



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-5065
615-741-6007

BILL HASLAM
GOVERNOR

JULIE MIX McPEAK
COMMISSIONER

October 14, 2013

Honorable David Lillard, Jr., Chair
Tennessee Workers' Compensation Advisory Council
Treasurer, State of Tennessee
State Capitol, First Floor
Nashville, TN 37243-0225

Dear Chairman Lillard:

Tenn. Code Ann. §50-6-402(d) requires that the Commissioner of Commerce and Insurance report to the Workers' Compensation Advisory Council regarding all workers' compensation filings made by the designated rate service organization and received by this Department.

Attached to this letter, please find a summary of all NCCI filings made in Tennessee for the period July 1, 2013 through September 30, 2013. This Department appreciates the role that the Workers' Compensation Advisory Council provides in the area of workers' compensation regulation.

Should you or any member have questions or comments concerning this report, please do not hesitate in contacting me or a member of my staff.

Sincerely,

Julie Mix McPeak
Commissioner

JMM/ms

RECEIVED
DEPARTMENT OF COMMERCE AND INSURANCE
NASHVILLE, TENNESSEE
OCT 15 2013

RECEIVED
OCT 15 2013

NCCI Filing Activity Report:
Summary as of September 30, 2013
(includes filings received July 1, 2013 and later)

1. Item P-1410 — Establishment of Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Reauthorization Program Act of 2007

Filed: July 3, 2013

Proposed Effective Date: January 1, 2014

Status: Approved July 24, 2013

Summary of Filing (see copy of Filing Memorandum and endorsement for more details)

“In the absence of US congressional action to extend, update, or otherwise reauthorize Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in whole or in part, TRIPRA is scheduled to expire on December 31, 2014.” Due to the uncertainty of congressional action regarding TRIPRA, considering the exposure to acts of terrorism remains, NCCI is establishing an endorsement that carriers can use in the event TRIPRA expires.

“This item establishes the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Act of 2007 (WC 00 01 14) in NCCI’s **Forms Manual**. It conveys information that if TRIPRA expires, the premium amount charged for terrorism exposures “may continue or change for new, renewal, and in-force policies in effect on or after December 31, 2014.”¹

2. Item P-1411 — Revisions to Forms Manual of Workers’ Compensation and Employers Liability Insurance

Filed: September 20, 2013

¹ Item P-1410 FILING MEMORANDUM

Proposed Effective Date: January 1, 2015

Status: Approved September 24, 2013

Summary of Filing (see copy of Filing Memorandum for more details)

This item is a companion filing to B-1426. It revises Federal Coal Mine Safety and Health Act references included in rules from various NCCI manuals, "discontinues the per passenger seat surcharge, and excludes fully fraudulent and/or noncompensable claims from the definition of incurred losses used for retrospective rating."²

The basic policy form and several endorsements include some references to the Federal Coal Mine Safety and Health Act. Such references must be updated to conform with the name of the Federal Mine Safety and Health Act. In addition, the formatting of certain statutory citations in the policy form along with a limited number of endorsements must be updated.

Per passenger seat surcharge discontinued along with corresponding statistical codes.

As a result of a US Supreme Court decision, revisions to the policy and Maritime Coverage Endorsement must be made relating to punitive damages awarded for the employer's willful withholding of maintenance and cure.

Item B-1426 proposes to revise the definition of incurred losses used in retrospective rating. To accommodate this, as well as to update Federal Mine Safety and Health Act references, new procedures call for excluding fraudulent and /or noncomprehensible losses from incurred losses. Effective January 1, 2015, references in several national and state-specific endorsements are being revised to align with this rule.

There is a need to make a minor grammatical correction – the word "for" is replaced by "and" -- on several state-specific and national multiline retrospective endorsements.

With respect to rule 4, the policy number reference must be revised to include the updated policy number.

