

**COAL MINE COMPENSATION RATING BUREAU
OF PENNSYLVANIA**

COMMERCE BUILDING – SUITE 403
300 NORTH SECOND STREET
HARRISBURG, PENNSYLVANIA 17101


CHARLES A. ROMBERGER
EXECUTIVE DIRECTOR

TELEPHONE/FAX
717-238-5020

February 21, 2018

COMPENSATION CIRCULAR CM-474

To: All Coal Mine Compensation Insurance Carriers

From: Charles A. Romberger, Executive Director 

RE: Establishment of Notification of Change in Ownership Endorsement
Addition of Corresponding Language to the Experience Rating Plan
Approved Effective: April 1, 2018

The CMCRB has filed and the Insurance Department has approved revisions to the Manual Rules and Endorsements regarding the Establishment of Notification of Change in Ownership Endorsement and the Addition of Corresponding Language to the Experience Rating Plan. The CMCRB filed these revisions to maintain consistency with the practices of both the Pennsylvania Compensation Rating Bureau and NCCI.

This Circular includes a copy of Proposal CM-1-2018. The Proposal includes a copy of the new mandatory endorsement, WC 00 04 14, and the associated manual language changes.

Also, please note that the USL&HW Rates previously included in Circular CM-473 on a tentative basis are now finalized. The Rates provided in Circular CM-473 are now the final rates effective April 1, 2018.

Updated manual pages will be available on our website in the near future at:
<http://www.cmcrbpa.com/Manual.html>

Any questions should be directed to the CMCRB.

CAR:car

Attachments

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January 31, 2018

The Honorable Jessica K. Altman
Acting Insurance Commissioner
Pennsylvania Insurance Department
1311 Strawberry Square
Harrisburg, PA 17120

Attention: Mark Lersch, Director Bureau of Property & Casualty

RE: Proposal CM-1-2018
Establishment of Notification of Change in Ownership Endorsement and the Addition of
Corresponding Language to the Experience Rating Plan
To Be Effective: April 1, 2018

Dear Commissioner Altman:

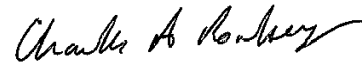
On behalf of the members of the Coal Mine Compensation Rating Bureau of Pennsylvania (Bureau), the Bureau submits the attached endorsement and manual language changes to be effective April 1, 2018. The PCRB submitted nearly identical changes in PCRB Filing No. 289 as announced in PCRB Circular No. 1692. Consequently, we request your approval of this mandatory endorsement and rule changes to maintain consistency with the filings of the PCRB and other state jurisdictions.

The following items are included with this filing.

- 1) WC 00 04 14 – Notification of Change in Ownership Endorsement – The purpose of this one-page endorsement is to inform policyholders of their responsibility to notify their insurer whenever a change in ownership or combinability status occurs. It also addresses the potential impact this may have on their experience rating modification.
- 2) PCRB Filed Version – This document provides the version of Section 5, Section III, Rule 9, Ownership Changes that was filed by the PCRB. Our Bureau notes that we made modest spacing and formatting changes for our convenience.
- 3) CMCRB Current Version – This document provides the current version of the comparable rule for our Bureau in Section Five, Section III, Rule 8, Change of Ownership, Control, Management or Operations.
- 4) CMCRB Proposed Version – Tracked from PCRB Filed Version – This document begins with the PCRB Filed Version and includes the changes deemed necessary or appropriate for adoption by our Bureau with the changes tracked.
- 5) CMCRB Proposed Version – This document begins with the document referenced in #4 above and incorporates the changes without tracking.

We ask for your approval of this filing as soon as possible. Please feel free to contact me if additional information or discussion is necessary.

