



NYCIRB

New York Compensation
Insurance Rating Board

**NEW YORK EXPERIENCE
RATING PLAN MANUAL
FOR WORKERS'
COMPENSATION AND
EMPLOYERS' LIABILITY
INSURANCE**

2006 EDITION

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PREFACE

A. JURISDICTION WHERE THIS PLAN APPLIES

This Experience Rating Plan applies exclusively to New York Workers Compensation and Employers Liability Insurance. All **intrastate** experience rating modifications will be developed in accordance with the rules and procedures described in this Plan and will be promulgated by the New York Compensation Insurance Rating Board (Rating Board).

B. JURISDICTIONS THAT MAY BE COMBINED WITH NEW YORK FOR INTERSTATE EXPERIENCE RATING

The following jurisdictions may be combined with New York for **interstate** experience rating. All interstate experience ratings will be promulgated by the National Council on Compensation Insurance, Inc. (NCCI, Inc.).

| | |
|---------------|----------------|
| Alabama | Montana |
| Alaska | Nebraska |
| Arizona | Nevada |
| Arkansas | New Hampshire |
| Colorado | New Mexico |
| Connecticut | North Carolina |
| D.C. | North Dakota |
| Florida | Ohio |
| Georgia | Oklahoma |
| Hawaii | Oregon |
| Idaho | Rhode Island |
| Illinois | South Carolina |
| Indiana | South Dakota |
| Iowa | Tennessee |
| Kansas | Texas |
| Kentucky | Utah |
| Louisiana | Vermont |
| Maine | Virginia |
| Maryland | Washington |
| Massachusetts | West Virginia |
| Minnesota | Wisconsin |
| Mississippi | Wyoming |
| Missouri | |

C. ORGANIZATION OF THE NEW YORK EXPERIENCE RATING PLAN MANUAL

This manual contains rules and rating values that have been approved by the New York State Insurance Department pursuant to Article 23 of the New York Insurance Law. The Manual is organized according to the following topics:

- Rule 1 – General Explanations
- Rule 2 – Experience Rating Elements and Formula
- Rule 3 – Ownership Changes and Combination of Entities
- Rule 4 – Application and Revision of Experience Modifications
- Rule 5 – Special Rating Conditions
- Appendix
- Supplement and Examples
- Tables of Experience Rating Values

RULE 1 – GENERAL EXPLANATIONS**A. EXPERIENCE RATING**

Experience rating recognizes the differences among individual insureds with respect to safety and loss prevention. It does this by comparing the experience of individual insureds with the average insured in the same classification. The differences are reflected by an experience rating modification, based on individual insured payroll and loss records, which may result in an increase, decrease, or no change in premium.

B. MANDATORY PLAN

1. The New York Experience Rating Plan for Workers Compensation and Employers Liability Insurance (Plan) applies on a mandatory basis for risks that meet the premium eligibility requirements in Rule 2-A. A policy cannot be cancelled, rewritten or extended for purposes of enabling a risk to qualify for, or avoid application of, this Plan.
2. Any action taken in any form to evade the application of an experience rating modification determined in accordance with this Plan is prohibited.
- ★ 3. The effective date of a change in any rule or rating value is 12:01 a.m. on the date approved for use. Unless otherwise specified, each change applies only from the first Rating Effective Date that occurs on or after the effective date of the change. *Refer to Rule 2-B for more information about Rating Effective Dates.*
- ★ 4. The Standard Workers Compensation and Employers Liability Insurance Policy (WC 00 00 00 A) provides the Rating Board with the authority to examine and audit all records that relate to the policy. The application of this Plan's rules may be affected by the attachment of endorsements found in the New York Workers Compensation and Employers Liability Insurance Manual.
5. The rules of this Plan are based on policy periods not longer than one year.
 - a. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy.
 - b. A policy issued for a period longer than one year and 16 days is treated as follows:
 - The policy period is divided into consecutive 12-month units.
 - The Policy Period Endorsement (WC 00 04 05) specifies the first or last unit of less than 12 months as a short-term policy.
 - All manual rules and procedures apply to each such unit as if a separate policy had been issued for each unit.

C. DEFINITIONS**1. Statistical Plan**

The Statistical Plan refers to the New York Workers Compensation Statistical Plan. The Statistical Plan sets forth detailed data reporting requirements for individual risk experience. Only 1st, 2nd, and 3rd reports, as well as corrections to such reports, are used in the experience rating calculation. Based on a risk's experience period, an individual unit report may be used in more than one experience rating.

2. Experience

The experience used to calculate a risk's modification is comprised of the payroll and losses that are reported according to the Statistical Plan. For purposes of this Manual, payroll and losses may also be referred to as data. The experience used to calculate a modification is determined by Rule 2-E.

3. Payroll

The audited payroll or other exposures for each classification in the experience period are those reported according to the Statistical Plan.

4. Losses

Losses as used in this Plan, are incurred losses which are defined as loss payments plus reserves for future payments as of the valuation date. Incurred losses for each classification in the experience period are those reported according to the Statistical Plan.

- a. No loss is excluded from the experience of a risk even if the employer was not responsible for the accident that caused such loss.

Exceptions:

- i) Losses reported with Catastrophe Number 48 are excluded from experience rating calculations. Catastrophe Number 48 claims include all workers compensation claims directly attributable to the September 11, 2001 terrorists attacks with accident dates of September 11 through September 14, 2001.
- ★ ii) Losses reported with Catastrophe Number 87 are excluded from experience rating calculations. Catastrophe Number 87 claims include all latent condition claims emanating from the rescue, recovery and clean-up operations at the World Trade Center that were undertaken between September 11, 2001 and September 12, 2002. *
- iii) A loss is not to be included in the experience of a risk if it is not required to be reported to the New York Workers' Compensation Board as defined in Section 110 of the New York Workers' Compensation Law provided that the employer pays the claim in the first instance or reimburses the carrier for the treatment rendered to the employee.

Note: An employer is not required to file a claim notice with the Workers' Compensation Board if the accident or illness requires ordinary first aid or causes loss of time from work of only one day beyond the working day or shift on which the accident or illness occurred.

- b. Loss amounts may be limited in the experience rating calculation. For application of a loss limitation, refer to Rule 2-C-13.

5. Entity

An entity is an individual, partnership, corporation, unincorporated association, fiduciary, or other legal entity.

6. Risk

A risk is all entities eligible for combination under this Plan, regardless of whether insurance is provided by one or more policies or insurance carriers. A risk may be:

- a. A single entity, or
- b. Two or more entities that qualify for combination according to Rule 3-D.

7. Subject Premium

Subject premium is reported according to the Statistical Plan. For experience rating purposes, subject premium, developed for an individual risk during its experience period, is used to determine a risk's eligibility in accordance with Rule 2-A.

* Effective August 14, 2006 to comply with the provisions of A.11944 (Chapter 446 of the Laws of 2006)

8. Unity (1.00) Factor

A unity (1.00) factor may apply to a risk for reasons including, but not limited to:

- It does not qualify for experience rating. *Refer to rule 2-A for premium eligibility requirements.*
- It does not meet the minimum data requirements. *Refer to Rule 4-C for an explanation.*
- It is a new business with no data available for calculation of an experience rating modification.
- It qualifies for experience or merit rating, with the calculation resulting in a 1.00 modification.
- Data could not be provided as a result of an ownership change. *Refer to Rule 3-E for an explanation.*

D. ADMINISTRATION

1. The Rating Board determines the applicability of all Plan rules.
2. The experience rating modification is calculated, issued and, if necessary, revised by the Rating Board.
3. Unless otherwise provided by this Plan, experience rating modification issuance and revision is limited to the current and two preceding experience rating modifications.
4. The calculated experience rating modification factor is applied by the carrier(s) in accordance with this Plan, other applicable rules, statutes, and regulations.
5. The Rating Board publishes experience rating information for each eligible risk on a secure website. The carrier of record is provided access to the experience rating worksheets for its own insureds on this site. Producers, other carriers and all other registered subscribers may also access the website, but only the experience modification is available for these users. Registration for access to this website can be obtained by contacting the Accounting division of the Rating Board.
6. Individual insureds, carriers, and other authorized representatives of record may request rating worksheets, as well as Employer Experience Reports, by contacting the Rating Services Division of the Rating Board. These requests must be in writing. For someone who is not the current representative of record, a signed letter of authorization must accompany the written request. The request and letter of authorization from the insured on the insured's letterhead must be submitted to the Rating Board via mail (not fax or email) and Rating Services will only accept the original of the authorization letter. There is a fee charged for these services. *Refer to the Rating Board's website, www.nycirb.org, for a schedule of these charges.*

E. APPEAL PROCESS

★ An insured, or its representative, (hereafter referred to as "insured"), may appeal the application of a rule or procedure contained in this manual. Rules or procedures are defined as those determinations, either by a carrier or the Rating Board, which establish the variables that define the policy conditions. Examples include: classification codes, ownership information, premium audits, and any other determination which may affect the policy.

★ To be considered for review, a written request explaining the reason(s) for the appeal must be submitted to the Rating Board. Upon receipt of the request for review, the following actions will be taken:

1. A staff member will review the request and respond to the insured within sixty (60) days, in writing, acknowledging receipt of the request, granting the insured its request or sustaining its original ruling.
2. The insured, if not satisfied with the outcome in 1. above, may then request, in writing, a conference with members of the Rating Board staff. The request must state the nature of the complaint and contain any supporting documents. The appropriate Department Vice President or his or her designated representative, if appropriate, will preside at the conference.

3. If the dispute is not resolved at the conference, the insured may then appeal to the Underwriting Committee of the Rating Board for a hearing to consider the staff ruling. This appeal must be in writing and must specify the reason(s) for the appeal and the nature of the complaint.

Following receipt of the appeal, the insured will be notified regarding the time and place for the hearing. The appeal will be heard at the next Underwriting Committee meeting for which appropriate time can be given for this matter.

Subsequent to the hearing, the insured will be advised, in writing, of the Underwriting Committee decision regarding its complaint.

- ★ 4. If the Underwriting Committee ruling is not satisfactory to the insured, the insured may then request a hearing at the New York State Department of Financial Services to consider the decision of the Rating Board's Underwriting Committee.
- ★ 5. The New York State Department of Financial Services decision may be appealed to a higher court, by either the insured or the Rating Board.

RULE 2—EXPERIENCE RATING ELEMENTS AND FORMULA

A. PREMIUM ELIGIBILITY

1. Premium

a. Subject Premium

A risk's eligibility for this Plan is based on the amount of subject premium as referenced in *Rule 1-C-7*. Refer to *Rule 2-A-2*.

Note: A policy shall not be canceled, rewritten, or extended for purposes of enabling a risk to qualify for, or avoid application of, this Plan.

b. Other Than Subject Premium

The following are not included in subject premium for the determination of premium eligibility under this Plan:

- a. Expense Constants
- b. The policy minimum premium
- c. Premium under the National Defense Projects Rating Plan
- d. Premium under "Atomic Energy"
- e. Premium developed under Three-Year Fixed Rate policies
- f. Premiums for Terrorism
- g. Premium for Natural Disasters and Catastrophic Industrial Accidents
- h. Workers Compensation Security Fund surcharge
- i. New York State Assessment
- j. Other premium elements not subject to experience rating according to the Statistical Plan

2. Subject Premium Eligibility Amounts

A risk qualifies for experience rating under this Plan:

- a. if the payroll or other exposure within the latest 24 months of the experience period produces a subject premium at authorized rates of at least \$10,000, or,
- b. if the payroll or other exposure within the experience period of more than 24 months produces an average annual subject premium at authorized rates of at least \$5,000.

Note: Authorized rates are carrier rates specifically approved by the New York State Department of Financial Services.

3. Average Annual Subject Premium

A risk's average subject premium on an annual basis is determined for experience rating eligibility purposes as follows:

$$\frac{\text{Total Subject Premium}}{\text{Total Months of Experience in Experience Period (excluding gaps in coverage)}} \times 12 = \text{Average Annual Subject Premium}$$

The reference to total months of experience in this calculation includes partial months.

4. Intrastate Experience Rating

A risk qualifies for experience rating on an intrastate (New York only) basis when it meets the premium eligibility requirements as defined in *Rule 2-A-2*. Qualifying subject premium is based on payroll or other exposure reported in accordance with the Statistical Plan.

5. Interstate Experience Rating

- a. A risk qualifies for experience rating on an interstate (multi-state) basis when it:
 - (1) Meets the premium requirement for intrastate rating in any one state, and
 - (2) Develops experience during the experience period in one or more additional states where this Plan permits combination for interstate rating.
- b. The experience developed in each additional state does not have to meet the premium requirement for intrastate rating.
- c. The interstate modification applies to all of the risk's operations even if coverage is written under separate policies.
- d. If a risk expands operations into one or more additional states, its experience rating modification applies to the additional state(s) operations as of the date of expansion. Experience for such operations will be included in the calculation of future modifications.
- e. Interstate experience modifications are calculated and issued by the National Council on Compensation Insurance, Inc. (NCCI).

★ B. RATING EFFECTIVE DATE

1. The Rating Effective Date appears on a risk's experience rating worksheet. It is the earliest date that a specific experience modification is applied to a policy. To determine experience rating modification application, *refer to Rule 4-C.*
 - ★ The Rating Board establishes the rating effective date. In most cases, a risk's rating effective date is the same as its Policy Effective Date.

Note: Wrap-up policies are not used to determine rating effective dates. *Refer to Rule 5-A-4 for information on wrap-up policies.*
- ★ 2. The rating effective date may differ from a risk's Policy Effective Date for reasons including, but not limited to:
 - Short-term policies
 - Cancellations
 - Gaps in coverage
 - Changes in ownership or combinability status
 - Multiple policy effective dates
 - Interstate operations
 - A policy that is longer than one year and 16 days
 - Late receipt of current policy information by the Rating Board
- ★ 3. To determine a risk's rating effective date, the Rating Board will apply the Rating Effective Date Determination Table in conjunction with a review of the most recent full-term policies and unit statistical data. For purposes of this rule, a full-term policy is considered to be written for 12 months and is not cancelled prior to its expiration date.

Rating Effective Date Determination Table

| If the risk is... | Then the rating effective date is... |
|--|---|
| A single policy intrastate or interstate risk, or A multiple policy intrastate or interstate risk with all policies having the same effective date | The effective month and day of the most recent full-term policy in effect and each policy thereafter unless the date is changed due to a reason listed above. |
| A multiple policy intrastate risk with policies having different effective dates | The effective month and day of the most recent full-term policy in effect with the largest amount of estimated standard premium. |
| A multiple policy interstate risk with policies having different effective dates | The effective month and day of the most recent full-term policy in effect for the state with the largest amount of estimated standard premium. |

Refer to Supplement and Examples section for examples.

C. ELEMENTS OF THE EXPERIENCE RATING FORMULA AND WORKSHEET

1. Expected Loss Rate (ELR)

The Expected Loss Rate (ELR) is a factor applied to each \$100 of payroll (or to non-payroll exposure) for a classification. It determines the amount of expected losses for a classification.

ELRs are listed in the Tables of Expected Loss Rates and Discount Ratios in this Plan.

2. Expected Losses

The Expected Losses for each classification are determined by multiplying the payroll divided by 100 times the ELR. For a non-payroll class, the class's exposure is multiplied by the ELR. The result is rounded to the nearest whole number. Within the experience rating calculation, the expected losses represent the benchmark level of losses expected for all employers in a state within a particular classification. It is against this benchmark that individual employers are compared, based on their actual losses.

Note: In determining the experience modification for risks qualifying for credits under the New York Construction Classification Premium Adjustment Program (NYCCPAP), expected losses are determined based on expected losses before reduction by the percentage of the NYCCPAP credit given, and the weighting and ballast values are determined based on the unadjusted expected losses.

In determining the experience modification for risks subject to the New York Payroll Limitation Law, expected losses are based on limited payrolls, and the weighting and ballast values are determined based on the expected losses calculated using the limited payrolls.

3. Discount Ratio (D-Ratio)

The Discount Ratio (D-Ratio) is a factor applied to the expected losses for each classification that are Expected Primary Losses.

Discount ratios are listed in the Tables of Expected Loss Rates and Discount Ratios in this Plan.

★ 4. Primary/Excess Split Point Value

The dollar value which splits a loss into its primary and excess portions is known as the primary/excess split point. This value can be found in the Experience Rating Values section under Table II – Weighting Values (W).

★ 5. Expected Primary Losses

Expected Primary Losses for each classification are determined by multiplying the Discount Ratio times the expected losses. The result is rounded to the nearest whole number. Within the experience rating calculation, the expected primary losses represent the benchmark level of primary losses for all employers in state within a particular classification. It is against this benchmark that individual employers are compared, based on their actual primary losses.

★ 6. Expected Excess Losses

Expected Excess Losses are determined by subtracting the total expected primary losses from the total expected losses. Within the experience rating modification calculation, the expected excess losses represent

- ★ the benchmark level of losses in total, for the portion of each claim in excess of the primary/excess split point value. It is against the benchmark that individual employers are compared, based on their actual excess losses.

- ★ *Refer to Table II of the Experience Rating Values pages of this Plan for the applicable primary/excess split point value.*

★ 7. Actual Incurred Losses

For purposes of experience rating, Actual Incurred Losses are those reported according to the Statistical Plan. Incurred losses include both paid amounts and carrier established reserves on each claim.

★ 8. Actual Primary Losses

Actual Primary Losses are the portion of the actual incurred losses that are used at full value in the experience rating calculation. For each actual incurred loss, the amount up to the primary/excess split point value is considered primary in New York.

- ★ *Refer to Table II of the Experience Rating Values pages of this Plan for the applicable primary/excess split point value.*

★ 9. Actual Excess Losses

Actual Excess Losses are determined by subtracting the total actual primary losses from the total actual incurred losses. Within the experience rating calculation, the excess portion of a loss reflects its severity and is given partial weight based on the size of the risk. As risk size increases, so does the amount of the actual excess losses used in the calculation.

★ 10. Weighting (W) Value

The Weighting Value is a factor that is applied to a risk's actual excess losses, with the complement of the W value ($1.00 - W$) applied to the expected excess losses. The weighting value determines how much of actual excess losses and expected excess losses are used in an experience rating. The weighting value is based on the total expected losses of the risk and increases as expected losses increase. These values may be obtained from the Table of Weighting Values in this Plan.