3. Item B-1426 — Update Federal Mine Safety and Health Act References; Discontinue Per Passenger Seat Surcharge; Exclude Fraudulent and/or Noncompensable Losses from Incurred Losses

Filed: September 20, 2013

² Item P-1411 FILING MEMORANDUM

Proposed Effective Date: January 1, 2015

Status: Approved September 24, 2103

Summary of Filing (see copy of Filing Memorandum for more details)

The following manuals are impacted by this filing:

- Basic Manual for Workers Compensation and Employers Liability Insurance
- Experience Rating Plan Manual
- Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance
- Statistical Plan for Workers Compensation and Employers Liability Insurance

Item B-1426 addresses manual page changes corresponding to the forms manual changes identified by P-1411 above:

- Due to changes in the Federal Coal Mine Safety and Health Acts, revises certain references.
- Per passenger seat surcharge discontinued along with corresponding statistical codes. Currently a \$100 per passenger seat surcharge (\$1,000 maximum) applies to aviation exposures. Reasons for discontinuance include:
 - In recent years, only a minimal amount of premium has been reported
 - Aircraft losses are rare and after-effects uncertain
 - Large loss procedures and catastrophe provisions are now in place to address such losses
 - Surcharges don't address situations where a separate legal entity has been established solely for the aircraft exposure

With the elimination of the surcharge, aircraft losses will be included in the experience used to calculate the experience modification. A two year lag will exist between the effective date of the elimination of the seat surcharge and aircraft losses being incorporated in the loss costs experience and experience ratings

- "Incurred losses" defined in the Retrospective rating plan formula are being amended to exclude fully fraudulent and/or noncompensable claims
- Endorsement number references are being removed from NCCI's Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance

FILING MEMORANDUM

ITEM P-1410—ESTABLISHMENT OF NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

PURPOSE

This item establishes the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2007 (WC 00 01 14), to be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)*.

BACKGROUND

The Terrorism Risk Insurance Act (TRIA) took effect on November 26, 2002. It provided a temporary program under which the federal government would share in the payment of insured losses caused by certain acts of terrorism. It was renewed as the Terrorism Risk Insurance Extension Act (TRIEA) in 2005, and as the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in 2007. In the absence of US Congressional action to extend, update, or otherwise reauthorize TRIPRA in whole or in part, TRIPRA is scheduled to expire on December 31, 2014.

It is unknown at this time whether Congress will take action regarding TRIPRA. Exposure to acts of terrorism remains. Therefore, NCCI is establishing an endorsement for carriers to use in the event of TRIPRA's expiration.

PROPOSAL

This item establishes the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2007 (WC 00 01 14) in NCCI's *Forms Manual*. The purpose of this endorsement is to notify policyholders of the impending expiration of TRIPRA and that, if it expires, a premium charge for losses that may occur in the event of certain acts of terrorism may either continue to apply or change from the amount currently applied.

While the use of this endorsement will be optional for voluntary carriers, it will be mandatory for assigned carriers in NCCI Plan-administered states where it receives regulatory approval. The continued application of the premium charged by carriers for terrorism will be subject to regulatory review in accordance with the applicable state law.

IMPACT

The premium charge for coverage that a standard workers compensation and employers liability policy provides for terrorism or war losses is shown in Item 4 of the policy information Page or the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A) Schedule that is attached to the policy. In the event of TRIPRA's expiration, this amount may continue or change for new, renewal, and in-force policies in effect on or after December 31, 2014.

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

**ITEM P-1410—ESTABLISHMENT OF NOTIFICATION ENDORSEMENT OF PENDING LAW
CHANGE TO TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007**

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

Exhibit	Exhibit Comments	Implementation Summary
1	<p>Displays the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2007 (WC 00 01 14), to be located in NCCI's <i>Forms Manual</i></p> <p>Note: While the use of this endorsement will be optional for voluntary carriers, it will be mandatory for assigned carriers in NCCI Plan-administered states where it has received regulatory approval.</p>	<ul style="list-style-type: none">• To become effective for new, renewal, and in-force voluntary and assigned risk policies effective on and after 12:01 a.m. on January 1, 2014• In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

ITEM P-1411—REVISIONS TO FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

PURPOSE

This item revises NCCI's Workers Compensation and Employers Liability Insurance Policy (Policy) as well as several national and state-specific endorsements in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)*.

