas. Did we take on national phraseology when Racetrack Operation-Horse-Officials & Stewards was reassigned to 8720?

Response 17

NCCI's interpretation of Commissioners Order 2020-6625 for B-1439 is that the phraseologies in question were eliminated and the appropriate national phraseologies and filed notes were approved in Texas for those exposures. The **Class Look-Up** tool will be updated accordingly to reflect the appropriate phraseologies and assignments.

Thank you for your consideration of this item. If you have further questions, please do not hesitate to contact me.

Sincerely,



Terri Robinson
Senior State Relations Executive



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October 19, 2021

Nicole Elliott
Texas Department of Insurance
333 Guadalupe Street
Austin, TX 78701

Re: B-1444—NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance for Texas
SERFF Tracking No.: NCCI-132867551
State Tracking No.: S692689

Dear Ms. Elliott:

Thank you for your October 01, 2021 objection letter regarding the above-referenced item filing. After review and consideration, we offer the following response.

Objection 1

Code 4360 was discontinued in Texas effective 7/01/2021 as part of Item B-1437. We acknowledge that it does not impact this filing, but what is the plan for removing this code from the Miscellaneous Values pages going forward?

Response 1

The current process is to put a dash (-) in the Loss Cost column for classification codes that no longer apply in a state. After six years, the code is removed. This process will continue for the Miscellaneous Values provided in the the proposed **Basic Manual**.

Objection 2

Regarding the waiver of subrogation, the previous objection response stated that "Specific, Named" was changed to "specific (named) basis." However, the manual was actually changed to "specific (named basis)." Please change it to "specific (named) basis" as indicated in the response, and because this is the way it currently appears in the manual.

Response 2

Exhibit 1 for the rule, Rules for charging premium for the Waiver of Our Right To Recover from Others Endorsement (waiver of subrogation) (Rule ID: BM-WAIV-R3682) has been revised to change specific (named basis) to specific (named) basis.

Objection 3

With regard to the State Payroll Determination Formulas Tables and the Schedule Rating section, we acknowledge that presenting the information for a single state is difficult, but in these two cases, it would seem more clear to remove the other states' information.

For the State Payroll Determination Formulas Tables, the main referenced code in Table 2 (7370) does not apply in Texas, so it would seem more clear to only show the formula and class code for Texas.

For schedule rating, the table says "See Texas Schedule Rating Special Rules," but it is unclear what the "Texas Schedule Rating Special Rules" are. It would seem more clear to remove the table and add the max modification of +/- 40% to the "Rate filing requirements" above.

Response 3

Exhibit 1 has been revised to create Texas-only tables for the rule, State payroll determination formulas table 1—partners/sole proprietor and executive officer (Rule ID: BM-MEMS-SAB44). Additionally, Exhibit 1 has been revised for the schedule rating rules as follows:

- Schedule Rating Plan eligibility (Rule ID: BM-SCHR-S6B7B) has been revised to include the eligibility requirements for Texas to state, "To be eligible for the Schedule Rating Plan, employers must generate estimated annual premium greater than the classification minimum premium."
- Maximum amount of the schedule rating factor (Rule ID: BM-SCHR-M31E4) has been revised to include the maximum modification amount for Texas to state, "The amount of the schedule rating factor is subject to a maximum modification of +/- 40%."
- Schedule rating (Rule ID: BM-SCHR-SBA78) was revised to remove the capitalization from Schedule Rating Table as the table would be filed by the carrier and is not an NCCI rule.
- Schedule rating table (Rule ID: BM-SCHR-S34BE) has been deleted as the rules are now incorporated into various topics.

Objection 4

Premium Algorithm, Line 19:

- a. Explanatory Notes, please add a closing parenthesis after the number 18" and remove it after "%."
- b. Please remove "small" from line 19.

We disagree with the responses submitted September 14, 2021 stating that "the rules in NCCI's Basic Manual are applicable to small deductible programs and are not applicable for large deductible programs...if a carrier chose to make a carrier independent filing for large deductible rules, the carrier would indicate the proper algorithm placement for how the large deductible credit would be determined."

The basic manual rules apply to both small and large deductibles (or rather deductibles and negotiated deductibles). These rules don't allow carriers to file large deductible rules - they allow for the carrier and the employer to negotiate the amount of the deductible credit and determine the terms and conditions of the deductible.