★ 11. Ballast (B) Value

The Ballast Value is a stabilizing element designed to limit the effect of any single loss on the experience rating modification. It is added to both the actual primary losses and expected primary losses. The ballast value is based on the total expected losses of the risk and increases as expected losses increase. These values may be obtained from the Table of Ballast Values in this Plan.

★ 12. **Stabilizing Value**

The Stabilizing Value is a term used to describe the combined effect of the weighting and ballast values on the experience modification and is determined as follows:

$$\text{Expected Excess Losses} \times (1 - \text{Weighting Value}) + \text{Ballast Value}$$

The stabilizing value is included in both the actual and expected portions of the experience rating calculation formula. It limits the potential for significant variances in the experience rating modification factor from one year to the next. Its most significant impact is on smaller risks, which have a greater likelihood for severe swings in experience rating modification factors.

★ 13. **Ratable Excess**

a. **Expected Ratable Excess Losses**

Expected Ratable Excess Losses are determined by multiplying the complement of the weighting value (1.00-W) times the expected excess losses. The result is rounded to the nearest whole number. Within the experience rating calculation, the expected ratable excess losses represent, in total, the benchmark level of excess losses for all similarly classified employers. It is against this benchmark that individual employers are compared, based on their actual ratable excess losses.

b. **Actual Ratable Excess Losses**

Actual Ratable Excess Losses are determined by multiplying the weighting value times the actual excess losses. The result is rounded to the nearest whole number. For each actual incurred loss exceeding the primary/excess split point value, only that portion of the loss amount above the primary/excess split point value (the excess portion) is used. Within the experience rating calculation, the actual ratable excess losses represent, in total, the amount of actual excess losses to be used in the experience rating formula.

★ Refer to Table II of the Experience Rating Values pages of this Plan for the applicable primary/excess split point value.

★ 14. **Ratable Excess Limitation of Losses Employed in a Rating**

To reduce the effect of unusual or catastrophic occurrences on the experience modification, losses are limited to per claim, or multiple claims, limitations that can be found in the Table of Weighting Values.

a. **Single and Multiple Claim Limitation**

Basic Loss Limitation Table

| If... | Then... |
|--|---|
| ★ An accident involves only one person, or is an employers liability only loss | <ul style="list-style-type: none"> • The loss is subject to per claim accident limitation • The actual primary loss is subject to the maximum primary value of the primary/excess split point value, even if the loss does not exceed the per claim accident limitation |

Loss Limitations for Accidents Involving Two or More Persons - Table 1

| If an accident involves two or more persons, and... | Then... |
|--|--|
| ★ The total of the losses exceeds the multiple claim accident limitation | <ul style="list-style-type: none"> • The total losses are subject to the multiple claim accident limitation • The actual primary loss for these accidents is limited to a total of two times the primary/excess split point value. |
| ★ The total of the losses does not exceed the multiple claim accident limitation, and none of the individual losses within the total exceeds the per claim accident | <ul style="list-style-type: none"> • The individual losses are used at full value • The total actual primary losses for the accident are limited to two times the primary/excess split point value. |

Loss Limitations for Accidents Involving Two or More Persons - Table 2

| | |
|--|---|
| <p>If an accident involves two or more persons, and the total of the losses does not exceed the multiple claim accident limitation, but an individual loss within the total exceeds the per claim accident limitation, and...</p> | <p>Then, the individual loss is limited to the per claim accident limitation and...</p> |
| <p>★ The total of the remaining losses exceeds the primary/excess split point value.</p> | <ul style="list-style-type: none"> • The remainder of the losses are used at full value • The total actual primary losses for the accident are limited to two times the primary/excess split point value. |
| <p>★ The total of the remaining losses does not exceed the primary/excess split point value.</p> | <ul style="list-style-type: none"> • The remainder of the losses are used at full value • The actual primary loss is limited to the primary/excess split point value for the individually limited loss • No actual primary loss limitation applies for the remainder of the losses |

b. Disease Loss Limitation

Disease losses are subject to per claim and multiple claim limitations. A limitation on total disease losses may also apply to an individual policy. This is in addition to the claim limitations already applied to individual disease losses under Rule 2-C-13-a.

i. To apply the disease loss policy limitation:

- a. Determine if a risk’s individual policy total limited and non-limited actual incurred disease losses exceed the policy disease limit of triple the per claim accident limitation shown in the Tables of Weighting Values, plus 120% of the risk’s total expected losses for the experience period. If the risk-specific threshold is exceeded, the disease losses are limited to such threshold, and
 - ★ b. The actual primary losses are limited to two times the primary/excess split point value, plus 40% of the risk’s total expected primary losses for the experience period, rounded to the nearest whole number.
- ii. A policy’s total disease losses may not meet the risk-specific policy limitation amount as determined in (1)(a) above, but exceed the limitation shown in (1)(b). In such circumstances, Rule 2-C-13-a applies.
- iii. For risks that do not have an experience period of 36 months, determine policy disease losses as follows:

| To determine the... | Combine the disease losses of all policies within the experience period having an effective date... |
|-------------------------|---|
| Most recent policy year | Within 24 months prior to the rating effective date |
| Middle policy year | More than 24 months but not exceeding 36 months prior to the rating effective date |
| Oldest policy year | More than 36 months prior to the rating effective date |

D. EXPERIENCE RATING FORMULA

1. The experience rating modification formula is used to determine the experience rating modification for all risks eligible for experience rating.

$$\begin{array}{r}
 \text{Primary} + \text{Ratable Excess} + \frac{\text{Stabilizing Value}}{\text{Ballast Value}} = \text{Totals} \\
 \frac{\text{Actual Primary Losses} + \frac{\text{Weighting Value} \times \text{Actual Excess Losses}}{\text{Times}} + \frac{\text{Ballast Value}}{\text{Times}}}{\text{Expected Primary Losses} + \frac{\text{Weighting Value} \times \text{Expected Excess Losses}}{\text{Times}} + \frac{\text{Ballast Value}}{\text{Times}}} = \frac{\text{Total A}}{\text{Total B}}
 \end{array}$$

(1 Minus Weighting Value)

(1 Minus Weighting Value)

For the experience modification factor, divide Total A by Total B; round to two decimal places.

2. **Maximum Debit Modification**

Experience rating modification factors determined by the formula in Rule 2-D-1 are subject to a cap if the debit modification exceeds a specific amount. The risk-specific maximum debit modification is determined by formula and will be noted on the rating worksheet.

3. **United States Longshore and Harbor Workers' Compensation (USL&HW) Act Coverage**

Experience ratings containing classifications where the rates include coverage under the USL&HW Act are calculated using the formula described in Rule 2-D-1.

Classifications subject to the USL&HW Act, but not followed by the letter "F" in the Table of Expected Loss Rates and Discount Ratios, have their expected losses determined by applying the USL&HW Act percentage, found on Page 5 of the Table of Expected Loss Rates and Discount Ratios, to the expected loss rate (ELR) for such classifications.

E. EXPERIENCE TO BE USED IN A RATING

1. **Experience Period**

Experience rating uses past payroll and losses to predict future losses. The experience period represents the total amount of this data used in an experience rating. The calculation of a risk's experience rating modification must include all eligible experience developed during the experience period.

- a. A risk's rating effective date determines its experience period. Experience for each of a risk's policies is included if the policy effective date is:
 - (1) Not less than 21 months before the rating effective date, and
 - (2) Not more than 57 months before the rating effective date.

- b. A risk's experience period cannot contain more than 45 months of data. The 45-month limitation is a maximum period of time between the expiration date of the most recent policy and the effective of the oldest policy. While the experience period may not exceed 45 months, an experience rating modification may be produced with less than 12 months of data. The amount of data included in a risk's experience period may be impacted for reasons including, but not limited to:
- Short-term policies
 - Cancellations
 - Gaps in coverage
 - Changes in ownership or combinability status
 - Rating effective date changes
 - Multiple policy effective dates
 - Policies longer than one year and 16 days
 - Wrap-up policies
 - Interstate operations
- c. If both the recent and oldest policies fit within the experience period, and the inclusion of both policies would exceed 45 months, the oldest policy is not used.
- d. Based on a risk's rating effective date:
- (1) A risk's most current data, excluding 4th through 10th reports, is used to calculate experience rating modifications. Refer to the Statistical Plan for valuation date information.
 - (2) An individual policy's 1st, 2nd, and 3rd report data may be used in more than three experience rating modifications. However, the policy must be eligible for inclusion according to Rule 2-E-1-a, b and c.

2. Self-Insurer Data

- a. Experience of self-insured risks may be included in an experience rating upon written request to the Rating Services Division of the Rating Board. There is a fee for this service. *Refer to 'Products' on the Rating Board's web site, www.nycirb.org for a schedule of these charges.*
- b. Payroll and loss data must be submitted to the Rating Board in an approved format (see ERM-6 Form in Appendix). The ERM-6 Form must be signed by either the risk, self-insurer or authorized third-party administrator (TPA). The data is subject to verification by the entity submitting the data for inclusion in an experience rating, as well as by the Rating Board.
- c. The insurer requesting the data inclusion must be the risk's insurer during the time for which the modification including the self-insured data would apply.
- d. For multiple insurer risks, agreement from only one of the risk's insurers, during the time for which the modification would apply, is required.

3. Discontinued Operations

An entity may discontinue all or part of its operations.

| If an entity discontinues... | Then the future experience ratings will include... |
|--|--|
| All of its operations and reestablishes them at a later date | The applicable data developed prior to the discontinuation. |
| Part of its operations | The applicable data developed both: prior to the discontinuation, and for the remaining operations |

4. Insolvent Carriers

- a. Experience ratings may be promulgated by the Rating Board using data reported by those insolvent carriers that continue providing sufficient complete levels of unit statistical reports for experience rating purposes.
- b. When an insolvent carrier is unable to submit unit statistical reports for the policies it has written, experience ratings will be issued by the Rating Board if the experience required for rating purposes is submitted by the liquidator, an authorized Managing General Agent (MGA) or TPA, or by the insured using an ERM-6 Form.
- c. Data obtained from insolvent carriers that has been submitted later than the customary due date schedule for unit statistical reports, or insolvent carrier data obtained from third party sources, will be utilized in calculating experience ratings to the extent that the submitted data impacts the current and, if applicable, up to two preceding experience ratings. *Refer to Rule 4-B-2-a-3 of this Plan.*
- d. When absolutely no insolvent carrier unit statistical report data can be obtained, the following steps will be taken:
 - If a first report (exposure record) is unobtainable, an experience rating will be calculated without the policy that is missing the first report.
 - If a subsequent report(s) is missing, and the prior report(s) has been submitted to the Rating Board, experience ratings will be calculated using the prior report(s) data.
 - If an experience rating cannot be issued due to multiple years with missing data from an insolvent carrier, the last authorized rating factor will continue to apply.

F. MERIT RATING PLAN

When an insured's premium is less than the amount necessary to qualify for interstate or intrastate experience rating, but is greater than the minimum premium, a merit rating factor will apply to the New York manual premium. This factor is based on the number of indemnity and medical claims incurred by the insured during the most recent three-year period for which statistics are available. Cases to be counted as claims are defined as those which have been paid (totally or partially), or for which a reserve has been established. The three-year period is that which would otherwise be used for experience rating purposes.

The following schedule is used in determining the appropriate merit rating factor:

| <u>Number of Claims</u> | <u>Merit Rating %</u> | <u>Merit Rating Factor</u> |
|-------------------------|-----------------------|----------------------------|
| 0 | - 8% | .92 |
| 1 | 0% | 1.00 |
| 2 | +4% | 1.04 |
| 3 or more | +8% | 1.08 |

The Rating Board determines the appropriate factors and provides the carriers with a list of their insureds for whom a merit-rating factor was calculated. Rating worksheets are not provided for merit rating factors.

- ★ The New York Merit Rating Endorsement (WC 31 04 02) and the New York Merit Rating Revision Endorsement (WC 31 04 07) must be attached to each policy that is subject to the Merit Rating Plan.

RULE 3 - OWNERSHIP CHANGES AND COMBINATION OF ENTITIES**A. REPORTING REQUIREMENT**

- ★ The 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement (WC 00 04 14A) provides that changes in ownership and/or combinability status must be reported by the employer to its carrier(s) within 90 days of the date of the change. This is accomplished by submitting a completed Confidential Request for Information Form (see the ERM-14 Form in Appendix)

Failure to report changes in ownership according to Endorsement WC 00 04 14A may be considered modification evasion. *Refer to Rule 3-F.*

B. RESEARCH AND DECISION

- ★ The employer, carrier(s), or agent(s) of the employer must submit the ownership and/or combinability status information on the ERM-14 Form directly to the Operations Department of the Rating Board or through an online application available on our website at www.nycirb.org. This Department will review the information submitted regarding each change and determine the impact, if any, on the experience rating modification(s) of the entities involved.

The complexity of certain transactions may require the Rating Board to request additional information. The Rating Board may also research public and/or other available records to verify provided information. This information is used to assist in clarifying complex situations or possible modification evasion. *Refer to Rule 3-F.*

C. OWNERSHIP CHANGES

Changes in ownership interest may affect the use of an entity's experience in future experience ratings. Based on the rules of this Plan, when a change occurs, the Rating Board will determine whether to exclude or retain an entity's experience in the rating calculation. *Refer to Rule 3-A for reporting requirements.*

In addition, if the Rating Board determines that the ownership transaction improperly affected the experience rating modification, it will take necessary action according to Rule 3-F.

1. Types of Ownership Changes

- a. For purposes of this Plan, a change in ownership includes any of the following:
 - (1) Sale, transfer, or conveyance of all or a portion of an entity's ownership interest.
 - (2) Sale, transfer, or conveyance of an entity's physical assets to another entity that takes over its operations
 - (3) Merger or consolidation of two or more entities
 - (4) Formation of a new entity that acts as, or in effect is, a successor to another entity that:
 - (a) Has dissolved
 - (b) Is non-operative
 - (c) May continue to operate in a limited capacity
 - (5) An irrevocable trust or receiver, established either voluntarily or by court mandate

- b. For purposes of this Plan, a change in ownership does not include the following.
 - (1) Entities entering or leaving employee leasing arrangements
 - (2) Creation or dissolution of joint ventures
 - (3) Wrap-up projects
 - (4) Establishment of, or change in, a revocable trust
 - (5) Establishment of “debtor in possession” status
 - (6) Entities entering or leaving affiliation, franchise and/or management agreements
 - (7) Probate proceedings (until a disposition of the estate is complete)

Note: For more information on experience rating of employee leasing arrangements, joint ventures, and wrap-up projects, *refer to Rule 5.*

2. Impact of Ownership Changes

Ownership changes may result in a change in:

- a. Experience rating modification(s).
- b. Combinability status with other entities.
- c. Premium eligibility status—an entity may or may not qualify to be experience rated. *Refer to Rule 2-A for more information regarding premium eligibility.*
- ★ d. Rating Effective Date

D. COMBINATION OF ENTITIES

1. **The Combination of Two or More Entities** requires common majority ownership. Combination requires that:
 - The same person, group of persons or corporation owns more than 50% of each entity, or
 - An entity owns a majority interest in another entity, which in turn owns a majority interest in another entity. All entities are combinable for experience rating purposes regardless of the number of entities involved.
2. **Determination of Majority Ownership Interest** is based on the following:
 - a. Majority of issued voting stock
 - b. Majority of the owners, partners or members if no voting stock is issued.
 - c. Majority of the board of directors or comparable governing body if a. or b. is not applicable.
 - d. Participation of each general partner in the profits of a partnership. Limited partners are not considered in determining majority interest.
 - e. The same central authority that appoints or controls the appointment of the board of trustees or similar body, and exercises direct, complete and active control over the finances, properties, operations and activities of separate legal entities within the same religious denomination.
 - f. Ownership interest held by an entity as fiduciary. Such an entity’s total ownership interest will also include any ownership held in a nonfiduciary capacity.

Note: For purposes of this rule, fiduciary does not include a debtor in possession, a trustee under a revocable trust, or a franchisor.

3. Multiple Combinations

- a. More than one combination of entities may be possible within a group of entities. The selection of combinations is based on the combination that involves the most entities.
- b. If Rule 3-D-3-a does not result in a single group with a majority of entities, the combination will be based on the group that has the largest amount of estimated standard premium. The estimated standard premium is based on the policies in effect at the time of the combination.
- c. The experience of any entity may be used in only one combination.

E. TREATMENT OF EXPERIENCE**1. Transfer of Experience**

Changes in ownership or combination status may or may not result in revisions of experienced rating modifications. The Rating Board will request separate data from the carrier when appropriate. In certain cases, documentation may be needed to validate the accuracy of the submitted data.

The experience for any entity undergoing a change in ownership will be retained or transferred to the experience ratings of the acquiring, surviving or new entity unless specifically excluded by this Plan.