Additionally, this item revises *Forms Manual* Rule 4—Form/Endorsement Numbering System (General Information) to update the Policy and Information Page number references.

BACKGROUND

NCCI has identified the following items in the *Forms Manual* that require changes:

1. The Policy (WC 00 00 00 B) and several endorsements include references to the Federal Coal Mine Safety and Health Act. These references must be updated to conform with the name of the current Act, which is the Federal Mine Safety and Health Act (Act). The name of the current Act became effective with the enactment of the Federal Mine Safety and Health Act of 1977, which amended the Federal Coal Mine Health and Safety Act of 1969.
2. The formatting of certain statutory citations in the Policy form and a limited number of endorsements must be updated.
3. Revisions to the Policy (WC 00 00 00 B) and Maritime Coverage Endorsement (WC 00 02 01 A) must be made as a result of a United States Supreme Court decision (*Atlantic Sounding Co., Inc. et al. v. Townsend*, 557 U.S. 404, 2009), related to punitive damages awarded for the employer's willful withholding of maintenance and cure.
 - The Policy, Part Two, C.10, excludes bodily injury to a master or member of the crew of any vessel. This exclusion must be revised to also exclude punitive damages related to the policyholder's duty to provide transportation, wages, maintenance, and cure.
 - The Maritime Coverage Endorsement must be amended to add language that excludes punitive damages related to the employer's transportation, wages, maintenance, and cure obligation, regardless of whether premium is paid for such coverage.
4. As a result of the proposal to discontinue the per passenger seat surcharge in Item B-1426—Update Federal Mine Safety and Health Act References; Discontinue per Passenger Seat Surcharge; Exclude Fraudulent and/or Noncompensable Losses From Incurred Losses, effective January 1, 2015, references to the per passenger seat surcharge must be removed from several endorsements, and the Aircraft Premium Endorsement (WC 00 04 01 A) must be withdrawn. Currently, the per passenger seat surcharge is applied to policies with Code 7421—Aircraft or Helicopter Operation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew. The Aircraft Premium Endorsement is attached to policies with Code 7421 and shows the additional premium required for Code 7421 resulting from the application of the per passenger seat surcharge.
5. As a result of the proposal to revise the definition of incurred losses used for retrospective rating in Item B-1426—Update Federal Mine Safety and Health Act References; Discontinue per Passenger Seat Surcharge; Exclude Fraudulent and/or Noncompensable Losses From Incurred Losses, effective

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

ITEM P-1411—REVISIONS TO FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

January 1, 2015, references in several national and state-specific endorsements are being revised to be consistent with the rule.

6. A minor grammatical revision is necessary on several national and state-specific endorsements that are used on retrospectively rated multiline policies; the word "for" is replaced by "and."
7. The Policy number reference currently included in Rule 4 must be revised to include the updated Policy number. In addition, the endorsement number reference included in the Rhode Island Short Rate Cancellation Endorsement must be removed to avoid the need to update this information due to future revisions.

PROPOSAL

This item revises the Policy, endorsements, and Rule 4, located in NCCI's *Forms Manual*.

This item is being filed in conjunction with Item B-1426. Item B-1426 proposes to revise Act references included in rules from various NCCI manuals, discontinue the per passenger seat surcharge, and exclude fully fraudulent and/or noncompensable claims from the definition of incurred losses used for retrospective rating. Items B-1426 and P-1411 should be adopted concurrently.

IMPACT

No premium impact is expected as a result of the proposed updates to NCCI's *Forms Manual*.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

In all states except Hawaii, this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2015.

In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

Exhibit	Current Endorsement Number and Name	Revised Endorsement Number
1	Rule 4—Form/Endorsement Numbering System	N/A
2	<ul style="list-style-type: none"> • WC 00 00 00 B—Workers Compensation and Employers Liability Insurance Policy, Part Two—Employers Liability Insurance • The entire Workers Compensation and Employers Liability Insurance Policy (WC 00 00 00 B) is proposed to be revised • While only Part Two of the Policy requires an update, all of the parts of the Policy require a revision to the number, becoming the "C" version (WC 00 00 00 C) 	WC 00 00 00 C
3	WC 00 00 01 A—Information Page Notes	WC 00 00 01 B