Sincerely,



Charles A. Romberger
Executive Director

Enclosures:

- 1) Cover Letter – two copies for each filing (i.e., Form, Rate/Rule)
- 2) WC 00 04 14 – one copy with each copy of the filing
- 3) PCRFB Filed Version – one copy with each copy of the filing
- 4) CMCRB Current Version – one copy with each copy of the filing
- 5) CMCRB Proposed Version – Tracked from PCRFB Filed Version – one copy with each copy of the filing
- 6) CMCRB Proposed Version – one copy with each copy of the filing
- 7) Self-addressed, stamped envelopes – two – one for each filing with an extra copy of the Cover Letter

NOTIFICATION OF CHANGE IN OWNERSHIP ENDORSEMENT

Experience rating is mandatory for all eligible insureds. The experience rating modification factor, if any, applicable to this policy, may change if there is a change in your ownership or in that of one or more of the entities eligible to be combined with you for experience rating purposes. Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity and other changes provided for in the applicable experience rating plan manual.

You must report any change in ownership to us in writing within 90 days of such change. Failure to report such changes within this period may result in revision of the experience rating modification factor used to determine your premium.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium

Insurance Company

Countersigned by _____

WC 00 04 14
(Ed. 7-90)

PCRB's Pennsylvania Workers Compensation Manual
Section 5 – Experience Rating Plan
Section III – General Provisions – Rule 9
Per PCRB Circular No. 1692 and PCRB Filing No. 289

9. Ownership Changes.

- (a) For purposes of this Plan, a change in ownership includes any of the following:
- (i) sale, transfer or conveyance of all or a portion of an entity's ownership interest
 - (ii) sale, transfer or conveyance of an entity's physical assets to a purchasing entity which takes over the operation of the selling entity and wherein the selling entity
 - (a) becomes entirely inactive with no employees or
 - (b) retains a few employees for the purpose of closing out its affairs prior to dissolution as a legal entity or
 - (c) retains a few clerical employees for the purpose of carrying on operations in connection with investment of its financial assets
 - (iii) merger or consolidation of two or more entities
 - (iv) formation of a new entity subsequent to the dissolution or non-operative capacity of an entity
 - (v) voluntary or court mandated establishment of a trustee or receiver, excluding a debtor in possession, a trustee under a revocable trust or franchisor

- (b) **Reporting Requirement.** When an ownership change occurs, the Notification of Change in Ownership Endorsement (WC 00 04 14) requires any change in ownership and/or combinability status be reported in writing by the employer to its carrier within ninety (90) days of the date of the change. This can be accomplished by submitting a completed Confidential Request for Information Form (ERM-14 form) or by providing the information in narrative form on the letterhead of the insured, signed by an officer of the entity.

Failure to report changes in ownership in line with Endorsement WC 00 04 14 may be considered modification evasion. See Section III, 9-h.

- (c) **Continuation of Experience.** Unless excluded under paragraph (c), the experience for any entity undergoing a change in ownership shall be transferred to the experience of the acquiring, surviving or new entity. The date of revision will be the later of the following two dates: 1) the ---effective date of the policy in effect at the time the Bureau receives a completed ERM-14 form outlining the ownership change or 2) the date on which the change in ownership occurred.

- (i) **Partial Sale:** If an entity disposes of a part of its assets or operations but otherwise continues to operate its business, all experience incurred prior to the sale shall be used in future ratings of the entity.

NOTE: Future experience ratings of a risk shall retain all experience for any part of its operations which may have been discontinued or self-insured.

- (d) **Exclusion of Experience.** The experience of any entity undergoing a change in ownership shall be retained and used in future experience ratings unless one or both of the following requirements (i) and (ii) are met at the same time of the ownership change:
- (i) A change in majority interest occurs and the change in majority interest is accompanied by a complete change in operation and function sufficient to result in a change of governing classification and the change in majority interest is accompanied by a change in the process and hazard of the operation
 - (ii) A change in majority interest occurs and the change in majority interest is accompanied by a change in employees such that all or a substantial portion of the employees of the new ownership are not retained from the prior ownership.

- (e) If the experience of an entity undergoing a change in ownership is to be excluded from future experience ratings for the entity, the experience modification no longer applies as of the date of the ownership change unless the entity is acquired by another entity which has an existing experience modification. In that case, the modification of the acquiring entity shall apply.