Transfer of Experience Table 1

| If the single or multiple entity risk disposes of all of its operations and the purchaser... | Then... |
|--|--|
| Does not have any prior or current policies or experience | The experience will be retained in the future experience ratings of the purchaser, subject to Rule 2-A |
| <ul style="list-style-type: none"> • Has prior experience, for which an experience rating modification has already been issued, or • Has prior experience, but did not qualify for experience rating | The experience will be retained in the future experience ratings of the purchaser and combined with the other experience of the purchaser, subject to Rule 2-A |

Transfer of Experience Table 2

| If the Single or multiple entity risk... | And the purchaser... | Then... |
|--|--|---|
| <ul style="list-style-type: none"> • Disposes of part of its operations, and • Otherwise continues to operate its business, and • Its statistical data has been combined on a single policy, and • The insurance provider can furnish the rating organization with the appropriate experience to provide for transfer of the data to the purchaser | <p>Does not have any experience</p> | <ul style="list-style-type: none"> • The appropriate experience will be retained in the future experience ratings of the purchaser, subject to Rule 2-A. • The same experience will be excluded from the future experience ratings of the seller. • If the separated experience results in the seller, purchaser, or both, not qualifying for experience rating, a unity factor (1.00) will apply to the non-qualifying risk until qualifying experience is developed. |
| | <ul style="list-style-type: none"> • Has experience but does not qualify for experience rating, or • Is an experience rated risk | <ul style="list-style-type: none"> • The appropriate experience will be retained in the future experience ratings of the purchaser and combined with the other experience of purchaser, subject to Rule 2-A. • The same experience will be excluded from the future experience ratings of the seller. • If the separated experience results in the seller, purchaser, or both, not qualifying for experience rating, a unity factor (1.00) will apply to the non-qualifying risk until qualifying experience is developed. |
| <ul style="list-style-type: none"> • Disposes of part of its operations, and • Otherwise continues to operate its business, and • Its statistical data has been combined on a single policy, and • The insurance provider cannot furnish the rating organization with appropriate experience to provide for transfer of the data to the purchaser. | <ul style="list-style-type: none"> • Does not have any experience, or • Has experience but does not qualify for experience rating | <ul style="list-style-type: none"> • A unity factor (1.00) will apply to the purchaser’s policy until qualifying experience is developed. • All experience developed prior to the sale remains in future ratings of the seller. |
| | <ul style="list-style-type: none"> • Is an experience rated risk | <ul style="list-style-type: none"> • The purchaser’s experience rating modification will continue to apply. Any experience developed by the purchased entity after the sale will be used in future ratings of the purchaser. • All experience developed prior to the sale remains in future ratings of the seller. |

2. Exclusion of Experience

Rare circumstances may require that experience for any entity undergoing a change in ownership be excluded from future experience ratings. The experience will be excluded only if the Rating Board confirms **all** of the following:

- The change must be a material change such that:
The entire ownership interest after the change had no ownership interest before the change, or
The collective ownership of all those having interest in an entity results in either less than:
1/3 ownership before the change, or
1/2 ownership after the change; **and**
- The material change in ownership is accompanied by a change in operations sufficient to result in reclassification of the governing classification; **and**
- The material change in ownership is accompanied by a change in the process and hazard of the operations. Change in process and hazard is determined by the Rating Board.

Except for action that may be taken under Rule 3-F, experience is not otherwise excluded for employee leasing companies and temporary employment agencies. For more information on employee leasing companies, *refer to Rule 5-B*

3. Recalculation and Application of Experience Rating Modifications

- If a change in ownership and/or combinability status occurs, recalculation of experience rating modifications may be required, as described in the table below. Changes in ownership and/or combinability status may also result in a change in rating effective date, as determined by the Rating Board.

| If the first written reporting of the change by either the acquiring entity or acquired entity to their carrier or to the Rating Board occurs... | Then the recalculation and application of the revised experience rating modifications(s) will be as of the... |
|---|---|
| Within 90 days of the date of the change | Date of the change |
| More than 90 days after the date of the change | Next rating effective date following the earliest notice of the change received by a carrier or the rating organization |

- Recalculation and application of experience rating modifications in conjunction with this rule is subject to Rules 3-F and 4-E

F. EVASION OF THE EXPERIENCE RATING MODIFICATION

1. Actions

Some employers, or their representatives, may take actions for the purpose of avoiding an experience rating modification. Others may take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action that results in the miscalculation or misapplication of an experience rating modification determined in accordance with this Plan is prohibited. These actions include, but are not limited to:

- ★
 - Failure to report changes in ownership according to Endorsement WC 00 04 14A
 - A change in ownership
 - A change in combinability status
 - Creation of new entity
 - Transfer of operations from one entity to another entity that is not combinable according to Rule 3-D
 - Misrepresentation on audits or failure to cooperate with an audit

2. Rating Board Response

In such circumstances, the Rating Board may obtain any information that indicates evasion or improper calculation or application of experience rating modifications due to actions included, but not limited to, those listed in Rule 3-F-1.

The Rating Board will act to ensure the proper calculation and application of all current and preceding experience rating modifications impacted by these actions. This includes, but is not limited to the:

- Combination of experience that would otherwise not be combinable according to Rules 3-D and 3-E-1
- Separation of experience that would otherwise be combinable according to Rules 3-D and 3-E-1
- Exclusion of experience that would otherwise be included according to Rule 3-E-1
- Continuation of experience that would otherwise be excluded according to Rules 3-E-1 and 3-E-2
- Issuance of experience rating modifications that were not originally issued
- Revision and/or retraction of experience rating modifications

RULE 4—APPLICATION AND REVISION OF EXPERIENCE RATING MODIFICATIONS**A. GENERAL EXPLANATION**

1. Experience rating modifications for eligible risks generally are determined on an annual basis and are effective for a period of 12 months. However, as provided in this Plan, certain circumstances may result in a reduced or extended application of an experience rating modification. *Refer to Rule 4-D.*
2. Only one experience rating modification applies to a risk at any given time and it applies to all operations of the risk.
3. Experience rating modifications are applied to the premium developed by the use of the carrier's rates in force on the effective date of the experience rating modification.

B. INCLUSION OF PAYROLL AND LOSSES**1. Revision of Payroll**

An insurance provider may discover within the audit period (within three years of policy expiration) that previously reported payroll must be revised. When the Rating Board receives these corrections, it will revise the current and up to two preceding experience rating modifications. *Refer to Part VI of the Statistical Plan for circumstances under which revised payroll values are required.*

2. Revision of Losses

Revised unit reports (correction reports) to 1st, 2nd, and 3rd reports may be submitted in accordance with the Statistical Plan. With limited exception as indicated below, the Rating Board will use all correction reports in the production of the appropriate experience rating modifications. *Refer to Part VI of the Statistical Plan for circumstances under which revised loss values are required.*

- a. Submission of revised loss values on unit reports will result in the automatic recalculation of the current and, if applicable, up to **two** preceding experience rating modifications when:
 - (1) Originally reported loss values were incorrect due to clerical or processing error
 - (2) An originally reported claim is non-compensable as determined by:
 - Official ruling by a court or the Workers' Compensation Board denying benefits under the Workers' Compensation Law
 - A claimant's failure to file for benefits during the period allowed by the Workers' Compensation Law
 - A claimant's failure to prosecute his/her claim when a carrier contends, prior to the valuation date, that the claimant is not entitled to benefits under the Workers' Compensation Law
 - (3) Data obtained from carriers, including insolvent carriers and insolvent carrier data obtained from third party sources, has been submitted later than the customary due date schedule for unit statistical reports.

- b. Where a claim has been legally held to be a Special Disability Fund case, submission of revised loss values will result in the automatic recalculation of the current and up to **six** preceding experience rating modifications. If a paid, or anticipated, recovery from the Special Disability Fund becomes known by the carrier, the current experience rating modification is that which is in effect when the insurance provider determines the revised loss value.
- c. Submission of revised loss values when a subrogation recovery is applicable to a claim will result in the automatic recalculation of the current and up to **six** preceding experience rating modifications. If a subrogation recovery is obtained in an action against a third-party, the current experience rating modification is that which is in effect when the insurance provider determines the revised loss value.
- d. In cases where a claim has been officially determined by the courts or ruling by the Workers' Compensation Board to be fully or partially fraudulent, the submission of revised loss values will result in the automatic recalculation of the current and up to **six** preceding experience rating modifications. If a claim is officially declared fraudulent, the current experience modification is that which is in effect when the official declaration of fraud is made.

Note: In cases where a claim is identified as a Special Fund case, involves a subrogation recovery, or is declared fully or partially fraudulent, the respective identifiers **must** be included on the revised unit statistical reports. Failure to properly identify these cases will result in no change in the experience modification. *Refer to Part IV of the Statistical Plan for appropriate coding information.*

3. Corrections in Classifications

- a. A risk's classification(s) may be corrected in accordance with the New York Workers Compensation and Employers Liability Manual. When a classification assigned to a risk is revised other than as a result of a change in risk operations, the experience rating modification may be recalculated by the Rating Board. The purpose of such recalculation is to produce an experience rating modification factor using rating values that correspond to the class rates charged on a policy.
- b. In such circumstances, the Rating Board will act to ensure the proper calculation and application of experience rating modifications. This includes, but is not limited to:
 - Reassigning past payroll to the appropriate classification code(s) and rating values
 - Using correction reports submitted in accordance with the Statistical Plan
 - Reviewing the information submitted regarding each change and determining the impact, if any, on the experience rating modification(s) of the entities involved
 - Requesting additional information, if necessary, due to the complexity of certain corrections
- c. The Rating Board will not revise an existing experience modification if the change in classification is a result of:
 - A change in risk operations
 - A filed and approved change to the classification system

RULE 4*Effective October 1, 2006***Original Printing****4. Third-Party Cases**

Losses for which a third-party claim has been made are included in the calculation of an experience rating modification under the following conditions:

- a. Unsettled Claims
Use the loss as reported at full value.
- b. Settled claims
Use the following procedure to adjust the loss amount:
 - (1) Determine the loss amount prior to settlement
 - (2) Subtract the amount recovered
 - (3) Add the expenses incurred in obtaining the recovery
 - (4) If the amount in (3) exceeds the recovery amount in (2), use the loss amount in (1) prior to settlement

5. Liability-Over Cases

Liability-Over refers to suits or claims brought against an insured by third parties to recover all or a portion of damages obtained from such third parties by the insured's employees because of a bodily injury sustained by these employees arising out of and in the course of employment.

When a risk's incurred losses include liability-over claims, the inclusion of such losses in the experience rating calculation is as follows. When settled liability-over claims result in:

- a. No payment to a third-party—The experience rating calculation will include any allocated claim adjustment expense incurred in defending such claims. This expense is subject to the accident limitation that is shown at the bottom of the Table of Weighting Values.
- b. Payment to a third-party—No change is made in the loss valuation used in the calculation of the current experience modification. At the next valuation date, the calculation will include the settlement amount plus any allocated claim adjustment expense incurred in defending such claims. This expense and settlement amount is subject to the accident limitation that is shown at the bottom of the Table of Weighting Values.
- c. For unsettled claims, incurred loss values are included in the experience rating calculation.

C. MINIMUM DATA REQUIREMENTS

The following table provides the minimum data requirements for all experience periods possible under this Plan. Refer to Rule 2-E-1 for more information on experience period.

| Experience Period (Months) | Number of Months of 1 st Report Unit Statistical Data | Experience Period (Months) | Number of Months of 1 st Report Unit Statistical Data |
|----------------------------|--|----------------------------|--|
| Less than 12 | All | 35 | 23 |
| 12-24 | 12 | 36 | 24 |
| 25 | 13 | 37 | 25 |
| 26 | 14 | 38 | 26 |
| 27 | 15 | 39 | 27 |
| 28 | 16 | 40 | 28 |
| 29 | 17 | 41 | 29 |
| 30 | 18 | 42 | 30 |
| 31 | 19 | 43 | 31 |
| 32 | 20 | 44 | 32 |
| 33 | 21 | 45 | 33 |
| 34 | 22 | | |

a. Exceptions to Minimum Data Requirements

Experience rating modifications will be issued when the Rating Board determines that the:

- (1) Risk has had a lapse in coverage
- (2) Insurance provider is insolvent and not expected to report unit statistical data.

b. Submission of Missing Data

When the missing data is submitted according to the Statistical Plan, the Rating Board will revise the current modification, and if applicable, up to two preceding modifications.

D. APPLICATION FOR SINGLE AND MULTIPLE POLICY RISKS

★ The Rating Effective Date (RED) determines the application of an experience rating modification. The RED is determined according to Rule 2-B-2 of this plan. An experience rating modification will apply for:

- No less than three months, except for those impacted by changes in ownership and combinability status according to Rule 3.
- No more than 15 months

1. For Single Policy Risks

- ★ a. The experience rating modification applies for the full term of:
- (1) The policy beginning on that date, or
 - (2) Any other policy beginning up to three months after that date.
- b. If a new policy begins **more than** three months after the RED, the following procedure applies:
- (1) The current experience rating modification applies to the new policy until the date the modification expires.
 - (2) A renewal experience rating modification applies to the new policy until the date the policy expires.
- ★ (3) A new RED may be established. Usually, this will be the date 12 months after the effective date of the new policy.

2. For Multiple Policy Risks

If a risk is covered by two or more policies with varying effective dates, the following procedure applies:

- a. An experience rating modification is issued to be effective for 12 months. This modification applies to the portion of each policy falling within that 12-month period, regardless of the policy's effective and expiration dates.
- b. A renewal experience rating modification applies to each policy as described above in 2-a.
- c. The Rating Board will review the effective dates of the multiple policies and may authorize the application of an experience rating modification for a period of other than 12 months.

E. CHANGES IN EXPERIENCE RATING MODIFICATIONS

★ Experience rating modifications may change for reasons detailed in this Plan. These changes apply retroactively to the inception date of the policy, or as of the rating effective date, if different from the policy inception date.

The application of an interstate experience modification change to a New York risk is subject to the rules of this Plan.

Reserved For Future Use

RULE 5—SPECIAL RATING CONDITIONS

★ **A. CONSTRUCTION/CONTRACTING RISKS**

1. Cost-Plus Contracts

Under a cost-plus contract, the principal agrees to compensate the contractor based on the cost of the work performed plus a fixed fee. A policy covering both contractor and the principal is:

- Assigned the experience rating modification of the contractor
- Included in the experience of the contractor

2. Joint Ventures

Two or more contractors, not combinable for experience rating under the rules of this Plan, may associate for the purpose of undertaking one or more projects as a joint venture.

A joint venture may qualify for its own experience rating provided **all** of the following conditions are met:

- The contract(s) for the participating entities is awarded in the name of the joint venture; and
- The participating entities share the control, direction, and supervision of all work undertaken; and
- The participating entities maintain a common bank account, payroll, and business records

Note: The experience of the joint venture participants is excluded from the individual contractors' experience rating modifications.

Experience Rating Modification Determination

| A joint venture... | The experience rating modification is calculated... |
|--|---|
| Will not qualify for its own experience modification in the first year or two year(s) of operations(s) | By the carrier using: <ul style="list-style-type: none"> • An arithmetic average of the experience rating modifications of the participating entities • A unity (1.00) factor for a participating entity that does not have its own experience modification |
| May qualify for its own modification in the third and subsequent year(s) of operation(s) | By the Rating Board using the experience developed by the joint venture as reported to the Rating Board |

3. Uninsured Contractors

The experience of an uninsured contractor and reported in accordance with the Statistical Plan is included in the experience of the primary contractor.

4. Wrap-Up Construction Project

A policy issued for an entity participating in a wrap-up construction project is subject to its own experience rating modification. (This also applies to an experience modification for a policy issued for two or more entities that are combinable under the rules of this Plan). Payroll and loss experience developed for all such policies, including wrap-up and non-wrap-up experience, is used in future experience rating modifications of the participating entities. There is no experience rating modification for wrap-up construction projects as a unit. *Refer to the New York Workers Compensation and Employers Liability Manual for more information on wrap-up construction projects.*

★ B. EMPLOYEE LEASING / PROFESSIONAL EMPLOYER ORGANIZATIONS

For the purpose of this Plan, employee leasing arrangements shall mean an arrangement whereby an entity contracts with another entity to lease some or all of its workers. The entity providing the workers shall be referred to as the labor contractor or Professional Employer Organization (PEO). The entity utilizing the workers shall be referred to as the client.

The payroll and loss experience of the client's leased and non-leased employees will be assigned to the client for experience rating purposes.

Note: Any reference to the labor contractor as an additional insured in any manual rule or endorsement used for employee leasing purposes does not imply common ownership between the client and the labor contractor for experience rating.

When a client leaves an employee leasing arrangement, no special treatment for experience rating purposes is necessary since the experience of the client is routinely reported to the Rating Board in accordance with the Statistical Plan.

★ C. EX-MEDICAL EXPERIENCE

If coverage is provided on an ex-medical basis as permitted by the rules of the New York Workers Compensation and Employers Liability Manual, the experience modification is calculated using the formula described in Rule 2-D-1 of this Plan, with the following exception:

Apply the ex-medical multiplier to convert the total expected losses for each classification to an ex-medical basis. The ex-medical multiplier is determined by the Rating Board using the following formula:

$$1.00 \text{ minus } (1.30 \times \text{classification ex-medical ratio})$$

Note: The total expected losses on a statutory (unadjusted) medical basis are used in determining the Ballast and Weighting values.

★ D. GROUP EXPERIENCE RATING PLAN FOR PUBLIC CORPORATIONS

1. A group consisting of a county and any other public corporations (cities, towns, villages, districts, etc.), as defined in Article 5 of the New York Workers' Compensation Law, Section 32.2 of the Volunteer Firefighters' Benefit Law and Section 32.2 of the Volunteer Ambulance Workers' Benefit Law, may elect to be covered under a single policy. The group will be treated in all respects as a single risk for the purpose of experience rating, provided that the clerk of the board of supervisors of such county certifies to the Rating Board **prior** to the effective date of rates:

- a. The names of the county and other public corporations which have elected to become members of the group.
 - b. The board of supervisors of the county and the governing board of each other participating public corporation have, by appropriate action, made such election and have agreed that all of their respective insurable employees shall be covered under a group policy for a period of one year after the effective date of the experience modification and under any renewal of such policy while said election continues in effect.
 - c. That a named carrier has agreed to issue, and the group will accept and agree to be bound by the terms and conditions of, a single joint policy naming the county and each member of the group as co-insureds.
2. The certificate filed with the Rating Board will be considered applicable to all future ratings unless a public corporation later withdraws its election. No public corporation may be newly admitted to the group after the effective date of and during any rating period, but it may be admitted for the following rating period provided its name is certified in accordance with the provisions of 1 above. The carrier must indicate to the Rating Board the names of all public corporations to be insured under a group policy prior to the development of a rating.
 3. Whenever such a group is established, the experience modification for any rating period shall be based upon the combined experience of all participating members for such rating period and shall be applied to each member for the whole period even though any member withdraws from the group.

When a member withdraws from the group, its experience shall be removed from the group rating at the end of the term and shall be used in separately rating the withdrawn member.
 4. Any group established in accordance with these rules will be covered under a single policy naming the county and each public corporation as insureds.

★ **E. MULTI-STATE EXPERIENCE RATING**

A risk is eligible for experience rating on a multi-state (interstate) basis when it meets the requirements for intrastate rating and also develops experience during the experience period in one or more additional states where the Interstate Experience Rating Plan is effective. The National Council on Compensation Insurance is the data collection organization responsible for the calculation and verification of multi-state ratings.

★ **F. NATIONAL DEFENSE PROJECT RATING PLAN: ATOMIC ENERGY**

The experience modification is not applicable to the workers compensation premium resulting from operations under the National Defense Projects Rating Plan or Atomic Energy operations under the Nuclear Regulatory Authority. The exposure and losses are excluded from experience rating.