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

PURPOSE

This item:

- Revises references to the Federal Coal Mine Safety and Health Act
- Discontinues the per passenger seat surcharge and its corresponding statistical codes
- Excludes fully fraudulent and/or noncompensable claims from the definition of incurred losses in the retrospective rating plan formula and the Loss Sensitive Rating Plan (LSRP) formula
- Removes endorsement number references included in NCCI's *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual)*

The following NCCI manuals are impacted by this item:

- *Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)*
- *Experience Rating Plan Manual*
- *Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Retrospective Rating Plan Manual)*
- *Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)*

BACKGROUND

Federal Mine Safety and Health Act

NCCI's *Basic Manual*, *Retrospective Rating Plan Manual*, and *Statistical Plan* contain several rules that reference the Federal Coal Mine Safety and Health Act. These references must be updated to conform with the current name, which is the Federal Mine Safety and Health Act (Act). The name of the current Act became effective with the enactment of the Federal Mine Safety and Health Act of 1977, which amended the Federal Coal Mine Health and Safety Act of 1969.

Additionally, NCCI's *Experience Rating Plan Manual* Rule 1-B contains the specific number reference to NCCI's Workers Compensation and Employers Liability Insurance Policy (Policy) and the Policy Period Endorsement. To avoid the need for a national filing to update NCCI's *Experience Rating Plan Manual* each time the Policy and/or endorsement number is revised, NCCI is removing the number reference from the rule content.

Per Passenger Seat Surcharge

The per passenger seat surcharge was established in 1947, concurrent with the introduction of Classification Code 7421—Aircraft or Helicopter Operation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew. The purpose of the per passenger seat surcharge is to provide a catastrophe load for the exposure of an insured's employees (other than flight crew) who may be injured while passengers on the insured's noncommercial, nonscheduled aircraft. The surcharge is applied to policies with Classification Code 7421 and must be charged in addition to the premium otherwise determined under Classification Code 7421. At its inception, the surcharge was \$35 per passenger seat, subject to a maximum of \$300 per aircraft. Currently, the per passenger seat surcharge is \$100 per passenger seat, subject to a maximum of

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

\$1,000 per aircraft. Kansas, Oklahoma, and Virginia continue to apply a surcharge of \$35 per passenger seat, subject to a maximum of \$300 per aircraft.

For all states other than Arizona and Virginia, the per passenger seat surcharge and any associated losses are reported under Statistical Code 9108—Aircraft Operation for Reporting Passenger Seat Surcharge and Crash Losses to Employees Other Than Members of Crew. The premium reported to Statistical Code 9108 is not subject to experience rating; the losses reported to Statistical Code 9108 are not used in the experience rating calculation.

The per passenger seat surcharge is not applicable in Arizona.

For Virginia, the per passenger seat surcharge and any associated losses are reported under Statistical Code 0088—Aircraft Operation for Reporting Passenger Seat Surcharge and Crash Losses to Employees Other Than Members of Crew. While the losses reported to Statistical Code 0088 are not used in the experience rating calculation, the premium reported to Statistical Code 0088 is subject to experience rating.

Aircraft losses have historically been reported to Statistical Codes 0088 and 9108, which are excluded from NCCI's ratemaking. Since the per passenger seat surcharge was introduced, large loss procedures have been incorporated in both NCCI's experience rating and ratemaking procedures to temper the impact of single large loss claims and multi-claim occurrences.

In class ratemaking, individual claims are limited to \$500,000 and multi-claim occurrences are limited to \$1,500,000 with excess losses accounted for through the application of excess provisions incorporated in the ratemaking process. Claim limits vary by state for aggregate ratemaking and can be found in the technical supplement that accompanies each state's loss cost or rate filing.

Individual claims and multi-claim occurrences are also limited for purposes of calculating experience rating modifications. These limits are shown in each state's table of weighting values located in NCCI's *Experience Rating Plan Manual*. Catastrophe losses are also excluded from experience rating per Rule 1-C-3 of NCCI's *Experience Rating Plan Manual*.