(f) Multiple Entities. When two entities under substantially the same ownership have been insured under a single policy, and the ownership of one or both of them is changed so that there is no longer any connection between them, the procedure shall be as follows:

- (i) If the experience of the entities has been combined for rating purposes during the entire experience period, the experience incurred prior to the change shall not be used for future ratings, unless
 - (a) the insurance carrier or carriers request that new modifications be established, and
 - (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.
- (ii) If the experience of the entities has been combined for less than two years at the time of the change, so that the experience for each entity is available during the period they were separately insured, the experience for each entity shall be used for the purpose of calculating new experience modifications.

When three or more entities under substantially the same ownership have been insured under a single policy, and the ownership of one of the entities has been changed so that there is no longer any connection between it and the remaining entities, the existing experience modification shall continue to apply to the entities whose ownership has not changed. The entity whose ownership has changed shall not be subject to experience modification unless it has been purchased by an entity which has an applicable experience modification.

When three or more entities under substantially the same ownership have been insured under a single policy and the ownership of two or more of the entities has been changed so that common ownership no longer is present, the experience incurred prior to the date of the change shall not be used for future ratings, unless

- (a) the insurance carrier or carriers request that new modifications be established, and
- (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.

(g) Employee Leasing. If (1) an entity terminates its employment relationship with all, or substantially all, its employees, (2) all or substantially all such employees are thereafter employed by another entity which leases such employees to the original employer, and (3) workers compensation insurance for the leased employees is provided under a Master Policy issued to the second entity, the experience incurred prior to the termination of the original employment relationship shall be used in future ratings of the second entity.

(h) Evasion of Experience Rating Modification.

- (i) **Actions.** Employers, or their representatives, at times take actions for the purpose of avoiding an experience rating modification. They may also take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action resulting in the miscalculation, misapplication or omission of an experience rating modification determined in accordance with this Plan is prohibited. These actions can include, but are not limited to:
 - (a) Failure to report changes in accordance with Endorsement WC 00 04 14
 - (b) A change in ownership
 - (c) A change in combinability status
 - (d) Creation of a new entity
 - (e) Misrepresentation on audits or failure to cooperate with an audit
- (ii) **Bureau Response.** In such circumstances the Bureau may obtain information that indicates evasion or improper calculation, application or omission of experience rating modifications due to actions included, but not limited to, those listed above. The Bureau will act to ensure the proper calculation and application of experience rating modifications impacted by these actions. This may include, but is not limited to the:
 - (a) Combination of experience that would otherwise not be combinable
 - (b) Separation of experience that would otherwise be combinable
 - (c) Exclusion of experience that would otherwise be included
 - (d) Continuation of experience that would otherwise be withdrawn
 - (e) Issuance of experience rating modifications that were not originally issued
 - (f) Revision and/or retraction of experience rating modifications

Pennsylvania Coal Mine Workers Compensation Manual
Section Five – Experience Rating Plan
Section III – General Provisions – Rule 8

8. CHANGE OF OWNERSHIP, CONTROL, MANAGEMENT OR OPERATIONS

The following rules govern the use of past experience in future ratings when a change has occurred in ownership, control, management or operations:

- a. Use of Incurred Experience. Except as provided in Rules (d) through (j) below, incurred experience shall be used in future ratings regardless of any change in ownership, control, management or operations.
- b. Disposition of Physical Assets. If any entity disposes of most, or all, of its physical assets by sale or lease and then
 - (i) Becomes entirely inactive with no employees, or
 - (ii) Retains a few employees for the purpose of closing out its affairs prior to dissolution as a legal entity, or
 - (iii) Retains a few clerical employees for the purpose of carrying on operations in connection with investment of its financial assets, its incurred experience shall be assigned to that entity, if any, which has taken over its previous operations and employees, provided that there was no substantial change of such operations and employees at the time of the take-over.
- c. Partial Sale. If an entity disposes of a part of its assets or operations, but otherwise continues to operate its business, all experience incurred prior to the sale shall be used in future ratings of the entity. The experience incurred prior to the Partial Sale shall be used in future ratings for the part of the assets or operations disposed of unless a substantial change of operations or employees, in which event the experience incurred prior to the partial sale shall be discarded from future ratings.
- d. Changes of Management. The experience incurred on all operations of a risk shall be used in determining the experience modification regardless of, and shall be applicable to, trusteeships, receiverships, bondholders' protective committees and similar temporary changes of management, whether voluntary or at the direction of the Courts, except that experience incurred prior to such a change of management shall not be used in future ratings if such change is also accompanied by a substantial change of operations or employees.
- e. Individual Proprietorship. If the ownership of an individual proprietorship has been changed so that the previous owner either holds no ownership in, or holds less than 50% of, the new ownership, the experience incurred prior to the change shall be used in future ratings unless such change is also accompanied by a substantial change of operations or employees, in which event the experience incurred prior to the change shall be discarded from future ratings.
- f. Partnership. If the ownership of a partnership has been changed so that the combined interest of the previous owners in the new ownership ranges from none to less than 50%, the experience incurred prior to the change shall be used in future ratings unless such change is also accompanied by a substantial change of operations or employees, in which event the experience incurred prior to the change shall be discarded from future ratings.
- g. Unincorporated Association. If the ownership or membership of the unincorporated association has been changed so that the combined interest of all previous owners or members in the new ownership ranges from none to less than 50%, the experience incurred prior to the change shall be used in future ratings unless such change is also accompanied by

- a substantial change of operations or employees, in which event the experience incurred prior to the change shall be discarded from future ratings.
- h. Corporations – Cash Transactions. If the ownership of a corporation has been changed through outright purchase so that the combined interest of all previous owners in the new ownership ranges from none to less than 50%, the experience incurred prior to the change shall be used in future ratings unless such change is also accompanied by a substantial change of operations or employees, in which event the experience incurred prior to the change shall be discarded from future ratings.
 - i. Corporations – Exchange of Stock and Similar Transactions. If the entire ownership of a corporation has been acquired by another corporation or group of corporations by exchange of stock or similar means, resulting in a blending of the ownership of the acquiring and acquired corporations, the experience of the acquired corporation incurred prior to the change shall be retained and combined with that of the acquiring corporation or corporations for use in future ratings unless such change is also accompanied by a substantial change of operations or employees, in which event the experience incurred prior to the change shall be discarded from future ratings.
 - j. Merger. If two or more entities are merged so that the ownership interest of all such entities is combined in the surviving entity, the incurred experience of all such merged entities shall be used for experience rating the surviving entity unless the merger is also accompanied by a substantial change of operations or employees of one or more of the merged entities, in which event the experience of any such merged entity incurred prior to the merger shall be discarded from future ratings.
 - k. Consolidation. If two or more entities are consolidated by replacing them with a new entity combining the ownership interest of the prior entities, the incurred experience of all such consolidated entities shall be used for experience rating the new entity, unless the consolidation is also accompanied by a substantial change of operations or employees of one or more of the replaced entities, in which event the experience of any such replaced entity incurred prior to the consolidations shall be discarded from future ratings.
 - l. Multiple Entities. When two entities under substantially the same ownership have been insured under a single policy, and the ownership of one or both of them is changed so that there is no longer any connection between them, the procedure shall be as follows:
 - (i) If the experience of the entities has been combined for rating purposes during the entire experience period, the experience incurred prior to the change shall not be used for future ratings, unless
 - (a) the insurance carrier or carriers request that new mods be established, and
 - (b) the Bureau is furnished with the experience required for the calculation of such experience mods.
 - (ii) If the experience of the entities has been combined for less than two years at the time of the change, so that the experience for each entity is available during the period they were separately insured, the experience for each entity shall be used for the purpose of calculating new experience mods.

When three or more entities under substantially the same ownership have been insured under a single policy, and the ownership of one of the entities has been changed so that there is no longer any connection between it and the remaining entities, the existing experience mod shall continue to apply to the entities whose ownership has not changed. The entity whose ownership has changed shall not be subject to experience rating unless it has been purchased by an entity which has an applicable experience mod.