★ **G. RATING TRANSITION PROGRAM**

This program applies to insureds previously experience rated under certain classification codes that have been discontinued. The program is intended to minimize swings in experience modifications due solely to the elimination of a classification code(s). It does not apply to new risks or any other programs. The Rating Board will administer the transition program by adjusting the Expected Loss Rates (ELRs) for use in the rating calculation.

The ELR published in the manual may not apply to the calculation of an experience modification for an insured whose policy was previously subject to a discontinued code. For the first year after the elimination of a classification code, the ELR for an insured will be equal to a 4-1 weighting of the ELR used prior to the discontinuance of the code and the ELR for the new code. For the second year, a 3-2 weighting is used. A 2-3 weighting is used for the third year and a 1-4 weighting for the fourth year. The transition program does not apply after the fourth year.

Discount (D) ratios are not subject to this transition program.

The ELRs used in the following examples of the Rating Transition Program calculations are for illustrative purposes only.

CODE 3085 EXAMPLE 1

| | Current Class ELR | | New Class ELR | | Transition ELR |
|---------|------------------------------|---|--------------------------|---|---------------------------|
| Year 1: | 4 x 4.75 | + | 1 x 3.15 | = | 4.43 |
| | 4 | + | 1 | | |
| Year 2: | 3 x 4.75 | + | 2 x 3.31 | = | 4.17 |
| | 3 | + | 2 | | |
| Year 3: | 2 x 4.75 | + | 3 x 3.48 | = | 3.99 |
| | 2 | + | 3 | | |
| Year 4: | 1 x 4.75 | + | 4 x 3.65 | = | 3.87 |
| | 1 | + | 4 | | |
| Year 5: | | - | 3.83 | = | 3.83 |

CODE 3270 EXAMPLE 2

| | Current Individual ELR | | Published ELR | | Transition ELR |
|--------|-----------------------------------|---|--------------------------|---|---------------------------|
| Year 1 | 4 x 1.65 | + | 1x 3.15 | = | 1.95 |
| | 4 | + | 1 | | |
| Year 2 | 3 x 1.65 | + | 2 x 3.31 | = | 2.31 |
| | 3 | + | 2 | | |
| Year 3 | 2 x 1.65 | + | 3 x 3.48 | = | 2.75 |
| | 2 | + | 3 | | |
| Year 4 | 1 x 1.65 | + | 4 x 3.65 | = | 3.25 |
| | 1 | + | 4 | | |
| Year 5 | | - | 3.83 | = | 3.83 |

★ **H. SEPARATE STATE EXPERIENCE RATING MODIFICATION**

1. Explanation

A separate experience modification for New York in an interstate rated risk may be calculated. The New York experience rating modification is calculated using a weighted average, which is based on the risk's total expected losses in all states included in the interstate experience rating modification and its expected losses in New York.

2. Permitted as Follows:

- a. The risk must be interstate rated.
- b. The risk must qualify for an intrastate rating in New York.
- c. The risk must qualify for an intrastate rating in at least one other state.
- d. The request for a separate state experience rating modification must be:
 - From a carrier licensed to write workers compensation insurance only in New York.
 - In writing and with the written authorization of the insured.
 - Received by the Rating Board **prior** to the rating effective date.
- e. The experience rating modifications determined by Steps A—C of Rule 5-I-4 are calculated using the experience rating modification formula and the cap on modifications.

3. Application

- a. Any experience rating modification calculated under this rule applies for the full rating period, and applies to all applicable policies.
- b. The separate New York experience rating modification applies to all of a risk's operations in New York. The remaining interstate mod is applied to all other states.

4. Determination of Separate State Experience Rating Modification

The following step-by-step procedure is used to calculate the separate New York experience rating modification:

Step A—Calculate, on an interstate basis, an experience modification for the entire risk.

Step B—Calculate, on an intrastate basis, an experience modification for New York.

Step C—Calculate, on an interstate basis, an experience modification for all states excluding New York.

Step D—Calculate the following (using the results in Steps A, B, and C):

$$\frac{\text{Step A} \times \text{Total Expected Losses in All States}}{(\text{Step B} \times \text{Expected Losses in New York}) + (\text{Step C} \times \text{Expected losses in All Other States})}$$

Step E—Calculate the completed separate New York experience rating modification by multiplying the result in Step B by the result in Step D.

Step F—Calculate the completed experience rating modification for all other states by multiplying the result in Step C by the result in Step D.

- ★ **I. UNITED STATES LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE**
- a. Experience modifications containing classifications where the authorized rates include coverage under the USL&HW Act, are calculated using the formula described in Rule-2-D-1 of this Plan.
 - b. Classifications subject to the USL&HW Act, but not followed by the letter "F" in the Table of Expected Loss Rates and Discount Ratios, have their expected losses determined by applying the USL&HW Act percentage in that table to the classifications' expected loss rates. The formula described in Rule-2-D-1 of this Plan will then apply.

TABLE OF CLASSIFICATIONS WITH NON-RATABLE ELEMENTS

The following Non-Ratable Element Codes are not subject to experience rating:

| <u>Class Code</u> | <u>Non-Ratable Element Code</u> |
|-----------------------|---|
| 4767 | 0767 |
| 4771 | 0771 |
| 7405 | 7445 |
| 7431 | 7453 |

Reserved For Future Use

ERM-14 FORM—CONFIDENTIAL REQUEST FOR OWNERSHIP INFORMATION

All items must be answered completely or the form may be returned.

The following confidential ownership statements will be used only in establishing premiums for your insurance coverages. Your workers compensation policy requires that you report ownership changes, and other changes as detailed below, to your insurance carrier in writing within 90 days of the change. If you have questions, contact your agent, insurance carrier, or the Rating Board. Once completed, this form must be submitted to the Underwriting Department of the Rating Board by you, your insurance carrier(s), or your agent(s). If this form does not provide the means to explain the transaction, enter as much information on the form as possible and supplement the form with a narrative on the employer’s letterhead, signed by an owner, partner, or executive officer.

Section A—Transaction and Entity Information

| Check all that apply | Type of Transaction Columns A, B, and C referenced below are found in Section B. | Effective Date Enter effective date of transaction | Report Date Enter date reported in writing to your insurance provider |
|----------------------|---|---|--|
| | Name and/or legal entity change —Complete column A for former entity and column B for newly named entity. Complete Type of Entity portion for each entity to reflect such change. | | |
| | Sale, transfer or conveyance of all or a portion of an entity’s ownership interest —Complete column A for ownership before the change and column B for ownership after the change. | | |
| | Sale, transfer or conveyance of an entity’s physical assets to another entity that takes over its operations —Complete column A for the former entity and column B for the acquiring entity. | | |
| | Merger or consolidation (attach copy of agreement) —Complete columns A and B for the former entities and column C for the surviving entity. | | |
| | Formation of a new entity that acts as, or in effect is, a successor to another entity that: (a) Has dissolved (b) Is non-operative (c) May continue to operate in a limited capacity. | | |
| | An irrevocable trust or receiver, established either voluntarily or by court mandate —Complete column A before the change and column B after the change. | | |
| | Determination of combinability of separate entities —Complete a separate column in Section B for each entity to be reviewed for common ownership (attach additional forms if necessary). | | |

ENTITY 1—Complete Column A on Page 3

Complete Name of Entity (including DBA or TA) _____

Risk ID _____ FEIN _____

Type of Entity (check all that apply) Carrier _____ Policy # _____ Eff. Date _____

- | | | | | |
|---|---|--|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Temporary Labor Service | <input type="checkbox"/> School District | <input type="checkbox"/> Irrevocable Trust |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Publicly Traded | <input type="checkbox"/> For Profit | <input type="checkbox"/> Religious Organization |
| <input type="checkbox"/> Domestic Corporation | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> State Agency | <input type="checkbox"/> Not for Profit | <input type="checkbox"/> Charitable Organization |
| <input type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Association (including unincorporated) | <input type="checkbox"/> County Agency | <input type="checkbox"/> Non-Profit | <input type="checkbox"/> Franchise |
| <input type="checkbox"/> Sub-Chapter S-Corp | <input type="checkbox"/> Employee Leasing | <input type="checkbox"/> Municipality | <input type="checkbox"/> Revocable Trust | <input type="checkbox"/> ESOP |

Primary Address

Street _____ City, State, Zip _____

Telephone Number _____ Fax Number _____ E-mail Address _____

Contact Name _____ Web Site _____

Mailing Address (if different than Primary Address) _____

Additional Locations(s) _____

ENTITY 2—Complete Column B on Page 3

Complete Name of Entity (including DBA or TA) _____

Risk ID _____ FEIN _____

Type of Entity (check all that apply) Carrier _____ Policy # _____ Eff. Date _____

- | | | | | |
|---|---|--|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Temporary Labor Service | <input type="checkbox"/> School District | <input type="checkbox"/> Irrevocable Trust |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Publicly Traded | <input type="checkbox"/> For Profit | <input type="checkbox"/> Religious Organization |
| <input type="checkbox"/> Domestic Corporation | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> State Agency | <input type="checkbox"/> Not for Profit | <input type="checkbox"/> Charitable Organization |
| <input type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Association (including unincorporated) | <input type="checkbox"/> County Agency | <input type="checkbox"/> Non-Profit | <input type="checkbox"/> Franchise |
| <input type="checkbox"/> Sub-Chapter S-Corp | <input type="checkbox"/> Employee Leasing | <input type="checkbox"/> Municipality | <input type="checkbox"/> Revocable Trust | <input type="checkbox"/> ESOP |

Primary Address

Street _____ City, State, Zip _____

Telephone Number _____ Fax Number _____ E-mail Address _____

Contact Name _____ Web Site _____

Mailing Address (if different than Primary Address) _____

Additional Locations(s) _____

ENTITY 3—Complete Column C on Page 3

Complete Name of Entity (including DBA or TA) _____

Risk ID _____ FEIN _____

Type of Entity (check all that apply) Carrier _____ Policy # _____ Eff. Date _____

- | | | | | |
|---|---|--|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Temporary Labor Service | <input type="checkbox"/> School District | <input type="checkbox"/> Irrevocable Trust |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Publicly Traded | <input type="checkbox"/> For Profit | <input type="checkbox"/> Religious Organization |
| <input type="checkbox"/> Domestic Corporation | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> State Agency | <input type="checkbox"/> Not for Profit | <input type="checkbox"/> Charitable Organization |
| <input type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Association (including unincorporated) | <input type="checkbox"/> County Agency | <input type="checkbox"/> Non-Profit | <input type="checkbox"/> Franchise |
| <input type="checkbox"/> Sub-Chapter S-Corp | <input type="checkbox"/> Employee Leasing | <input type="checkbox"/> Municipality | <input type="checkbox"/> Revocable Trust | <input type="checkbox"/> ESOP |

Primary Address

Street _____ City, State, Zip _____

Telephone Number _____ Fax Number _____ E-mail Address _____

Contact Name _____ Web Site _____

Mailing Address (if different than Primary Address) _____

Additional Locations(s) _____

Section B—Ownership

1. Have any of these entities operated under another name in the last four years? Yes No
2. Are any of the entities **currently** related through common majority ownership to any entity not listed on the front of the form? Yes No
3. Have any of these entities been **previously** related through common majority ownership to any other entities in the last four years?
 Yes No
4. If you answered Yes to questions 1, 2, or 3 above, provide additional information, indicating which question(s) your answer references?
 1 2 3

| Name of Business | Principal Location | Carrier and Policy Number | Effective Date |
|------------------|--------------------|---------------------------|----------------|
|------------------|--------------------|---------------------------|----------------|

5. Were the assets and/or ownership interest (all or a portion) of this entity acquired from a previously existing business? Yes No
If yes, you must provide complete ownership information for the prior owner in column A and ownership information for the new owner in column B.

6. If this is a partial sale, transfer, or conveyance of an existing business (i.e., sale of one of more plants or locations):
 - a. Explain what portion or location of the entire operation was sold, transferred, or conveyed.

- b. Was this entity insured under a separate policy from the remaining portion? Yes No
If not, specify the entities with which it was combined:

7. Did the legal status of this entity change? Yes No

If yes, you must complete the Type of Entity portion for each entity to reflect such change.

8. Is this transaction a result of bankruptcy? Yes No

If yes, please indicate under which Chapter the bankruptcy was filed. _____

Corporations—List all names of owners of 5% or more of voting stock and number of shares owned. Submit shareholder proposal if transaction involved exchange of stock.

Partnerships—List each partner and appropriate share in the profits. If the entity is a limited partnership, list name(s) of each general partner(s).

Other—If no voting stock, list members of board of directors or comparable governing body.

| Information | Column A | Column B | Column C |
|---|--|--|--|
| | Enter name used in Section A for Entity 1 Entity 1 | Enter name used in Section A for Entity 2 Entity 2 | Enter name used in Section A for Entity 3 Entity 3 If applicable, use this column for multiple combinations or entities resulting from mergers and consolidations |
| Name of Entity | | | |
| Ownership See reference above to ownership information required for corporations, partnerships, and other entities. | | | |
| Total Ownership Interest or Number of Shares | | | |

NOTE: If your business has changed significantly to result in a change to the primary (governing) classification and the process and hazard of the operation have also changed, contact your agent, insurance carrier or the Rating Board for additional information.

Section C—Additional Information

Please include any additional information you believe pertinent to the transaction detailed above that cannot be expressed due to the format of this form. If there is not enough space below, attach the information on the entity’s letterhead, signed by an owner, partner, or executive officer.

Section D—Did You Remember to . . .

- Indicate the type of transaction, check all that apply, and include transaction and notification dates?
- Complete all necessary entity information? **Note:** You can use more forms if the number of entities exceeds three.
- Entity name
- Risk identification number (if you know it)
- Federal Employer Identification Number (FEIN)
- Type of entity
- Primary address, telephone, and other contact information
- Mailing address and additional locations if applicable
- Fill out the ownership table completely?
- Include the names of the entities as listed in Section A?
- Include all owners, partners, board of director members, members and/or manager of LLCs, general partners of LPs, or any other comparable governing body?
- Include percentage of ownership for each owner, partner, board of director member, member and/or manager of LLCs, general partner of LPs, or any other comparable governing body?
- Answer question 1 through 8?

Section E—Certification

This is to certify that the information contained on this form is complete and correct. All forms will be returned if this Certification Section is incomplete.

Name of person completing form: _____

Check which entity or entities the signer represents: Entity 1 Entity 2 Entity 3 Other _____

Signature of Owner, Partner, Member, or Executive Officer

Title

Carrier

Print name of above signature

Date

Carrier Address

Section F—For Rating Board Use Only

Associated/automated _____

Date received _____

Date complete _____

Assessment—form complete? What is missing? _____

Ruling _____

Revisions necessary—Yes/No/NA _____

Rating Effective Date impacted—Yes/No—if Yes, which ones? _____

Risk ID impacted—list all impacted, any deactivated? Indicate deactivated #s _____

All carriers/rating organizations notified? _____

**WORKERS COMPENSATION EXPERIENCE RATING DATA
FOR SELF-INSUREDS**

NAME OF RISK _____

ADDRESS OF RISK _____ CITY _____ STATE _____

ZIP _____ RISK IDENTIFICATION NO. _____ EFFECTIVE DATE OF RATING _____

FEDERAL IDENTIFICATION NUMBER _____ STATE OF COVERAGE _____

| Coverage Period | | (3) Class Code | (4) Payroll | (5) Claim Identification Number Assigned | (6) Injury Type Code | (7) Open/Closed -Final (O/F) | (8) Incurred Losses (Paid plus Reserves) |
|--|---|----------------------|----------------|---|-------------------------------|---------------------------------------|--|
| (1) Effective Month/Day/ Year | (2) Expiration Month/Day/ Year | | | | | | |
| | | | | | | | |

PLEASE FOLLOW THE INSTRUCTIONS ON THE BACK PAGE FOR COMPLETING THIS WORKSHEET AND RETURN IT TO THE RATING SERVICES DIVISION OF THE RATING BOARD PRIOR TO THE RATING EFFECTIVE DATE.

INSTRUCTIONS FOR SUBMITTING EXPERIENCE RATING DATA

PAYROLL AND LOSSES MUST BE ROUNDED TO THE NEAREST WHOLE DOLLAR.

COLUMN 1 Fill in the effective month, day and year of the period for which information will be provided. In accordance with Rating Board rules, a total of three years of experience can be included in the rating, not including the year immediately prior to the effective date of this rating. Each year's payroll and losses should be listed separately.

COLUMN 2 Fill in the expiration month, day and year of the period for which information will be provided.

COLUMN 3 Fill in the workers compensation classification code(s) that best describes your type of business. If you have any questions regarding these classifications, please contact the Classification Division of the Rating Board.

COLUMN 4 Fill in the payroll amounts associated with the classification code(s) for each year being reported.

COLUMN 5 Provide the claim number used for internal record keeping for each claim. If claim numbers are not used for internal record keeping, leave column blank.

COLUMN 6 Fill in the appropriate injury type code (see following list). Only one injury type code is applicable per claim. Medical only claims should be listed as a "6", but claims that include both medical and disability or death benefits should be listed under the applicable disability or death code, such as "5" (Temporary Total or Temporary Partial Disability). Injury types must be noted for each entry.

- 1 = Death 6 = Medical Only
2 = Permanent Total Disability 7 = Contract Medical or Hospital Allowance
3 = Temporary Total or Temporary Partial Disability 9 = Permanent Partial Disability

COLUMN 7 Indicate whether the claim is open or closed/final by placing an O or F in the column.

COLUMN 8 In Column 8, fill in the incurred (sum of paid plus reserves) losses per row. If no claims occurred, place a 0 in that space. Claims must be reported individually regardless of claim amount.

The experience rating will be completed in accordance with the New York Experience Rating Plan. However, because we do not verify the accuracy of the data submitted by non-members, the modification factor will be issued with a disclaimer.

Name of the self-insured entity requesting the rating
Name of the entity submitting the data (if different)
Street and City
State Zip Phone Fax E-Mail

AGREEMENT

We hereby certify that the information given in this report is correct to the best of our knowledge and belief. BY SUBMISSION OF THIS INFORMATION, WE REQUEST THAT THE NEW YORK COMPENSATION INSURANCE RATING BOARD PRODUCE EXPERIENCE MODIFICATION FACTORS ON EACH OF THE RISKS LISTED AND AGREE TO PAY THE FEES CHARGED FOR THIS SERVICE.