The per passenger seat surcharge will be discontinued for the following reasons:

- In recent years, a minimal amount of premium has been reported under Statistical Codes 9108 and 0088
- Aircraft loss events are rare and the outcomes are uncertain
- Aircraft losses should be included in ratemaking since a large loss procedure and catastrophe provisions are now in place
- The per passenger seat surcharge does not address situations in which the insured has a separate legal entity solely for the aircraft exposure

Also, NCCI has identified another change unrelated to the per passenger seat surcharge issue. The footnote for the Total Standard Premium element in various state workers compensation premium algorithms provided in NCCI's *Basic Manual* has no direct relationship to the premium algorithm calculation; therefore, the footnote is being removed if shown in a state algorithm.

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

Exclusion of Fully Fraudulent and/or Noncompensable Claims From Retrospective Rating and LSRP

Retrospective rating adjusts policy premium on the basis of incurred losses during the term of the policy. Incurred losses are defined in NCCI's *Statistical Plan* and include paid and outstanding losses. NCCI has determined that fully fraudulent claims, as defined in NCCI's *Statistical Plan* Part 6-P, and/or noncompensable claims, as defined in NCCI's *Statistical Plan* Part 6-K-5, should be excluded from the incurred losses used in retrospective rating and LSRP (where applicable). Currently, fully fraudulent and/or noncompensable claims are excluded and will continue to be excluded from experience rating when reported in accordance with NCCI's *Statistical Plan*. The exclusion of these types of claims from retrospective rating and LSRP will be consistent with the exclusion of these types of claims for experience rating purposes.

PROPOSAL

Federal Mine Safety and Health Act

It is proposed that the following list of national rules be revised to properly reference the Federal Mine Safety and Health Act. Revisions to state-specific rules are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rules 3-A-12-a, 3-A-20, 4-C-5-c(12)(b), and 4-C-9-f
- NCCI's *Retrospective Rating Plan Manual* Rules 1-B-1-c and 1-B-1-f
- NCCI's *Statistical Plan* Parts 1-L-2, 6-G, and 6-K-1

In addition, it is proposed that NCCI's *Experience Rating Plan Manual* Rule 1-B be revised to remove the number references to the Policy and the Policy Period Endorsement.

Per Passenger Seat Surcharge

It is proposed that the following list of national rules be revised to discontinue the per passenger seat surcharge. Revisions to state-specific rules and workers compensation premium algorithms are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rules 3-A-20, 4-C-5-c(12)(b), and 4-C-9-f
- NCCI's *Basic Manual* Part Two—Classifications—Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew
- NCCI's *Retrospective Rating Plan Manual* Rules 1-B-1-c and 1-B-1-f
- NCCI's *Statistical Plan* Parts 3-F-2-b and 4-E-1-f(2)(a)
- NCCI's *Statistical Plan* Part 6-H-2 for Statistical Code 9108—Aircraft Operation—Passenger Seat Surcharge

The per passenger seat surcharge will be eliminated from the Miscellaneous Values pages of NCCI's *Basic Manual* effective January 1, 2015, for states where this item has received regulatory approval.

Exclusion of Fully Fraudulent and/or Noncompensable Claims From Retrospective Rating and LSRP

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES; DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR NONCOMPENSABLE LOSSES FROM INCURRED LOSSES

It is proposed that fully fraudulent and/or noncompensable claims, as defined in NCCI's *Statistical Plan* Parts 6-P and 6-K-5, be excluded from the definition of the incurred losses used for retrospective rating and LSRP. It is also proposed to revise the description of other types of losses currently excluded from incurred losses used for retrospective rating. These revisions to NCCI's *Retrospective Rating Plan Manual* Rule 1-B-1-c do not change the intent of the rule. Accordingly, it is proposed that the following list of national rules be revised. Revisions to state-specific rules are described in the Exhibit Comments and Implementation Summary section of this item.