- When three or more entities under substantially the same ownership have been insured under a single policy and the ownership of two or more of the entities has been changed so that common ownership no longer is present, the experience incurred prior to the date of the change shall not be used for future ratings, unless
- (i) the insurance carrier or carriers request that new mods be established, and
 - (ii) the Bureau is furnished with the experience required for the calculation of such mods.
- m. Employee Leasing. If (1) an entity terminates its employment relationship with all, or substantially all, its employees, (2) all or substantially all such employees are thereafter employed by another entity which leases such employees to the original employer, and (3) workers compensation insurance for the leased employees is provided under a Master Policy issued to the second entity, the experience incurred prior to the termination of the original employment relationship shall be used in future ratings of the second entity. See Section One – Underwriting Rules, Rule XIV – Professional Employer Organizations, Professional Employer Agreements and Professional Employer Services for additional information.

PCRB's Pennsylvania Coal Mine Workers Compensation Manual
Section 5-Five – Experience Rating Plan
Section III – General Provisions – Rule 98
~~Per PCRB Circular No. 1692 and PCRB Filing No. 289~~

98. Ownership Changes.

- (a) For purposes of this Plan, a change in ownership includes any of the following:
- (i) sale, transfer or conveyance of all or a portion of an entity's ownership interest
 - (ii) sale, transfer or conveyance of an entity's physical assets to a purchasing entity which takes over the operation of the selling entity and wherein the selling entity
 - (a) becomes entirely inactive with no employees or
 - (b) retains a few employees for the purpose of closing out its affairs prior to dissolution as a legal entity or
 - (c) retains a few clerical employees for the purpose of carrying on operations in connection with investment of its financial assets
 - (iii) merger or consolidation of two or more entities
 - (iv) formation of a new entity subsequent to the dissolution or non-operative capacity of an entity
 - (v) voluntary or court mandated establishment of a trustee or receiver, excluding a debtor in possession, a trustee under a revocable trust or franchisor

- (b) **Reporting Requirement.** When an ownership change occurs, the Notification of Change in Ownership Endorsement (WC 00 04 14) requires any change in ownership and/or combinability status be reported in writing by the employer to its carrier within ninety (90) days of the date of the change. This can be accomplished by submitting a completed Confidential Request for Information Form (ERM-14 form) or by providing the information in narrative form on the letterhead of the insured, signed by an officer of the entity.

Failure to report changes in ownership in line with Endorsement WC 00 04 14 may be considered modification evasion. See Section III, 9-h.

- (c) **Continuation of Experience.** Unless excluded under paragraph (ed), the experience for any entity undergoing a change in ownership shall be transferred to the experience of the acquiring, surviving or new entity. The date of revision will be the later of the following two dates: 1) the ~~---~~effective date of the policy in effect at the time the Bureau receives a completed ERM-14 form outlining the ownership change or 2) the date on which the change in ownership occurred.

- (i) Partial Sale: If an entity disposes of a part of its assets or operations but otherwise continues to operate its business, all experience incurred prior to the sale shall be used in future ratings of the entity.

NOTE: Future experience ratings of a risk shall retain all experience for any part of its operations which may have been discontinued or self-insured.

- (d) **Exclusion of Experience.** The experience of any entity undergoing a change in ownership shall be retained and used in future experience ratings unless one or both of the following requirements (i) and (ii) are met at the same time of the ownership change:

- (i) A change in majority interest occurs and the change in majority interest is accompanied by a complete change in operation and function sufficient to result in a change of governing classification and the change in majority interest is accompanied by a change in the process and hazard of the operation.
- (ii) A change in majority interest occurs and the change in majority interest is accompanied by a change in employees such that all or a substantial portion of the employees of the new ownership are not retained from the prior ownership.

- (e) If the experience of an entity undergoing a change in ownership is to be excluded from future experience ratings for the entity, the experience modification no longer applies as of the date of the ownership change unless the entity is acquired by another entity which has an existing experience modification. In that case, the modification of the acquiring entity shall apply.