The person signing this agreement certifies that he/she has the authority to execute this agreement on behalf of the self-insured entity requesting the rating. Authorized signers include the risk, the group self-insured and the TPA ONLY.

Signed Date

Printed Name of Signer Title

SUPPLEMENT AND EXAMPLES

This section of the New York Experience Rating Plan Manual provides supplemental material and examples in areas where this additional information could be beneficial to the users' understanding of the preceding Plan rules.

- A. Premium Eligibility
- B. Experience To Be Used In A Rating
- C. Rating Effective Date
- D. Loss Limitation For Single And Multiple Claims
- E. Combination Of Entities And Ownership Changes

A. PREMIUM ELIGIBILITY EXAMPLES FOR RULE 2-A-3

A risk is eligible for experience rating when its subject premium, developed in its experience period, meets or exceeds the minimum eligibility amount. *Refer to Rule 2-A-3 of the Plan for average annual subject premium rules.*

1. Calculation of Average Annual Subject Premium

The average annual subject premium is calculated as follows.

Example 1: A Risk With 32 Months of Experience

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 4,000 |
| 2003 | 12 | 4,000 |
| 2002 | 8 | 3,000 |
| Total | 32 | 11,000 |

$$\frac{\$11,000}{32} \times 12 = \$4,125 \text{ Average Annual Subject Premium}$$

Example 2: A Risk With 45 Months of Experience

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 4,000 |
| 2003 | 12 | 4,000 |
| 2002 | 12 | 3,000 |
| 2001 | 9 | 8,000 |
| Total | 45 | 19,000 |

$$\frac{\$19,000}{45} \times 12 = \$5,067 \text{ Average Annual Subject Premium}$$

2. New York Risk Eligible for Experience Rating—Examples for Rule 2-A-4

A New York risk may be eligible for experience rating under the following conditions when the New York premium eligibility amounts are:

| 24 Month Total | Avg. Annual |
|----------------|-------------|
| \$ 10,000 | \$ 5,000 |

Example 1: Experience Period of 12 Months

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 12,000 |
| Total | 12 | 12,000 |

Although this risk has only 12 months of experience, the subject premium exceeds \$10,000. Therefore, it qualifies for experience rating.

Example 2: Experience Period of Less Than 24 Months

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 10 | 14,000 |
| Total | 10 | 14,000 |

Although this risk has only 10 months of experience, the subject premium exceeds \$10,000. Therefore, it qualifies for experience rating.

Example 3: Experience Period of Less Than 24 Months

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 6,000 |
| 2003 | 2 | 5,000 |
| Total | 14 | 11,000 |

This risk has 14 months of experience and the subject premium exceeds \$10,000. Therefore, it qualifies for experience rating.

Example 4: Experience Period of 24 Months

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 6,000 |
| 2003 | 12 | 4,000 |
| Total | 24 | 10,000 |

This risk does not meet the subject premium requirement in its most recent 12 months, but does meet the subject premium of \$10,000 when the most recent 24 months are added together. Therefore, it qualifies for experience rating.

Example 5: Experience Period of More Than 24 Months—Average Annual Subject Premium

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 5,500 |
| 2003 | 12 | 4,000 |
| 2002 | 12 | 6,500 |
| Total | 36 | 16,000 |

$$\frac{\$16,000}{36} \times 12 = \$5,333 \text{ Average Annual Subject Premium}$$

Because this risk has 36 months of experience, but does not meet or exceed \$10,000 during its most recent 12 to 24 months, the average annual subject premium must be calculated. This risk's average annual subject premium is \$5,333. Because it exceeds the average annual subject premium requirement of \$5,000, it qualifies for experience rating.

Example 6: Experience Period of More Than 24 Months—Average Annual Subject Premium

| Policy | Months of Data | Subject Premium |
|--------------|----------------|-----------------|
| 2004 | 12 | 6,000 |
| 2003 | 12 | 2,000 |
| 2002 | 12 | 5,000 |
| 2001 | 9 | 10,000 |
| Total | 45 | 23,000 |

$$\frac{\$23,000}{45} \times 12 = \$6,133 \text{ Average Annual Subject Premium}$$

Because this risk has 45 months of experience, but does not meet or exceed \$10,000 during its most recent 12 or 24 months, the average annual subject premium must be calculated. This risk's average annual subject premium is \$6,133. Because it exceeds the average annual subject premium requirement of \$5,000, it qualifies for experience rating.

3. New York Risk Not Eligible for Experience Rating—

A New York risk is **not** eligible for experience rating under the following conditions.

Example 1: Experience Period of 12 Months

| Policy | Months of Data | Subject Premium |
|---------------|-----------------------|------------------------|
| 2004 | 12 | 9,000 |
| Total | 12 | 9,000 |

This risk has only 12 months of experience, and the subject premium does not meet or exceed \$10,000. Therefore, it does not qualify for experience rating.

Example 2: Experience Period of Less Than 24 Months

| Policy | Months of Data | Subject Premium |
|---------------|-----------------------|------------------------|
| 2004 | 10 | 9,500 |
| Total | 10 | 9,500 |

This risk has only 10 months of experience, and the subject premium does not meet or exceed \$10,000. Therefore, it does not qualify for experience rating. The \$9,500 subject premium is not projected to an annual average subject premium because the experience period is less than 24 months.

Example 3: Experience Period of 24 Months

| Policy | Months of Data | Subject Premium |
|---------------|-----------------------|------------------------|
| 2004 | 12 | 3,000 |
| 2003 | 12 | 4,000 |
| Total | 24 | 7,000 |

This risk has \$7,000 in subject premium for 24 months of experience, and does not meet or exceed \$10,000 subject premium requirement. Therefore, it does not qualify for experience rating.

Example 4: Experience Period of More Than 24 Months—Average Annual Subject Premium

| Policy | Months of Data | Subject Premium |
|---------------|-----------------------|------------------------|
| 2004 | 12 | 5,500 |
| 2003 | 12 | 4,000 |
| 2002 | 12 | 3,000 |
| Total | 36 | 12,500 |

$$\frac{\$12,500}{36} \times 12 = \$4,167 \text{ Average Annual Subject Premium}$$

Because this risk has 36 months of experience, but does not meet or exceed \$10,000 during its most recent 12 or 24 months, the average annual subject premium must be calculated. This risk's average annual subject premium is \$4,167, which does not meet the \$5,000 average annual subject premium. Therefore, this risk does not qualify for experience rating.

Example 5: Experience Period of More Than 24 Months—Average Annual Subject Premium

| Policy | Months of Data | Subject Premium |
|---------------|-----------------------|------------------------|
| 2004 | 12 | 1,000 |
| 2003 | 12 | 2,000 |
| 2002 | 12 | 5,000 |
| 2001 | 9 | 10,000 |
| Total | 45 | 18,000 |

$$\frac{\$18,000}{45} \times 12 = \$4,800 \text{ Average Annual Subject Premium}$$

Because this risk has 45 months of experience, but does not meet or exceed \$10,000 during its most recent 12 or 24 months, the average annual subject premium must be calculated. This risk's average annual subject premium is \$4,800, which does not meet the \$5,000 average annual subject premium. Although it qualified in previous years, it no longer qualifies for experience rating.

Reserved For Future Use

B. EXPERIENCE TO BE USED IN A RATING**1. Experience Period**

According to Rule 2-E-1, a risk's rating effective date determines its experience period. The experience period contains policies with effective dates ranging from 21 to 57 months before the rating effective date, not exceeding 45 months of data.

To determine the maximum 45-month time period included in the experience period, refer to the Experience Period Reference Table or apply the following procedure:

- | | |
|--|--------|
| (a) List the Experience Rating Modification Effective Date | 1/1/07 |
| (b) Add 3 months to the date in (a) | 4/1/07 |
| (c) Subtract 2 years from the date in (b) | 4/1/05 |
| (d) Subtract 3 years from the date in (c) | 4/1/02 |

The maximum experience period of a 1/1/07 experience rating modification includes policies with effective dates on or after 4/1/02, through policies with effective dates on or before 4/1/05.

2. Examples for Rule 2-E-1

The examples below clarify the experience period used in a rating that has policy periods with varying lengths.

Example 1:

Assume a 1/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|----------------|
| 06/01/02-01/01/03 | 7 |
| 01/01/03-01/01/04 | 12 |
| 01/01/04-01/01/05 | 12 |
| 01/01/05-01/01/06 | 12 |

The 1/1/07 rating includes 43 months of data. This is within the 45-month period under this rule. The oldest policy period (6/1/02-1/1/03) is not more than 57 months before the rating effective date.

Example 2:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|---|
| 10/01/02-07/01/03 | 9 |
| 07/01/03-07/01/04 | 12 |
| 07/01/04-10/15/04 | 3.5 |
| 10/15/04-07/01/05 | 8.5-month coverage gap— no data to be included |
| 07/01/05-07/01/06 | 12 |

The 7/1/07 rating includes 36.5 months of data, excluding the 8.5-month gap in coverage. This is within the 45-month period as provided under this rule. The oldest policy period (10/1/02-7/1/03) is not more than 57 months before the rating effective date.

Example 3:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|---|
| 02/01/03-12/01/03 | 10 |
| 12/01/03-07/01/04 | 7-month coverage gap— no data to be included |
| 07/01/04-07/01/05 | 12 |
| 07/01/05-07/01/06 | 12 |

The 7/1/07 rating includes 34 months of data, excluding the 7-month gap in coverage. This is within the 45-month period as provided under this rule. The oldest policy period (2/1/03-12/1/03) is only 53 months before the rating effective date, and does not exceed the 57-month limit.

Example 4:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|---|
| 07/01/03-07/01/04 | 12 |
| 07/01/04-07/01/05 | 12 |
| 07/01/05-10/01/05 | 3-month coverage gap— no data to be included |
| 10/01/05-07/01/06 | 9 |

The 7/1/07 rating includes 33 months of data within an experience period of 36 months. The data effective 10/1/05 is used.

Example 5:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|---|
| 07/01/03-07/01/04 | 10 |
| 07/01/04-07/01/05 | 12 |
| 07/01/05-07/01/06 | 12 |
| 10/01/05-10/01/06 | 12—newly acquired subsidiary with a different policy date |

In this example, the 7/1/05-7/1/06 policy overlaps with the 10/1/05-10/1/06 subsidiary policy. The 7/1/07 rating includes 36 months of data for the principal entity and 12 months of data for the subsidiary entity. Because two policies overlap for nine months, the 39-month experience period is within the 45-month limit.

Example 6:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|----------------|
| 12/01/02-07/01/03 | 7 |
| 07/01/03-07/01/04 | 12 |
| 07/01/04-07/01/05 | 12 |
| 07/01/05-09/01/05 | 2 |
| 09/01/05-07/01/06 | 10 |

The experience period includes the 12/1/02 policy and the 9/1/05 policy. In this example, the 7/1/07 rating includes 43 months of data.

Example 7:

Assume a 7/1/07 rating effective date.

| Policy Period | Months of Data |
|-------------------|---|
| 11/01/02-11/01/03 | 12 |
| 11/01/03-09/01/04 | 10 |
| 09/01/04-07/01/05 | 10-month coverage gap—no data to be included |
| 07/01/05-10/01/05 | 3 |
| 10/01/05-07/01/06 | 9 |

The 7/1/07 rating includes 34 months of data, excluding the 10-month gap in coverage. This is within the 45-month period. The most recent policy period (10/1/05-7/1/06) is not less than 21 months before the rating effective date.

Example 8:

Assume a 9/1/07 rating effective date.

| Policy Period | Months of Data |
|----------------------|-----------------------|
| 11/01/02-11/01/03 | 12 |
| 11/01/03-11/01/04 | 12 |
| 11/01/04-09/01/05 | 10 |
| 09/01/05-09/01/06 | 12 |

In this example, there is a total of 46 months of data. Since this exceeds the 45-month period and the oldest data is more than 57 months before the rating effective date, the 11/1/02-11/1/03 policy is not used. As a result, the experience period is 34 months.

Example 9:

Assume a 1/1/07 rating effective date with combinable entities A and B.

| Entity A | | Entity B | |
|--------------------|-----------------------|--------------------|-----------------------|
| Policy Date | Months of Data | Policy Date | Months of Data |
| 01/01/03-01/01/04 | 12 | 03/01/03-03/01/04 | 12 |
| 01/01/04-01/01/05 | 12 | 03/01/04-03/01/05 | 12 |
| 01/01/05-01/01/06 | 12 | 03/01/05-03/01/06 | 12 |
| Total | 36 | Total | 36 |

The experience period for a 1/1/07 rating effective date can include policies with effective dates on or between 4/1/02 and 4/1/05. Entity A and Entity B each have 36 months of experience. This particular risk's experience period begins 1/1/03 and ends 3/1/06, totaling 39 months of experience, even though 33 of the 39 months are overlapping. Each entity's separate experience, as well as the total experience of the risk, fits within the 45-month maximum experience period.

Experience Period Reference Table

| Rating Effective Date | Oldest Policy Effective Date | Most Recent Policy Effective Date | | Rating Effective Date | Oldest Policy Effective Date | Most Recent Policy Effective Date |
|-----------------------|------------------------------|-----------------------------------|--|-----------------------|------------------------------|-----------------------------------|
| 01/01/2002 | 04/01/97 | 04/01/00 | | 01/01/2003 | 04/01/98 | 04/01/01 |
| 02/01/2002 | 05/01/97 | 05/01/00 | | 02/01/2003 | 05/01/98 | 05/01/01 |
| 03/01/2002 | 06/01/97 | 06/01/00 | | 03/01/2003 | 06/01/98 | 06/01/01 |
| 04/01/2002 | 07/01/97 | 07/01/00 | | 04/01/2003 | 07/01/98 | 07/01/01 |
| 05/01/2002 | 08/01/97 | 08/01/00 | | 05/01/2003 | 08/01/98 | 08/01/01 |
| 06/01/2002 | 09/01/97 | 09/01/00 | | 06/01/2003 | 09/01/98 | 09/01/01 |
| 07/01/2002 | 10/01/97 | 10/01/00 | | 07/01/2003 | 10/01/98 | 10/01/01 |
| 08/01/2002 | 11/01/97 | 11/01/00 | | 08/01/2003 | 11/01/98 | 11/01/01 |
| 09/01/2002 | 12/01/97 | 12/01/00 | | 09/01/2003 | 12/01/98 | 12/01/01 |
| 10/01/2002 | 01/01/98 | 01/01/01 | | 10/01/2003 | 01/01/99 | 01/01/02 |
| 11/01/2002 | 02/01/98 | 02/01/01 | | 11/01/2003 | 02/01/99 | 02/01/02 |
| 12/01/2002 | 03/01/98 | 03/01/01 | | 12/01/2003 | 03/01/99 | 03/01/02 |
| | | | | | | |
| 01/01/2004 | 04/01/99 | 04/01/02 | | 01/01/2005 | 04/01/00 | 04/01/03 |
| 02/01/2004 | 05/01/99 | 05/01/02 | | 02/01/2005 | 05/01/00 | 05/01/03 |
| 03/01/2004 | 06/01/99 | 06/01/02 | | 03/01/2005 | 06/01/00 | 06/01/03 |
| 04/01/2004 | 07/01/99 | 07/01/02 | | 04/01/2005 | 07/01/00 | 07/01/03 |
| 05/01/2004 | 08/01/99 | 08/01/02 | | 05/01/2005 | 08/01/00 | 08/01/03 |
| 06/01/2004 | 09/01/99 | 09/01/02 | | 06/01/2005 | 09/01/00 | 09/01/03 |
| 07/01/2004 | 10/01/99 | 10/01/02 | | 07/01/2005 | 10/01/00 | 10/01/03 |
| 08/01/2004 | 11/01/99 | 11/01/02 | | 08/01/2005 | 11/01/00 | 11/01/03 |
| 09/01/2004 | 12/01/99 | 12/01/02 | | 09/01/2005 | 12/01/00 | 12/01/03 |
| 10/01/2004 | 01/01/00 | 01/01/03 | | 10/01/2005 | 01/01/01 | 01/01/04 |
| 11/01/2004 | 02/01/00 | 02/01/03 | | 11/01/2005 | 02/01/01 | 02/01/04 |
| 12/01/2004 | 03/01/00 | 03/01/03 | | 12/01/2005 | 03/01/01 | 03/01/04 |
| | | | | | | |
| 01/01/2006 | 04/01/01 | 04/01/04 | | 01/01/2007 | 04/01/02 | 04/01/05 |
| 02/01/2006 | 05/01/01 | 05/01/04 | | 02/01/2007 | 05/01/02 | 05/01/05 |
| 03/01/2006 | 06/01/01 | 06/01/04 | | 03/01/2007 | 06/01/02 | 06/01/05 |
| 04/01/2006 | 07/01/01 | 07/01/04 | | 04/01/2007 | 07/01/02 | 07/01/05 |
| 05/01/2006 | 08/01/01 | 08/01/04 | | 05/01/2007 | 08/01/02 | 08/01/05 |
| 06/01/2006 | 09/01/01 | 09/01/04 | | 06/01/2007 | 09/01/02 | 09/01/05 |
| 07/01/2006 | 10/01/01 | 10/01/04 | | 07/01/2007 | 10/01/02 | 10/01/05 |
| 08/01/2006 | 11/01/01 | 11/01/04 | | 08/01/2007 | 11/01/02 | 11/01/05 |
| 09/01/2006 | 12/01/01 | 12/01/04 | | 09/01/2007 | 12/01/02 | 12/01/05 |
| 10/01/2006 | 01/01/02 | 01/01/05 | | 10/01/2007 | 01/01/03 | 01/01/06 |
| 11/01/2006 | 02/01/02 | 02/01/05 | | 11/01/2007 | 02/01/03 | 02/01/06 |
| 12/01/2006 | 03/01/02 | 03/01/05 | | 12/01/2007 | 03/01/03 | 03/01/06 |
| | | | | | | |
| 01/01/2008 | 04/01/03 | 04/01/06 | | 01/01/2009 | 04/01/04 | 04/01/07 |
| 02/01/2008 | 05/01/03 | 05/01/06 | | 02/01/2009 | 05/01/04 | 05/01/07 |
| 03/01/2008 | 06/01/03 | 06/01/06 | | 03/01/2009 | 06/01/04 | 06/01/07 |
| 04/01/2008 | 07/01/03 | 07/01/06 | | 04/01/2009 | 07/01/04 | 07/01/07 |
| 05/01/2008 | 08/01/03 | 08/01/06 | | 05/01/2009 | 08/01/04 | 08/01/07 |
| 06/01/2008 | 09/01/03 | 09/01/06 | | 06/01/2009 | 09/01/04 | 09/01/07 |
| 07/01/2008 | 10/01/03 | 10/01/06 | | 07/01/2009 | 10/01/04 | 10/01/07 |
| 08/01/2008 | 11/01/03 | 11/01/06 | | 08/01/2009 | 11/01/04 | 11/01/07 |
| 09/01/2008 | 12/01/03 | 12/01/06 | | 09/01/2009 | 12/01/04 | 12/01/07 |
| 10/01/2008 | 01/01/04 | 01/01/07 | | 10/01/2009 | 01/01/05 | 01/01/08 |
| 11/01/2008 | 02/01/04 | 02/01/07 | | 11/01/2009 | 02/01/05 | 02/01/08 |
| 12/01/2008 | 03/01/04 | 03/01/07 | | 12/01/2009 | 03/01/05 | 03/01/08 |

C. RATING EFFECTIVE DATE – EXAMPLES FOR RULE 2-B-2

The rating effective date (RED) is the earliest date that a specific experience modification is applied to a policy. Refer to Rule 2-B-2 of the Plan for rating effective date rules.