The basic manual rules also don't allow any alteration to the premium algorithm, or offer any line in the algorithm for independent carrier specific items. Line 19 is to report the deductible credit for all deductibles, otherwise there would be no place for a carrier to report the credit for a large deductible, and to track this data. We presume this is how the Stat Plan captures this currently.

The relevant basic manual rules are:

- Any carrier desiring to include a negotiated deductible in a Texas workers compensation policy must file its form of endorsement with the Department for approval prior to use. A copy of the negotiated deductible endorsement reflecting the terms and conditions negotiated by the carrier and the policyholder must be attached to the policy.
- The election of a deductible option by a policyholder results in a premium credit being applied against the Texas portion of the policy premium in accordance with the Texas Workers Compensation Premium Algorithm.
- The amount of deductible credit for the negotiated deductible must be the amount agreed upon by the carrier and the policyholder.

Response 4

Line 19 in Exhibit 1 of the Texas Workers Compensation Premium Algorithm (Rule ID: BM-BMPP-W0064) has been revised to:

- add a closing parenthesis after the number "18" and remove a closing parenthesis after "%", and
- remove "small" from line 19.

Objection 5

Texas Deductible Insurance

NOTE: In our previous objection 22a, we were incorrect in stating "This is significantly different from what is currently stated in this rule and seems to be an interpretation of the statute. We have not applied the statute in this way and have allowed aggregate large deductibles."

Nevertheless, we have some remaining issues with this rule section:

a. Please remove everything on page 97 starting with For purposes of these two types of deductible coverages and ending with terms negotiated between the employer and carrier.

This information is not presented this way in the current manual and adds confusion. There are only two deductible options the promulgated deductibles and the negotiated deductible.

b. In the Rule for negotiated deductible eligibility, first bullet point, it is confusing to use the phrase "deductible plan because deductible plan is not used or defined anywhere.

c. The Deductible coverage policy premium credit section does not exactly line up with the current manual.

- The following sentences exist in the current manual but not in the proposed manual, and their omission causes confusion: The election of a deductible option by a policyholder results in a premium credit being applied against the Texas portion of the policy premium in accordance

with the Texas Workers Compensation Premium Algorithm and The carrier will determine the policy premium credit for the deductible coverage and apply that credit to the policy premium.

- These sentences appear in the proposed manual, but are not the same as what is in the current manual, and make it seem like there is no place in the premium algorithm for negotiated deductibles: Using the appropriate LER, apply the premium credit percentage to total Texas premium as detailed in the Texas Workers Compensation Premium Algorithm and The premium credit is reported in accordance with the appropriate NCCI data reporting manuals.

Please rewrite this section so that it aligns with the current rules.

Response 5

a. Content from page 97 was removed, per your request. The rule, Types of deductible coverage (Rule ID: BM-TXPP-TE192), appears on page 91.

b. The word "plan" has been removed from the Rule for negotiated deductible eligibility (Rule ID: BM-TXPP-RC175), per your request.

c. The indicated sentences exist in the proposed manual under the rules, Rule for applying the premium credit (Rule ID: BM-TXPP-D9E92) and Rule for use of advisory loss elimination ratio (LER) (Rule ID: BM-TXPP-R11DA). NCCI has revised Exhibit 1 for the indicated rules to further clarify their application to avoid confusion on how the rules are applied.

The proposed Rule for applying the premium credit (Rule ID: BM-TXPP-D9E92) has been revised per the information provided in the first bullet of the objection. The proposed rule, Reporting the premium credit (Rule ID: BM-TXPP-R5482), was added to the deductible rules based on NCCI's analysis of all of the various state deductible rules to provide consistent rules where possible for carriers when reporting the deductible rules.

The proposed rule, Rule for determining the credit for negotiated deductible (Rule ID: BM-TXPP-T64CB), provides the rules regarding the negotiated deductible option. This is consistent with how the current deductible rules are written. Additionally, the algorithm was revised based on interrogatory #4b to remove the word "small". Removal of the word "small" further supports that the algorithm could be used for the negotiated deductible.

Thank you for your consideration of this item. If you have further questions, please do not hesitate to contact me.

Sincerely,



Terri Robinson
Senior State Relations Executive