(f) Multiple Entities. When two entities under substantially the same ownership have been insured under a single policy, and the ownership of one or both of them is changed so that there is no longer any connection between them, the procedure shall be as follows:

- (i) If the experience of the entities has been combined for rating purposes during the entire experience period, the experience incurred prior to the change shall not be used for future ratings, unless
 - (a) the insurance carrier or carriers request that new modifications be established, and
 - (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.
- (ii) If the experience of the entities has been combined for less than two years at the time of the change, so that the experience for each entity is available during the period they were separately insured, the experience for each entity shall be used for the purpose of calculating new experience modifications.

When three or more entities under substantially the same ownership have been insured under a single policy, and the ownership of one of the entities has been changed so that there is no longer any connection between it and the remaining entities, the existing experience modification shall continue to apply to the entities whose ownership has not changed. The entity whose ownership has changed shall not be subject to experience modification unless it has been purchased by an entity which has an applicable experience modification.

When three or more entities under substantially the same ownership have been insured under a single policy and the ownership of two or more of the entities has been changed so that common ownership no longer is present, the experience incurred prior to the date of the change shall not be used for future ratings, unless

- (a) the insurance carrier or carriers request that new modifications be established, and
- (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.

(g) Employee Leasing. If (1) an entity terminates its employment relationship with all, or substantially all, its employees, (2) all or substantially all such employees are thereafter employed by another entity which leases such employees to the original employer, and (3) workers compensation insurance for the leased employees is provided under a Master Policy issued to the second entity, the experience incurred prior to the termination of the original employment relationship shall be used in future ratings of the second entity.

(h) Evasion of Experience Rating Modification.

- (i) **Actions.** Employers, or their representatives, at times take actions for the purpose of avoiding an experience rating modification. They may also take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action resulting in the miscalculation, misapplication or omission of an experience rating modification determined in accordance with this Plan is prohibited. These actions can include, but are not limited to:
 - (a) Failure to report changes in accordance with Endorsement WC 00 04 14
 - (b) A change in ownership
 - (c) A change in combinability status
 - (d) Creation of a new entity
 - (e) Misrepresentation on audits or failure to cooperate with an audit
- (ii) **Bureau Response.** In such circumstances the Bureau may obtain information that indicates evasion or improper calculation, application or omission of experience rating modifications due to actions included, but not limited to, those listed above. The Bureau will act to ensure the proper calculation and application of experience rating modifications impacted by these actions. This may include, but is not limited to the:
 - (a) Combination of experience that would otherwise not be combinable
 - (b) Separation of experience that would otherwise be combinable
 - (c) Exclusion of experience that would otherwise be included
 - (d) Continuation of experience that would otherwise be withdrawn
 - (e) Issuance of experience rating modifications that were not originally issued
 - (f) Revision and/or retraction of experience rating modifications

Pennsylvania Coal Mine Workers Compensation Manual
Section Five – Experience Rating Plan
Section III – General Provisions – Rule 8

8. Ownership Changes.

- (a) For purposes of this Plan, a change in ownership includes any of the following:
- (i) sale, transfer or conveyance of all or a portion of an entity's ownership interest
 - (ii) sale, transfer or conveyance of an entity's physical assets to a purchasing entity which takes over the operation of the selling entity and wherein the selling entity
 - (a) becomes entirely inactive with no employees or
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 - (c) retains a few clerical employees for the purpose of carrying on operations in connection with investment of its financial assets
 - (iii) merger or consolidation of two or more entities
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Failure to report changes in ownership in line with Endorsement WC 00 04 14 may be considered modification evasion. See Section III, 8-h.

- (c) **Continuation of Experience.** Unless excluded under paragraph (d), the experience for any entity undergoing a change in ownership shall be transferred to the experience of the acquiring, surviving or new entity. The date of revision will be the later of the following two dates: 1) the effective date of the policy in effect at the time the Bureau receives a completed ERM-14 form outlining the ownership change or 2) the date on which the change in ownership occurred.