Example 1:

Assume that a risk has a current policy effective 01/01/06 to 01/01/07, and all previous policies have also been effective on 1/1 since the risk was in business:

Since all policies have had 01/01 effective dates, the Rating Effective Date is 01/01/xx.

Example 2:

Assume that after several years, the policy effective date changes.

| Policy Period | Rating Effective Date |
|-------------------|-----------------------|
| 01/01/02-01/01/03 | 01/01/02 |
| 01/01/03-06/01/03 | 01/01/03 |
| 06/01/03-06/01/04 | 01/01/03 01/01/04 |
| 06/01/04-06/01/05 | 06/01/04 |

Since the next full term policy after the change in effective date is 06/01/03-06/01/04, experience ratings will be issued with REDs of 01/01/02, 01/01/03 and 01/01/04. Upon expiration of the 06/01/03-06/01/04 policy, a new RED of 06/01/04 will apply.

Example 3:

Assume that after several years, the policy effective date changes, and then changes again.

| Policy Period | Rating Effective Date |
|-------------------|-----------------------|
| 01/01/02-01/01/03 | 01/01/02 |
| 01/01/03-05/01/03 | 01/01/03 |
| 05/01/03-05/01/04 | 01/01/03 01/01/04 |
| 05/01/04-01/01/05 | 05/01/04 |
| 01/01/05-01/01/06 | 05/01/04 05/01/05 |
| 01/01/06-01/01/07 | 01/01/06 |

Since the next full term policy after the first change in effective date is 04/01/03-04/01/04, experience ratings will be issued with REDs of 01/01/02, 01/01/03 and 01/01/04. Upon expiration of the 04/01/03-04/01/04 policy, a new RED of 04/01/04 will apply. The 04/01 RED will remain until after expiration of the 01/01/05-01/01/06 policy. A new RED will become effective 01/01/06.

Reserved For Future Use

D. LOSS LIMITATIONS

- ★ NOTE: The examples below utilize a Primary/Excess split point of \$10,000, and are meant for *illustrative purposes only*. Refer to Table II of the Experience Rating Values pages of this Plan for the applicable primary/excess split point value.

1. Loss Limitation for Single Claims—Examples for Rule 2-C-13-a**a. State Per Claim Accident Limitation**

Per claim accident limits vary by state. They are intended to protect the employer from the adverse impact any single large claim could have on the experience rating modification calculation.

Assume New York's state per claim accident limit is \$245,000. A claim of \$285,000 is reported at that amount and appears at full value on the experience rating modification worksheet. However, in the summary of all losses used in the calculation, the claim will be limited to \$245,000. This limitation applies for all claims that exceed \$245,000.

b. State Per Claim Accident Limitation

Company A has three claims from three separate accidents:

| Loss | Actual Incurred | Actual Incurred Limited | Actual Primary |
|--------------|------------------|-------------------------|-----------------|
| 1 | \$275,000 | \$245,000 | \$10,000 |
| 2 | \$12,000 | \$12,000 | \$10,000 |
| 3 | \$5,000 | \$5,000 | \$5,000 |
| Total | \$292,000 | \$262,000 | \$25,000 |

Because Loss 1 exceeds the limit, it is reduced to that amount. Both Losses 2 and 3 are used at full value. The primary loss for Losses 1 and 2 are \$10,000 each and \$5,000 for Loss 3.

2. Loss Limitations for Accidents Involving Two or More Persons—Examples for Rule 2-C-13-a

States also have a multiple claim accident limitation, which is double the per claim accident limitation. If the per claim limit is \$245,000, the multiple claim limitation would be \$490,000. The multiple claim limitation is another layer of protection that the Plan provides. It ensures that the impact of catastrophic accident (one incident involving two or more claims) is lessened.

- a. In this example, assume a warehouse fire occurs, resulting in four injured workers with individual claim amounts of \$250,000, \$327,000, \$85,000 and \$60,000, totaling \$722,000.

These four claims would be reported in a manner identifying them as individual claims from the same accident. This ensures that the experience rating modification calculation will limit the \$722,000 in claims to \$490,000. In addition, the actual primary loss is limited to \$20,000 for the four claims, rather than the \$40,000 (\$10,000 each) that would normally apply for each of the four claims.

- b. Assume Company B has four claims resulting from a single accident:

| Loss | Actual Incurred | Actual Incurred Limited | Actual Primary |
|--------------|------------------|-------------------------|----------------------|
| 1 | \$525,000 | Multiple Claim Limit | Actual Primary Limit |
| 2 | \$221,000 | | |
| 3 | \$145,000 | | |
| 4 | \$50,000 | | |
| Total | \$941,000 | \$490,000 | \$20,000 |

The multiple claim limitation reduced the amount of the actual incurred losses used in the experience rating calculation by \$451,000 and the actual primary losses by \$20,000.

- c. As a comparison, if each loss in b. above was a result of four separate accidents, the losses would be limited individually and used in the calculation as follows:

| | Loss | Actual Incurred | Limited Actual Incurred | Actual Primary |
|---|--------------|------------------------|--------------------------------|-----------------------|
| ★ | 1 | \$525,000 | \$245,000 | \$10,000 |
| | 2 | \$221,000 | \$221,000 | \$10,000 |
| | 3 | \$145,000 | \$145,000 | \$10,000 |
| | 4 | \$50,000 | \$50,000 | \$10,000 |
| | Total | \$941,000 | \$661,000 | \$40,000 |

★ The limitation of just one loss exceeding the single per claim amount of \$245,000 results in \$661,000 in actual incurred losses and \$40,000 in actual primary losses being used in the experience rating calculation.

- d. Loss limitations in experience rating also apply when the coverage is provided by the United States Longshore and Harbor Workers' Act. These limitations are higher than those of New York because the federal benefits under the Act are significantly higher than the workers compensation benefits in New York. The application of the federal loss limitations works in the same manner as those described above.

3. Disease Loss Limitation—Examples for Rule 2-C-13-b

Assume for the following examples, that under the state act the per claim limit is \$100,000 and the multiple claim limit is \$200,000.

a. Single Loss Example

ABC Company has:

- A disease loss valued at \$175,000
 - Total expected losses is \$50,000
 - ★ • Total expected primary losses of \$25,000
- (1) As a first layer of protection, the actual incurred loss is limited to the state act per claim accident limitation of \$100,000. The actual primary loss is limited to \$10,000.
 - (2) As a second layer of protection, the policy in which the disease loss incurred is also subject to further limitation.

The policy's total actual incurred disease losses are limited as follows:

- $(3 \times \text{State Act Per Claim Limit}) + 120\% \text{ of the risk's total expected losses} =$
- $(3 \times \$100,000) + (\$50,000 \times 120\%) =$
- $\$300,000 + \$60,000 = \$360,000$

The policy's total actual primary incurred disease losses are limited as follows:

- ★ • $\$20,000 + 40\% \text{ of the risk's total expected primary losses} =$
- $\$20,000 + (\$25,000 \times 40\%) =$
- $\$20,000 + \$10,000 = \$30,000$

By the nature of the first layer of protection, ABC Company's disease loss of \$175,000 does not exceed the policy actual incurred loss disease limitation of \$360,000. Also, ABC Company's policy actual primary disease loss limitation of \$30,000 is not met because of \$10,000 actual primary loss limitation under the first layer of protection. Therefore, the \$175,000 disease loss is limited as follows:

- \$100,000 actual incurred loss
- ★ • \$10,000 actual primary loss

b. Multiple Loss Example—State Act Limitation

XYZ Company has:

- A single policy with three disease losses resulting from the same accident
 - Total expected losses of \$450,000
 - Total expected primary losses of \$100,000
- ★ (1) As a first layer of protection, the actual incurred losses are limited to the state act multiple claim accident limitation of \$200,000. The actual primary loss is limited to \$20,000.

| Loss | Actual Incurred | Actual Incurred Limited | Actual Primary |
|--------------|------------------|-------------------------|----------------------|
| 1 | \$175,000 | Multiple Claim Limit | Actual Primary Limit |
| 2 | \$25,000 | | |
| 3 | \$40,000 | | |
| Total | \$240,000 | \$200,000 | \$20,000 |

- (2) As a second layer of protection, the policy in which the disease losses incurred is also subject to further limitation.

The policy’s total actual incurred disease losses are limited as follows:

- $(3 \times \text{State Act Per Claim Limit}) + 120\%$ of the risk’s total expected losses =
- $(3 \times \$100,000) + (\$450,000 \times 120\%) =$
- $\$300,000 + \$540,000 = \$840,000$

- ★ The policy’s total actual primary disease losses are limited as follows:

- $\$20,000 + 40\%$ of the risk’s total expected primary losses =
- $\$20,000 + (\$100,000 \times 40\%) =$
- $\$20,000 + \$40,000 = \$60,000$

By the nature of the first layer of protection, XYZ company’s disease losses of \$240,000 do not exceed the policy actual incurred loss disease limitation of \$840,000. Also, under XYZ Company’s policy, the actual primary disease loss limitation of \$60,000 is not met because of the \$20,000 actual primary loss limitation under the first layer of protection. Therefore, the \$240,000 disease losses are limited as follows:

- ★
 - \$200,000 actual incurred loss
 - \$20,000 actual primary loss

c. Multiple Loss Example—Losses Not Limited

In this example, XYZ Company has:

- A single policy with three disease losses resulting from the same accident
 - Total expected losses of \$300,000
 - Total expected primary losses of \$45,000
- (1) In this situation, the total of the three losses does not exceed the state act multiple claim accident limitation, but the first loss does exceed the state act single claim accident limitation. Therefore, as a first layer of protection, the largest loss is limited to \$100,000 while the remaining two losses are used in the calculation at full value. As a second layer of protection, the actual primary loss is limited to a total of \$20,000. Although the total of the three losses does not exceed the multiple claim limitation, the actual primary losses are not treated as individual losses at \$10,000 each. If they were each treated individually, the total actual primary loss would be \$25,000.

| Loss | Actual Incurred | Actual Incurred Limited | Actual Primary Limited |
|----------------|------------------|-------------------------|------------------------|
| 1 | \$175,000 | \$100,000 | |
| 2 | \$10,000 | \$10,000 | |
| 3 | \$5,000 | \$5,000 | |
| ★ Total | \$190,000 | \$115,000 | \$20,000 |

- (2) As an additional layer of protection, the policy in which the disease losses incurred is also subject to further limitation.

The policy's total actual incurred disease losses are limited as follows:

- $(3 \times \text{State Act Per Claim Limit}) + 120\%$ of the risk's total expected losses =
- $(3 \times \$100,000) + (\$300,000 \times 120\%) =$
- $\$300,000 + \$360,000 = \$660,000$

- ★ The policy's total actual primary disease losses are limited as follows:

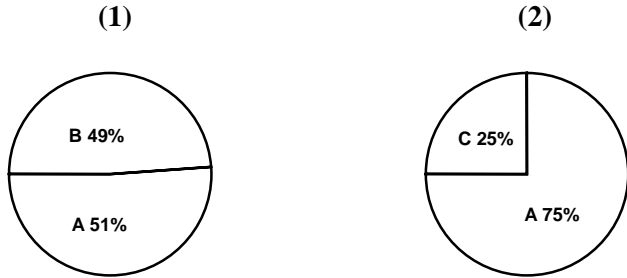
- $\$20,000 + 40\%$ of the risk's total expected primary losses =
- $\$20,000 + (\$45,000 \times 40\%) =$
- $\$20,000 + \$18,000 = \$38,000$

- ★ XYZ Company's disease losses of \$190,000 do not exceed the policy actual incurred loss disease limitation of \$660,000. Also, XYZ Company's policy actual primary disease loss limitation of \$38,000 is not met because of the \$20,000 actual primary loss limitation under the first layer of protection. Therefore, the \$190,000 disease losses are limited as follows:

- \$115,000 actual incurred loss
- \$20,000 actual primary loss

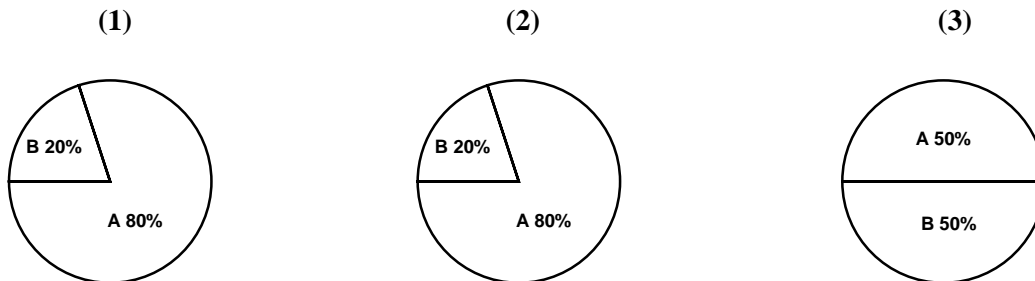
E. COMBINATION OF ENTITIES AND OWNERSHIP CHANGES-RULE 3

Example 1:



Entities (1) and (2) are combinable since A owns a majority in both.

Example 2:



Entities (1), (2), and (3) are all combinable since, as a group, A and B own more than 50% of each.

Example 3:

Six entities are combinable based on common majority ownership. A new entity becomes combinable with one or more, but not all entities in the existing combination. Since none of the original six entities had undergone a change in ownership, they would continue to be rated together. The new entity is rated separately.

Example 4:

Six entities, based on their respective ownership, are split into two sets of three combinable entities each. A new entity's ownership structure is such that it could be combinable with either of the existing three entity combinations. In this situation, assuming each entity has a separate policy, the combination that produces the largest amount of premium would be made.

Example 5:

In this example, based on the ownership interest of six entities, two different sets of three entity combinations are possible. For example, the combinations could involve entities 1, 2, 3 and 4, 5, 6, or entities 1, 3, 5 and 2, 4, 6. The Plan rules provide that the combination involving the most entities be made. In this case, based on the ownership structure, a four-entity combination is not possible. As such, the combination that produces the largest amount of premium would be made, assuming each entity has a separate policy.

Example 6:

On 3/1/07, Entity A, with a 1/1/07 mod of 1.26, purchases Entity B with a 10/1/06 modification of 0.86. Assuming the change is reported on a timely basis, the 1/1/07 mod of Entity A is revised as of 3/1/07 (the date of combination) and applies from that date until the expiration date of the 1/1/07 rating. In this example, the inclusion of Entity B's experience results in a mod of 1.14, a decrease from the 1.26 original mod. Entity B's original 0.86 modification applies from 10/1/06 until its acquisition of 3/1/07.

Example 7:

Entities C and D have been combined for many years based on the following ownership:

- Entity C—John Doe 50%, Jane Doe 30%, John Smith 20%
- Entity D—John Doe 30%, Jane Doe 10%, John Smith 60%

As a group, the three individuals own 100% of both entities. The rating for the combined entities is effective 1/1/07. On 5/15/07, John Smith sells his 20% interest in Entity C to Sam Jones. The ownership of the two entities now appears as follows:

- Entity C—John Doe 50%, Jane Doe 30%, Sam Jones 20%
- Entity D—John Doe 30%, Jane Doe 10%, John Smith 60%

As a result, the entities are no longer combinable. Assuming the change is reported on a timely basis, Entities C and D are separately rated as of 5/15/07.

If the entities are written on separate policies, separate experience rating modifications will be produced for each entity effective the date of the change.

If the entities are written on a single policy, an attempt is made by the carrier(s) to separate the data by entity. If this can be done, each entity will receive a separate experience rating modification effective the date of the change.

If the data cannot be separated by entity, Entity C will receive a unity factor (1.00). Entity D will continue to be experience rated based on all experience developed prior to the sale.

Example 8:

In this example, two separate, non-rated entities, Y and Z, are purchased by John Doe on 5/1/07. A policy is obtained to cover the operations of the newly combined entities. In determining the experience rating modifications for the 5/1/07 policy, the combined premium history is used to determine premium eligibility. Entity Y has developed policy premiums of \$2,000, \$2,300, and \$3,000 in the most recent 36 months in a state (New York) that requires an annual average subject premium of \$5,000, or \$10,000 during the most recent 12 to 24 months.

Entity Z has developed policy premiums of \$3,200, \$3,800, and \$4,700 in the most recent 36 months.

The risk will qualify for a 5/1/07 modification based on the combined premiums of \$5,200, \$6,100, and \$7,700 over the 36 months in the experience period.

TABLE I

Legend

- (a) - Values to be obtained from the Rating Board.
- F - Coverage under the United States Longshore and Harbor Workers' Compensation Act.