- NCCI's *Basic Manual* Rule 4-C-9-f
- NCCI's *Retrospective Rating Plan Manual* Rule 1-B-1-c

Note: Item B-1426 is being filed in conjunction with Item P-1411—Revisions to Forms Manual of Workers Compensation and Employers Liability Insurance. Item P-1411 proposes to revise references to the Federal Coal Mine Safety and Health Act, discontinue references to the per passenger seat surcharge, and revise references to fully fraudulent and noncompensable claims included in retrospective rating and the Loss Sensitive Rating Program (LSRP) in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*. Items P-1411 and B-1426 should be adopted concurrently.

IMPACT

Federal Mine Safety and Health Act

No premium impact is expected as a result of any of the changes proposed in this item related to updating references to the Federal Coal Mine Safety and Health Act or removing endorsement number references from Rule 1-B of NCCI's *Experience Rating Plan Manual*.

Per Passenger Seat Surcharge

The amount of statewide premium affected by this change is expected to be negligible.

To implement the elimination of the per passenger seat surcharge, the surcharge premium will no longer be collected and aircraft losses will begin to be reported to the applicable classification code, instead of a statistical code (Statistical Code 9108/0088), concurrent with the elimination of the surcharge. All else being equal, this will initially cause a slight decrease in premium.

In addition, the aircraft losses will be included in the experience used to calculate a risk's experience rating modification. This would create an approximate two-year time lag between the effective date of the elimination of the surcharge and the date that the aircraft losses would be incorporated into future loss costs/rates and experience rating modifications. All else being equal, this will cause a slight increase in premium in approximately two years.

While aircraft losses would be included in a risk's experience rating modification, these losses would be subject to the single-claim and multiple-claim loss limitations. For ratemaking, these losses would be subject to the large loss procedure. This procedure was not in place when the per passenger seat surcharge was introduced in 1947.

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.

FILING MEMORANDUM

**ITEM B-1426—UPDATE FEDERAL MINE SAFETY AND HEALTH ACT REFERENCES;
 DISCONTINUE PER PASSENGER SEAT SURCHARGE; EXCLUDE FRAUDULENT AND/OR
 NONCOMPENSABLE LOSSES FROM INCURRED LOSSES**

Exclusion of Fully Fraudulent and Noncompensable Claims from Retrospective Rating and LSRP

The amount of statewide premium affected by this change is expected to be negligible.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

In all states except Hawaii, this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2015.

In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

Exhibit	Exhibit Comments	Implementation Summary
1	<ul style="list-style-type: none"> Includes the proposed national revisions to Rule 3-A-12-a Refer to Exhibit 16 for NC State Rule Exception for Rule 3-A-12-c Refer to Exhibit 16 for VA State Rule Exception for Rule 3-A-12 Not recommended in MA, MN, TX, WI 	Revises NCCI's <i>Basic Manual</i> .
2	<ul style="list-style-type: none"> Includes the proposed national revisions to Rule 3-A-20 Refer to Exhibit 18 for VA State Rule Exception for Rule 3-A-20 Not recommended in MA, MN, TX, WI 	
3	<ul style="list-style-type: none"> Includes the proposed national revisions to Rule 4-C-5-c(12)(b) Applicable only to assigned risk policies in AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS, NC, NH, NV, OR, SC, SD, VT, WV 	
4	<ul style="list-style-type: none"> Includes the proposed national revisions to Rule 4-C-9-f Applicable only to assigned risk policies in AL, AZ, CT, DC, GA, ID, IL, IN, KS, MS, NC, NH, NV, OR, SC, SD, VT, WV 	
5	<ul style="list-style-type: none"> Includes the proposed national revisions to Part Two—Classifications—Code 7421—Aviation—Transportation of Personnel 	

The enclosed materials are copyrighted materials of the National Council on Compensation Insurance, Inc. ("NCCI"). The use of these materials may be governed by a separate contractual agreement between NCCI and its licensees such as an affiliation agreement between you and NCCI. Unless permitted by NCCI, you may not copy, create derivative works (by way of example, create or supplement your own works, databases, software, publications, manuals, or other materials), display, perform, or use the materials, in whole or in part, in any media. Such actions taken by you, or by your direction, may be in violation of federal copyright and other commercial laws. NCCI does not permit or acquiesce such use of its materials. In the event such use is contemplated or desired, please contact NCCI's Legal Department for permission.