

No. **2022-7291**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 04/08/2022**

**Subject considered:**

**National Council on Compensation Insurance Filing  
*Item E-1408—Revisions for New York Withdrawal from the NCCI Interstate  
Experience Rating Plan***

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item E-1408—Revisions for New York Withdrawal from the NCCI Interstate Experience Rating Plan* (TDI ECase No. 27560; SERFF Tracking No. NCCI-133091038).

**Background**

NCCI filed *Item E-1408* to amend the *NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (Experience Rating Plan) and the *NCCI Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Plan).

New York changed the way it calculates experience rating modifications and withdrew from the NCCI interstate experience rating plan. New York experience will no longer be used in the calculation of interstate experience rating modifications for risks with rating effective dates<sup>1</sup> on or after October 1, 2022.

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<sup>1</sup>The rating effective date is the date that the modifier can be applied to the policy. An employer's rating effective date determines its experience period. The experience period is generally based on three years of payroll and loss data.

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This filing revises NCCI's Experience Rating Plan and Statistical Plan to clarify that:

- insurers must report data to NCCI for policies effective December 31, 2020, or before for interstate-rated risks that include New York; and
- insurers are not required to report New York data for policies effective January 1, 2021, or after.

After considering the filing, the Texas Department of Insurance (TDI) adopts the following findings of fact and conclusions of law.

## Findings of Fact

1. NCCI filed *Item E-1408* with TDI on December 29, 2021, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. *Item E-1408* amends the Experience Rating Plan footnote on *Preface B – Jurisdictions Where This Plan Does Not Apply* to reflect that New York experience is no longer used in NCCI's interstate experience rating plan for risks with rating effective dates on or after October 1, 2022.
3. *Item E-1408* amends the Statistical Plan note on *Preface C.4 – Non-NCCI Jurisdictions Where Plan Does Not Apply* to reflect that insurers are not required to report New York data for policies effective January 1, 2021, or after.
4. NCCI proposed that the changes in *Item E-1408* apply to interstate experience rating modifications with rating effective dates on or after 12:01 a.m. on October 1, 2022.
5. *Item E-1408* has been available for public inspection in SERFF and at TDI since the filing date.
6. The filing, including exhibits, is incorporated by reference into this order.
7. On January 26, 2022, TDI published notice of the filing on the TDI website at [www.tdi.texas.gov/rules/2021/nccimanual.html](http://www.tdi.texas.gov/rules/2021/nccimanual.html) and distributed notice of the filing to electronic news subscribers.

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8. TDI received no written comments or hearing requests on the filing by the February 25, 2022, deadline.

## Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and §§ 2051.201, 2053.002, 2053.011, and 2053.052.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendments to the NCCI Experience Rating Plan and Statistical Plan are consistent with Insurance Code Article 5.96 and Chapters 2051 and 2053.
4. Applying the changes in *Item E-1408* to interstate experience rating modifications with rating effective dates on or after 12:01 a.m. on October 1, 2022, is reasonable.

## Order

It is ordered that NCCI's filing, *Item E-1408—Revisions for New York Withdrawal from the NCCI Interstate Experience Rating Plan*, is approved. The changes in *Item E-1408* apply to interstate experience rating modifications with rating effective dates on or after 12:01 a.m. on October 1, 2022.

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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

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