- (i) **Partial Sale:** If an entity disposes of a part of its assets or operations but otherwise continues to operate its business, all experience incurred prior to the sale shall be used in future ratings of the entity.

NOTE: Future experience ratings of a risk shall retain all experience for any part of its operations which may have been discontinued or self-insured.

- (d) **Exclusion of Experience.** The experience of any entity undergoing a change in ownership shall be retained and used in future experience ratings unless one or both of the following requirements (i) and (ii) are met at the same time of the ownership change:
- (i) A change in majority interest occurs and the change in majority interest is accompanied by a complete change in operation and function sufficient to result in a change of governing classification and the change in majority interest is accompanied by a change in the process and hazard of the operation.
 - (ii) A change in majority interest occurs and the change in majority interest is accompanied by a change in employees such that all or a substantial portion of the employees of the new ownership are not retained from the prior ownership.

- (e) If the experience of an entity undergoing a change in ownership is to be excluded from future experience ratings for the entity, the experience modification no longer applies as of the date of the ownership change unless the entity is acquired by another entity which has an existing experience modification. In that case, the modification of the acquiring entity shall apply.

(f) Multiple Entities. When two entities under substantially the same ownership have been insured under a single policy, and the ownership of one or both of them is changed so that there is no longer any connection between them, the procedure shall be as follows:

- (i) If the experience of the entities has been combined for rating purposes during the entire experience period, the experience incurred prior to the change shall not be used for future ratings, unless
 - (a) the insurance carrier or carriers request that new modifications be established, and
 - (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.
- (ii) If the experience of the entities has been combined for less than two years at the time of the change, so that the experience for each entity is available during the period they were separately insured, the experience for each entity shall be used for the purpose of calculating new experience modifications.

When three or more entities under substantially the same ownership have been insured under a single policy, and the ownership of one of the entities has been changed so that there is no longer any connection between it and the remaining entities, the existing experience modification shall continue to apply to the entities whose ownership has not changed. The entity whose ownership has changed shall not be subject to experience modification unless it has been purchased by an entity which has an applicable experience modification.

When three or more entities under substantially the same ownership have been insured under a single policy and the ownership of two or more of the entities has been changed so that common ownership no longer is present, the experience incurred prior to the date of the change shall not be used for future ratings, unless

- (a) the insurance carrier or carriers request that new modifications be established, and
- (b) the Bureau is furnished with the experience required for the calculation of such modifications submitted in an acceptable format.

(g) Employee Leasing. If (1) an entity terminates its employment relationship with all, or substantially all, its employees, (2) all or substantially all such employees are thereafter employed by another entity which leases such employees to the original employer, and (3) workers compensation insurance for the leased employees is provided under a Master Policy issued to the second entity, the experience incurred prior to the termination of the original employment relationship shall be used in future ratings of the second entity.

(h) Evasion of Experience Rating Modification.

- (i) **Actions.** Employers, or their representatives, at times take actions for the purpose of avoiding an experience rating modification. They may also take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action resulting in the miscalculation, misapplication or omission of an experience rating modification determined in accordance with this Plan is prohibited. These actions can include, but are not limited to:
 - (a) Failure to report changes in accordance with Endorsement WC 00 04 14
 - (b) A change in ownership
 - (c) A change in combinability status
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 - (e) Misrepresentation on audits or failure to cooperate with an audit
- (ii) **Bureau Response.** In such circumstances the Bureau may obtain information that indicates evasion or improper calculation, application or omission of experience rating modifications due to actions included, but not limited to, those listed above. The Bureau will act to ensure the proper calculation and application of experience rating modifications impacted by these actions. This may include, but is not limited to the:
 - (a) Combination of experience that would otherwise not be combinable
 - (b) Separation of experience that would otherwise be combinable
 - (c) Exclusion of experience that would otherwise be included
 - (d) Continuation of experience that would otherwise be withdrawn
 - (e) Issuance of experience rating modifications that were not originally issued
 - (f) Revision and/or retraction of experience rating modifications