



B U L L E T I N

July 16, 2008

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R.C. 2174

To the Members of the Board

**Re: New York Workers Compensation
Experience Rating Plan Manual Revisions**

The Board of Governors has authorized, and the New York State Insurance Department has approved, amendments to the New York Workers Compensation Experience Rating Plan Manual that relate to the change to loss costs, the current organization of the Rating Board and updated definitions of terrorism and natural catastrophes.

Rule 1.E. of the New York Experience Rating Plan Manual has been amended to refer to the Rating Board's Underwriting Committee, rather than the previously named Rates Committee, as a party in the Rating Board's appeal process.

Rule 2.A.1.b. has been updated to contain a single definition of terrorism and the addition of the catastrophe provision for natural disasters and industrial accidents as premium elements that are excluded from subject premium.

Rule 2.A.2. has eliminated the reference to Rating Board manual rates since these will not exist in a loss cost environment.

Rule 5.J. has been modified in its reference to authorized rates and the term "manual rates" has been eliminated as a result of the change to loss costs.

The Table of Contents has been revised to eliminate the reference to manual rates under Experience Rating Values, Item A, since manual rates will no longer be published in the Rating Board's manuals.

The Experience Rating Plan pages affected by the proposed amendments are attached for your reference and will become effective on October 1, 2008.

Manual pages will be published in the New York Experience Rating Plan Manual when they are available.

Very truly yours,

Monte Almer

President

MH/ab

- ★ 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 Insurance Department to consider the decision of the Rating Board's Underwriting Committee.
- ★ 5. The Insurance Department 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. The seat surcharge premium for Aircraft Operation
- f. Premium developed under Three-Year Fixed Rate policies
- ★ g. Premiums for Terrorism
- ★ h. Premium for Natural Disasters and Catastrophic Industrial Accidents
- i. Workers Compensation Security Fund surcharge
- j. New York State Assessment
- k. 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 Insurance Department.

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.

J. 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.

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