TABLE I - EXPECTED LOSS RATES AND D RATIOS

| Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio |
|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|
| 0005 | 1.85 | 0.30 | 1924 | 3.42 | 0.25 | 2402 | 1.33 | 0.23 | 2818 | 2.75 | 0.23 |
| 0006 | 2.24 | 0.23 | 1925 | 4.65 | 0.27 | 2413 | 2.78 | 0.33 | 2835 | 1.89 | 0.33 |
| 0007 | 1.57 | 0.37 | 2001 | 3.25 | 0.32 | 2416 | 1.45 | 0.26 | 2841 | 2.80 | 0.31 |
| 0031 | 1.66 | 0.23 | 2002 | 3.36 | 0.32 | 2417 | 2.32 | 0.30 | 2881 | 1.91 | 0.28 |
| 0034 | 2.33 | 0.27 | 2003 | 3.47 | 0.30 | 2501 | 0.50 | 0.26 | 2883 | 2.42 | 0.25 |
| 0035 | 1.84 | 0.28 | 2014 | 2.67 | 0.24 | 2503 | 0.62 | 0.30 | 2913 | 2.85 | 0.33 |
| 0042 | 3.36 | 0.21 | 2021 | 2.19 | 0.25 | 2534 | 2.91 | 0.35 | 2916 | 2.23 | 0.25 |
| 0050 | 3.24 | 0.32 | 2039 | 3.49 | 0.27 | 2553 | 1.72 | 0.31 | 2923 | 1.18 | 0.34 |
| 0106 | 5.35 | 0.27 | 2041 | 3.10 | 0.38 | 2570 | 3.24 | 0.34 | 2942 | 1.85 | 0.33 |
| 0251 | 8.83 | 0.28 | 2065 | 2.51 | 0.27 | 2571 | 2.23 | 0.29 | 3004 | 3.40 | 0.26 |
| 0767 | - | - | 2070 | 3.67 | 0.25 | 2576 | 2.37 | 0.30 | 3018 | 5.59 | 0.25 |
| 0771 | - | - | 2081 | 7.54 | 0.27 | 2578 | 2.08 | 0.27 | 3022 | 5.23 | 0.27 |
| 0908 | 103.28 | 0.28 | 2089 | 6.32 | 0.31 | 2590 | 1.68 | 0.25 | 3027 | 1.71 | 0.23 |
| 0909 | 155.19 | 0.34 | 2095 | 4.69 | 0.25 | 2591 | 3.34 | 0.23 | 3028 | 8.20 | 0.29 |
| 0912 | 509.29 | 0.26 | 2101 | 2.63 | 0.28 | 2593 | 3.37 | 0.21 | 3030 | 6.12 | 0.15 |
| 0913 | 204.08 | 0.26 | 2105 | 4.28 | 0.29 | 2594 | 3.95 | 0.29 | 3040 | 5.91 | 0.27 |
| 0917 | 3.15 | 0.28 | 2111 | 2.03 | 0.31 | 2600 | 4.27 | 0.29 | 3041 | 3.51 | 0.28 |
| 1170 | 2.66 | 0.26 | 2112 | 5.25 | 0.38 | 2623 | 2.27 | 0.29 | 3042 | 2.97 | 0.25 |
| 1320 | 3.23 | 0.22 | 2114 | 4.19 | 0.31 | 2640 | 10.38 | 0.31 | 3060 | 7.97 | 0.33 |
| 1430 | 2.33 | 0.22 | 2121 | 2.64 | 0.26 | 2660 | 1.77 | 0.31 | 3064 | 4.61 | 0.30 |
| 1438 | 4.30 | 0.19 | 2143 | 2.65 | 0.36 | 2670 | 2.29 | 0.36 | 3066 | 2.33 | 0.30 |
| 1439 | 3.23 | 0.27 | 2150 | 7.80 | 0.33 | 2683 | 3.61 | 0.30 | 3067 | 2.04 | 0.28 |
| 1452 | 3.78 | 0.22 | 2157 | 6.82 | 0.37 | 2688 | 1.04 | 0.32 | 3076 | 2.15 | 0.33 |
| 1463 | 3.47 | 0.24 | 2172 | 1.94 | 0.27 | 2689 | 0.63 | 0.22 | 3081 | 4.10 | 0.22 |
| 1470 | 6.27 | 0.24 | 2211 | 1.82 | 0.25 | 2702 | 7.83 | 0.26 | 3085 | 3.78 | 0.23 |
| 1624 | 2.84 | 0.23 | 2286 | 1.82 | 0.30 | 2710 | 3.72 | 0.23 | 3110 | 8.22 | 0.33 |
| 1701 | 3.36 | 0.22 | 2288 | 4.95 | 0.29 | 2714 | 6.21 | 0.31 | 3111 | 3.73 | 0.31 |
| 1710 | 3.95 | 0.20 | 2302 | 1.82 | 0.29 | 2731 | 3.00 | 0.28 | 3113 | 1.29 | 0.28 |
| 1741 | 3.17 | 0.16 | 2303 | 1.82 | 0.28 | 2735 | 2.42 | 0.30 | 3114 | 1.94 | 0.29 |
| 1747 | 11.60 | 0.22 | 2305 | 1.92 | 0.25 | 2737 | 3.55 | 0.26 | 3118 | 1.53 | 0.31 |
| 1748 | 5.58 | 0.27 | 2362 | 1.32 | 0.27 | 2759 | 7.30 | 0.33 | 3122 | 3.21 | 0.30 |
| 1809 | 6.84 | 0.23 | 2380 | 6.10 | 0.35 | 2790 | 1.26 | 0.36 | 3126 | 9.02 | 0.27 |
| 1810 | 5.33 | 0.22 | 2383 | 1.79 | 0.22 | 2802 | 4.35 | 0.24 | 3129 | 2.37 | 0.33 |
| 1853 | 2.86 | 0.25 | 2387 | 2.55 | 0.27 | 2816 | 2.36 | 0.30 | 3132 | 1.46 | 0.33 |
| 1860 | 7.16 | 0.38 | 2388 | 1.91 | 0.32 | 2817 | 2.50 | 0.24 | 3145 | 1.49 | 0.31 |

Table I

Effective October 1, 2018

Original Printing

TABLE I - EXPECTED LOSS RATES AND D RATIOS

| Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio |
|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|
| 3146 | 1.13 | 0.33 | 3643 | 1.63 | 0.28 | 4250 | 1.76 | 0.29 | 4635 | 2.49 | 0.19 |
| 3169 | 2.99 | 0.30 | 3647 | 2.92 | 0.24 | 4251 | 1.79 | 0.31 | 4653 | 1.57 | 0.30 |
| 3179 | 1.55 | 0.25 | 3648 | 1.47 | 0.31 | 4263 | 3.22 | 0.28 | 4665 | 6.55 | 0.23 |
| 3188 | 2.19 | 0.33 | 3681 | 0.88 | 0.35 | 4273 | 2.15 | 0.26 | 4692 | 0.67 | 0.34 |
| 3190 | 1.98 | 0.31 | 3685 | 0.95 | 0.33 | 4279 | 2.54 | 0.27 | 4693 | 1.49 | 0.32 |
| 3191 | 2.70 | 0.29 | 3686 | 1.18 | 0.33 | 4282 | 0.33 | 0.34 | 4710 | 2.30 | 0.32 |
| 3200 | 1.85 | 0.24 | 3724 | 2.99 | 0.22 | 4298 | 1.67 | 0.30 | 4712 | 1.27 | 0.22 |
| 3220 | 1.90 | 0.27 | 3726 | 5.07 | 0.19 | 4299 | 1.65 | 0.27 | 4720 | 2.38 | 0.29 |
| 3227 | 18.65 | 0.30 | 3737 | 2.84 | 0.23 | 4301 | 4.62 | 0.31 | 4751 | 1.75 | 0.25 |
| 3241 | 3.40 | 0.28 | 3807 | 3.68 | 0.30 | 4304 | 5.78 | 0.32 | 4767 | 1.84 | 0.17 |
| 3255 | 2.20 | 0.33 | 3808 | 2.58 | 0.25 | 4307 | 2.10 | 0.31 | 4771 | 1.84 | 0.17 |
| 3257 | 2.20 | 0.34 | 3821 | 5.61 | 0.22 | 4310 | 1.94 | 0.22 | 4825 | 0.45 | 0.23 |
| 3270 | 1.49 | 0.28 | 3823 | 3.64 | 0.29 | 4312 | 1.67 | 0.29 | 4828 | 1.00 | 0.28 |
| 3300 | 2.20 | 0.28 | 3824 | 3.37 | 0.26 | 4351 | 1.37 | 0.27 | 4829 | 1.20 | 0.27 |
| 3303 | 2.20 | 0.30 | 3826 | 1.07 | 0.29 | 4352 | 0.48 | 0.30 | 4902 | 2.44 | 0.34 |
| 3307 | 2.64 | 0.27 | 3827 | 3.65 | 0.25 | 4360 | 0.18 | 0.41 | 4923 | 0.92 | 0.28 |
| 3315 | 5.95 | 0.25 | 3830 | 1.69 | 0.25 | 4361 | 0.46 | 0.34 | 5000 | 10.79 | 0.16 |
| 3336 | 1.34 | 0.22 | 3832 | 1.85 | 0.22 | 4362 | 0.31 | 0.30 | 5022 | 9.74 | 0.12 |
| 3365 | 5.22 | 0.30 | 3865 | 1.89 | 0.35 | 4410 | 3.28 | 0.27 | 5037 | 13.08 | 0.12 |
| 3372 | 1.78 | 0.28 | 3881 | (a) | (a) | 4420 | 7.58 | 0.29 | 5040 | 11.00 | 0.15 |
| 3381 | 1.54 | 0.34 | 4000 | 3.64 | 0.18 | 4431 | 3.54 | 0.34 | 5057 | 7.99 | 0.17 |
| 3383 | 0.38 | 0.34 | 4024 | 2.57 | 0.24 | 4432 | 1.52 | 0.33 | 5059 | 17.20 | 0.18 |
| 3384 | 0.18 | 0.21 | 4034 | 5.83 | 0.19 | 4439 | 1.71 | 0.22 | 5069 | 15.40 | 0.15 |
| 3385 | 0.76 | 0.30 | 4038 | 2.12 | 0.31 | 4452 | 2.10 | 0.25 | 5102 | 6.00 | 0.13 |
| 3400 | 4.99 | 0.25 | 4053 | 3.50 | 0.38 | 4459 | 2.49 | 0.26 | 5160 | 2.88 | 0.15 |
| 3507 | 2.00 | 0.29 | 4061 | 2.88 | 0.29 | 4470 | 2.44 | 0.25 | 5183 | 3.71 | 0.18 |
| 3515 | 2.20 | 0.29 | 4062 | 3.85 | 0.31 | 4475 | 1.68 | 0.33 | 5184 | 4.96 | 0.16 |
| 3548 | 1.56 | 0.30 | 4101 | 1.92 | 0.26 | 4476 | 1.30 | 0.33 | 5188 | 3.70 | 0.18 |
| 3559 | 2.09 | 0.29 | 4111 | 2.07 | 0.24 | 4479 | 1.60 | 0.33 | 5190 | 2.71 | 0.18 |
| 3561 | 1.70 | 0.29 | 4112 | 1.23 | 0.31 | 4491 | 3.33 | 0.27 | 5191 | 0.89 | 0.20 |
| 3574 | 0.50 | 0.29 | 4114 | 1.72 | 0.27 | 4493 | 3.33 | 0.33 | 5192 | 2.56 | 0.29 |
| 3581 | 1.20 | 0.31 | 4130 | 4.82 | 0.31 | 4511 | 0.48 | 0.29 | 5193 | 5.40 | 0.26 |
| 3612 | 1.77 | 0.29 | 4131 | 2.72 | 0.29 | 4557 | 1.04 | 0.33 | 5213 | 9.32 | 0.15 |
| 3620 | 3.23 | 0.23 | 4133 | 1.38 | 0.29 | 4558 | 2.39 | 0.27 | 5221 | 6.19 | 0.17 |
| 3629 | 1.07 | 0.27 | 4150 | 1.21 | 0.32 | 4561 | 2.39 | 0.28 | 5222 | 4.82 | 0.18 |
| 3632 | 2.28 | 0.25 | 4207 | 0.71 | 0.23 | 4568 | 1.68 | 0.22 | 5223 | 5.07 | 0.24 |
| 3634 | 1.31 | 0.30 | 4239 | 1.91 | 0.27 | 4583 | 3.77 | 0.25 | 5348 | 4.19 | 0.17 |
| 3635 | 1.82 | 0.29 | 4240 | 3.28 | 0.33 | 4597 | 1.69 | 0.35 | 5402 | 5.45 | 0.36 |
| 3638 | 2.26 | 0.32 | 4243 | 2.48 | 0.30 | 4611 | 1.21 | 0.29 | 5403 | 7.13 | 0.17 |
| 3642 | 1.29 | 0.28 | 4244 | 1.72 | 0.24 | 4628 | 0.97 | 0.35 | 5428 | 3.54 | 0.23 |

TABLE I - EXPECTED LOSS RATES AND D RATIOS

| Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio |
|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|
| 5429 | 3.89 | 0.21 | 6306 | 5.19 | 0.14 | 7333 | 3.15 | 0.17 | 7998 | 1.77 | 0.49 |
| 5443 | 5.60 | 0.24 | 6319 | 3.59 | 0.15 | 7335 | 3.50 | 0.19 | 7999 | 1.46 | 0.31 |
| 5445 | 4.63 | 0.17 | 6325 | 3.46 | 0.15 | 7337 | 5.29 | 0.17 | 8001 | 1.90 | 0.33 |
| 5462 | 4.79 | 0.20 | 6400 | 3.97 | 0.22 | 7364 | 1.14 | 0.19 | 8006 | 1.12 | 0.35 |
| 5473 | 11.61 | 0.12 | 6504 | 2.57 | 0.25 | 7366 | F 4.73 | 0.21 | 8008 | 0.62 | 0.29 |
| 5474 | 4.72 | 0.16 | 6701 | 9.38 | 0.21 | 7367 | 6.08 | 0.31 | 8012 | 0.95 | 0.30 |
| 5479 | 4.11 | 0.19 | 6801 | F 17.67 | 0.23 | 7368 | 4.13 | 0.42 | 8013 | 0.24 | 0.29 |
| 5480 | 5.77 | 0.14 | 6811 | 3.69 | 0.23 | 7370 | 38.0% | 0.34 | 8016 | 0.34 | 0.34 |
| 5491 | 1.63 | 0.18 | 6824 | F 6.30 | 0.20 | 7377 | 4.78 | 0.24 | 8017 | 0.95 | 0.31 |
| 5506 | 6.61 | 0.17 | 6826 | F 2.71 | 0.23 | 7380 | ** 5.22 | 0.26 | 8018 | 2.39 | 0.27 |
| 5507 | 3.84 | 0.20 | 6834 | 3.41 | 0.28 | 7390 | 10.66 | 0.28 | 8021 | 3.57 | 0.24 |
| 5508 | 3.86 | 0.28 | 6836 | 2.47 | 0.25 | 7394 | 2.40 | 0.20 | 8025 | 1.06 | 0.32 |
| 5536 | 4.05 | 0.20 | 6843 | F 3.72 | 0.19 | 7395 | 2.67 | 0.17 | 8031 | 1.73 | 0.30 |
| 5538 | 4.37 | 0.21 | 6854 | 1.66 | 0.18 | 7398 | 4.03 | 0.17 | 8032 | 0.66 | 0.29 |
| 5545 | 9.90 | 0.20 | 6872 | F 10.85 | 0.16 | 7403 | 3.85 | 0.27 | 8033 | 2.32 | 0.31 |
| 5547 | 6.45 | 0.17 | 6874 | F 26.44 | 0.17 | 7405 | 0.97 | 0.23 | 8034 | 3.41 | 0.35 |
| 5606 | 2.16 | 0.17 | 6875 | F 44.11 | 0.17 | 7421 | 0.47 | 0.21 | 8039 | 1.28 | 0.38 |
| 5610 | 5.36 | 0.13 | 6882 | 2.72 | 0.18 | 7422 | 1.34 | 0.27 | 8043 | 0.75 | 0.33 |
| 5645 | 5.34 | 0.23 | 6884 | 25.07 | 0.17 | 7431 | 0.33 | 0.18 | 8044 | 2.27 | 0.33 |
| 5648 | 9.14 | 0.21 | 6885 | 35.80 | 0.17 | 7445 | - | - | 8046 | 2.25 | 0.32 |
| 5651 | 3.69 | 0.22 | 7016 | 3.89 | 0.20 | 7453 | - | - | 8047 | 1.13 | 0.30 |
| 5701 | 11.33 | 0.14 | 7024 | 4.32 | 0.17 | 7502 | 1.32 | 0.27 | 8048 | 3.35 | 0.26 |
| 5703 | 16.79 | 0.20 | 7038 | 1.69 | 0.19 | 7515 | 1.10 | 0.17 | 8068 | 0.23 | 0.40 |
| 5709 | 12.24 | 0.16 | 7046 | 1.71 | 0.17 | 7520 | 4.60 | 0.23 | 8069 | 0.47 | 0.37 |
| 5951 | 0.66 | 0.29 | 7047 | 6.53 | 0.18 | 7536 | 4.92 | 0.28 | 8072 | 0.58 | 0.38 |
| 5954 | 2.50 | 0.21 | 7050 | 2.84 | 0.18 | 7538 | 1.93 | 0.20 | 8090 | 0.50 | 0.29 |
| 6003 | 6.55 | 0.18 | 7090 | 1.88 | 0.18 | 7539 | 0.99 | 0.21 | 8102 | 4.91 | 0.32 |
| 6005 | 3.14 | 0.29 | 7098 | 1.90 | 0.17 | 7542 | 3.94 | 0.26 | 8103 | 2.99 | 0.28 |
| 6017 | 1.86 | 0.22 | 7099 | 2.87 | 0.17 | 7570 | 0.99 | 0.25 | 8105 | 1.97 | 0.32 |
| 6018 | 7.97 | 0.22 | 7133 | 2.37 | 0.22 | 7580 | 3.28 | 0.21 | 8106 | 4.07 | 0.20 |
| 6045 | 2.77 | 0.22 | 7197 | 5.51 | 0.27 | 7590 | 3.42 | 0.27 | 8107 | 2.17 | 0.22 |
| 6204 | 4.26 | 0.22 | 7201 | 2.95 | 0.30 | 7600 | 4.77 | 0.29 | 8111 | 2.49 | 0.27 |
| 6216 | 4.46 | 0.17 | 7207 | 2.80 | 0.24 | 7601 | 2.53 | 0.21 | 8116 | 1.44 | 0.30 |
| 6217 | 4.00 | 0.15 | 7219 | 5.62 | 0.18 | 7610 | 0.14 | 0.33 | 8199 | 2.09 | 0.26 |
| 6229 | 2.82 | 0.22 | 7231 | 5.16 | 0.31 | 7710 | 2.07 | 0.24 | 8209 | 4.45 | 0.28 |
| 6233 | 2.72 | 0.18 | 7242 | 14.40 | 0.31 | 7711 | 31.0% | 0.27 | 8215 | 4.17 | 0.21 |
| 6235 | 3.81 | 0.21 | 7309 | F 2.57 | 0.16 | 7716 | 31.0% | 0.27 | 8227 | 5.90 | 0.15 |
| 6251 | 7.80 | 0.19 | 7313 | F 1.16 | 0.16 | 7720 | 1.47 | 0.26 | 8232 | 3.76 | 0.22 |
| 6252 | 1.78 | 0.19 | 7317 | F 11.63 | 0.16 | 7723 | 1.12 | 0.24 | 8235 | 3.29 | 0.29 |
| 6260 | (a) | (a) | 7327 | F 12.46 | 0.16 | 7855 | 2.90 | 0.27 | 8263 | 5.66 | 0.24 |

** 7380 - Ex-medical multiplier for this classification is 0.55.

TABLE I - EXPECTED LOSS RATES AND D RATIOS

| Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio | Class Code | Expected Loss Rate | D Ratio |
|------------|--------------------|---------|------------|--------------------|---------|------------|--------------------|---------|
| 8264 | 3.97 | 0.21 | 8854 | 2.46 | 0.25 | 9157 | 3.24 | 0.49 |
| 8265 | 5.32 | 0.19 | 8857 | 1.66 | 0.29 | 9158 | 1.34 | 0.31 |
| 8280 | 9.49 | 0.27 | 8864 | 1.90 | 0.37 | 9159 | 0.93 | 0.39 |
| 8288 | 2.62 | 0.26 | 8865 | 2.01 | 0.31 | 9160 | 1.03 | 0.28 |
| 8291 | 4.43 | 0.24 | 8866 | 1.78 | 0.36 | 9178 | 2.40 | 0.38 |
| 8292 | 2.92 | 0.29 | 8868 | 0.29 | 0.33 | 9179 | 5.20 | 0.35 |
| 8293 | 6.00 | 0.27 | 8869 | 0.54 | 0.32 | 9180 | 1.65 | 0.26 |
| 8350 | 4.86 | 0.22 | 8871 | 0.13 | 0.32 | 9182 | 1.01 | 0.37 |
| 8353 | 3.33 | 0.27 | 8901 | 0.06 | 0.31 | 9186 | 4.31 | 0.27 |
| 8381 | 1.53 | 0.26 | 9014 | 2.92 | 0.28 | 9220 | 4.94 | 0.27 |
| 8382 | 1.19 | 0.30 | 9015 | 1.10 | 0.28 | 9402 | 3.62 | 0.21 |
| 8385 | 4.77 | 0.31 | 9016 | 3.57 | 0.39 | 9403 | 7.28 | 0.21 |
| 8391 | 2.11 | 0.25 | 9019 | 2.34 | 0.21 | 9410 | 5.05 | 0.29 |
| 8392 | 1.73 | 0.24 | 9025 | 10.95 | 0.24 | 9501 | 1.17 | 0.27 |
| 8394 | 3.25 | 0.25 | 9026 | 2.56 | 0.22 | 9505 | 2.91 | 0.28 |
| 8500 | 4.55 | 0.22 | 9027 | 9.55 | 0.26 | 9519 | 2.72 | 0.23 |
| 8601 | 0.25 | 0.21 | 9028 | 1.86 | 0.22 | 9521 | 2.78 | 0.24 |
| 8709 | F 11.72 | 0.16 | 9029 | 3.29 | 0.24 | 9522 | 1.05 | 0.30 |
| 8719 | 1.58 | 0.17 | 9030 | 3.07 | 0.21 | 9526 | 7.03 | 0.15 |
| 8720 | 1.26 | 0.24 | 9040 | ** 3.01 | 0.33 | 9527 | 15.06 | 0.17 |
| 8726 | F 2.11 | 0.24 | 9044 | 3.73 | 0.37 | 9534 | 5.27 | 0.15 |
| 8731 | 1.71 | 0.23 | 9048 | 1.67 | 0.39 | 9539 | 6.38 | 0.22 |
| 8742 | 0.16 | 0.27 | 9051 | 2.20 | 0.25 | 9545 | 8.06 | 0.22 |
| 8745 | 3.70 | 0.27 | 9052 | 2.06 | 0.28 | 9549 | 1.81 | 0.30 |
| 8747 | 0.11 | 0.25 | 9055 | 0.75 | 0.35 | 9552 | 7.58 | 0.20 |
| 8748 | 0.59 | 0.19 | 9058 | 2.45 | 0.29 | 9553 | 4.43 | 0.24 |
| 8751 | 2.31 | 0.28 | 9059 | 5.04 | 0.39 | 9585 | 0.69 | 0.34 |
| 8755 | 0.34 | 0.28 | 9060 | 1.04 | 0.29 | 9586 | 0.38 | 0.31 |
| 8800 | 1.26 | 0.33 | 9061 | 1.24 | 0.30 | 9600 | 1.00 | 0.30 |
| 8802 | 0.80 | 0.28 | 9063 | 0.67 | 0.36 | 9610 | 0.58 | 0.26 |
| 8803 | 0.03 | 0.27 | 9065 | 0.72 | 0.35 | 9620 | 1.00 | 0.19 |
| 8809 | 0.11 | 0.26 | 9071 | 1.21 | 0.33 | | | |
| 8810 | ** 0.08 | 0.30 | 9072 | 1.37 | 0.34 | | | |
| 8820 | 0.07 | 0.26 | 9074 | 0.77 | 0.33 | | | |
| 8829 | 2.15 | 0.32 | 9088 | 4.86 | 0.17 | | | |
| 8831 | 0.82 | 0.49 | 9089 | 0.31 | 0.30 | | | |
| 8832 | 0.23 | 0.25 | 9093 | 1.26 | 0.33 | | | |
| 8833 | ** 0.79 | 0.30 | 9101 | 1.96 | 0.31 | | | |
| 8838 | 0.30 | 0.33 | 9102 | 2.67 | 0.27 | | | |
| 8840 | 0.28 | 0.28 | 9149 | 1.22 | 0.33 | | | |

** 8810 - Ex-medical multiplier for this classification is 0.55.
 ** 8833 - Ex-medical multiplier for this classification is 0.58.
 ** 9040 - Ex-medical multiplier for this classification is 0.57.

United States Longshore and Harbor Workers' Compensation Coverage Percentage
 applicable only in connection with Rule 5, Section J of this Plan **51.1%**

NEW YORK EXPERIENCE RATING PLAN MANUAL

Original Printing

Effective October 1, 2018

TABLE II

TABLE II - WEIGHTING VALUES (W)

| Expected Losses | | | Weighting Value | Expected Losses | | | Weighting Value |
|-----------------|---|-----------|-----------------|-----------------|---|-------------|-----------------|
| 0 | - | 4,534 | 0.04 | 2,423,114 | - | 2,556,626 | 0.43 |
| 4,535 | - | 18,328 | 0.05 | 2,556,627 | - | 2,697,649 | 0.44 |
| 18,329 | - | 32,417 | 0.06 | 2,697,650 | - | 2,846,836 | 0.45 |
| 32,418 | - | 46,810 | 0.07 | 2,846,837 | - | 3,004,921 | 0.46 |
| 46,811 | - | 61,519 | 0.08 | 3,004,922 | - | 3,172,723 | 0.47 |
| 61,520 | - | 102,896 | 0.09 | 3,172,724 | - | 3,351,170 | 0.48 |
| 102,897 | - | 153,164 | 0.10 | 3,351,171 | - | 3,541,309 | 0.49 |
| 153,165 | - | 197,877 | 0.11 | 3,541,310 | - | 3,744,330 | 0.50 |
| 197,878 | - | 241,413 | 0.12 | 3,744,331 | - | 3,961,590 | 0.51 |
| 241,414 | - | 284,956 | 0.13 | 3,961,591 | - | 4,194,642 | 0.52 |
| 284,957 | - | 329,033 | 0.14 | 4,194,643 | - | 4,445,275 | 0.53 |
| 329,034 | - | 373,947 | 0.15 | 4,445,276 | - | 4,715,557 | 0.54 |
| 373,948 | - | 419,897 | 0.16 | 4,715,558 | - | 5,007,895 | 0.55 |
| 419,898 | - | 467,038 | 0.17 | 5,007,896 | - | 5,325,106 | 0.56 |
| 467,039 | - | 515,496 | 0.18 | 5,325,107 | - | 5,670,505 | 0.57 |
| 515,497 | - | 565,386 | 0.19 | 5,670,506 | - | 6,048,028 | 0.58 |
| 565,387 | - | 616,815 | 0.20 | 6,048,029 | - | 6,462,374 | 0.59 |
| 616,816 | - | 669,891 | 0.21 | 6,462,375 | - | 6,919,211 | 0.60 |
| 669,892 | - | 724,718 | 0.22 | 6,919,212 | - | 7,425,428 | 0.61 |
| 724,719 | - | 781,407 | 0.23 | 7,425,429 | - | 7,989,490 | 0.62 |
| 781,408 | - | 840,070 | 0.24 | 7,989,491 | - | 8,621,917 | 0.63 |
| 840,071 | - | 900,827 | 0.25 | 8,621,918 | - | 9,335,940 | 0.64 |
| 900,828 | - | 963,805 | 0.26 | 9,335,941 | - | 10,148,441 | 0.65 |
| 963,806 | - | 1,029,136 | 0.27 | 10,148,442 | - | 11,081,305 | 0.66 |
| 1,029,137 | - | 1,096,964 | 0.28 | 11,081,306 | - | 12,163,419 | 0.67 |
| 1,096,965 | - | 1,167,443 | 0.29 | 12,163,420 | - | 13,433,719 | 0.68 |
| 1,167,444 | - | 1,240,737 | 0.30 | 13,433,720 | - | 14,945,972 | 0.69 |
| 1,240,738 | - | 1,317,025 | 0.31 | 14,945,973 | - | 16,776,585 | 0.70 |
| 1,317,026 | - | 1,396,499 | 0.32 | 16,776,586 | - | 19,037,921 | 0.71 |
| 1,396,500 | - | 1,479,366 | 0.33 | 19,037,922 | - | 21,902,270 | 0.72 |
| 1,479,367 | - | 1,565,854 | 0.34 | 21,902,271 | - | 25,647,945 | 0.73 |
| 1,565,855 | - | 1,656,209 | 0.35 | 25,647,946 | - | 30,755,670 | 0.74 |
| 1,656,210 | - | 1,750,700 | 0.36 | 30,755,671 | - | 38,133,481 | 0.75 |
| 1,750,701 | - | 1,849,620 | 0.37 | 38,133,482 | - | 49,727,165 | 0.76 |
| 1,849,621 | - | 1,953,290 | 0.38 | 49,727,166 | - | 70,595,770 | 0.77 |
| 1,953,291 | - | 2,062,065 | 0.39 | 70,595,771 | - | 119,289,142 | 0.78 |
| 2,062,066 | - | 2,176,333 | 0.40 | 119,289,143 | - | 362,755,885 | 0.79 |
| 2,176,334 | - | 2,296,524 | 0.41 | 362,755,886 | - | And Over | 0.80 |
| 2,296,525 | - | 2,423,113 | 0.42 | | | | |

- (a) State Per Claim Accident Limitation \$541,500
- (b) State Multiple Claim Accident Limitation \$1,083,000
- (c) U.S. Longshore and Harbor Workers' Act Per Claim Accident Limitation \$818,000
- (d) U.S. Longshore and Harbor Workers' Act Multiple Claim Accident Limitation \$1,636,000
- (e) Primary/Excess Split Point Value \$16,500

TABLE III - BALLAST VALUES (B)

| Expected Losses | | Ballast Value | Expected Losses | | Ballast Value | | |
|-----------------|---|---------------|-----------------|------------|---------------|------------|-----------|
| 0 | - | 116,451 | 54,125 | 5,143,466 | - | 5,251,682 | 573,725 |
| 116,452 | - | 200,424 | 64,950 | 5,251,683 | - | 5,359,901 | 584,550 |
| 200,425 | - | 296,910 | 75,775 | 5,359,902 | - | 5,468,120 | 595,375 |
| 296,911 | - | 398,695 | 86,600 | 5,468,121 | - | 5,576,341 | 606,200 |
| 398,696 | - | 502,956 | 97,425 | 5,576,342 | - | 5,684,564 | 617,025 |
| 502,957 | - | 608,526 | 108,250 | 5,684,565 | - | 5,792,787 | 627,850 |
| 608,527 | - | 714,861 | 119,075 | 5,792,788 | - | 5,901,011 | 638,675 |
| 714,862 | - | 821,677 | 129,900 | 5,901,012 | - | 6,009,236 | 649,500 |
| 821,678 | - | 928,814 | 140,725 | 6,009,237 | - | 6,117,462 | 660,325 |
| 928,815 | - | 1,036,177 | 151,550 | 6,117,463 | - | 6,225,689 | 671,150 |
| 1,036,178 | - | 1,143,703 | 162,375 | 6,225,690 | - | 6,333,916 | 681,975 |
| 1,143,704 | - | 1,251,351 | 173,200 | 6,333,917 | - | 6,442,145 | 692,800 |
| 1,251,352 | - | 1,359,093 | 184,025 | 6,442,146 | - | 6,550,374 | 703,625 |
| 1,359,094 | - | 1,466,909 | 194,850 | 6,550,375 | - | 6,658,604 | 714,450 |
| 1,466,910 | - | 1,574,784 | 205,675 | 6,658,605 | - | 6,766,834 | 725,275 |
| 1,574,785 | - | 1,682,706 | 216,500 | 6,766,835 | - | 6,875,065 | 736,100 |
| 1,682,707 | - | 1,790,667 | 227,325 | 6,875,066 | - | 6,983,297 | 746,925 |
| 1,790,668 | - | 1,898,661 | 238,150 | 6,983,298 | - | 7,091,529 | 757,750 |
| 1,898,662 | - | 2,006,682 | 248,975 | 7,091,530 | - | 7,199,761 | 768,575 |
| 2,006,683 | - | 2,114,726 | 259,800 | 7,199,762 | - | 7,307,995 | 779,400 |
| 2,114,727 | - | 2,222,790 | 270,625 | 7,307,996 | - | 7,416,228 | 790,225 |
| 2,222,791 | - | 2,330,871 | 281,450 | 7,416,229 | - | 7,524,462 | 801,050 |
| 2,330,872 | - | 2,438,967 | 292,275 | 7,524,463 | - | 7,632,697 | 811,875 |
| 2,438,968 | - | 2,547,076 | 303,100 | 7,632,698 | - | 7,740,932 | 822,700 |
| 2,547,077 | - | 2,655,196 | 313,925 | 7,740,933 | - | 7,849,168 | 833,525 |
| 2,655,197 | - | 2,763,327 | 324,750 | 7,849,169 | - | 7,957,403 | 844,350 |
| 2,763,328 | - | 2,871,466 | 335,575 | 7,957,404 | - | 8,065,640 | 855,175 |
| 2,871,467 | - | 2,979,613 | 346,400 | 8,065,641 | - | 8,173,876 | 866,000 |
| 2,979,614 | - | 3,087,768 | 357,225 | 8,173,877 | - | 8,282,113 | 876,825 |
| 3,087,769 | - | 3,195,929 | 368,050 | 8,282,114 | - | 8,390,350 | 887,650 |
| 3,195,930 | - | 3,304,096 | 378,875 | 8,390,351 | - | 8,498,588 | 898,475 |
| 3,304,097 | - | 3,412,268 | 389,700 | 8,498,589 | - | 8,606,826 | 909,300 |
| 3,412,269 | - | 3,520,445 | 400,525 | 8,606,827 | - | 8,715,064 | 920,125 |
| 3,520,446 | - | 3,628,626 | 411,350 | 8,715,065 | - | 8,823,303 | 930,950 |
| 3,628,627 | - | 3,736,811 | 422,175 | 8,823,304 | - | 8,931,541 | 941,775 |
| 3,736,812 | - | 3,844,999 | 433,000 | 8,931,542 | - | 9,039,780 | 952,600 |
| 3,844,999 | - | 3,953,192 | 443,825 | 9,039,781 | - | 9,148,020 | 963,425 |
| 3,953,193 | - | 4,061,387 | 454,650 | 9,148,021 | - | 9,256,259 | 974,250 |
| 4,061,388 | - | 4,169,585 | 465,475 | 9,256,260 | - | 9,364,499 | 985,075 |
| 4,169,586 | - | 4,277,785 | 476,300 | 9,364,500 | - | 9,472,739 | 995,900 |
| 4,277,786 | - | 4,385,988 | 487,125 | 9,472,740 | - | 9,580,979 | 1,006,725 |
| 4,385,989 | - | 4,494,194 | 497,950 | 9,580,980 | - | 9,689,220 | 1,017,550 |
| 4,494,195 | - | 4,602,401 | 508,775 | 9,689,221 | - | 9,797,460 | 1,028,375 |
| 4,602,402 | - | 4,710,610 | 519,600 | 9,797,461 | - | 9,905,701 | 1,039,200 |
| 4,710,611 | - | 4,818,821 | 530,425 | 9,905,702 | - | 10,013,942 | 1,050,025 |
| 4,818,822 | - | 4,927,034 | 541,250 | 10,013,943 | - | 10,122,184 | 1,060,850 |
| 4,927,035 | - | 5,035,249 | 552,075 | 10,122,185 | - | 10,230,425 | 1,071,675 |
| 5,035,250 | - | 5,143,465 | 562,900 | 10,230,426 | - | 10,338,667 | 1,082,500 |

For Expected Losses greater than \$10,338,667 the Ballast Value can be calculated using the following formula (rounded to the nearest whole number) where E denotes Expected Losses:

$$\text{Ballast} = E \times \{ [(0.10 \times E) + (2570 \times 21.65)] / [E + (700 \times 21.65)] \}$$

Reserved For Future Use

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