



May 13, 2020

**DCRB CIRCULAR NO. 978**

To All Members of the DCRB:

Re: **APPROVAL OF DCRB FILING NO. 2002**  
**EFFECTIVE APRIL 1, 2020**  
**(For Policies in force on March 1, 2020 through December 31, 2020)**

**Revisions due to COVID-19 (Coronavirus) Pandemic**  
**Delaware Basic Manual and Delaware Statistical Plan Manual**

The Delaware Insurance Commissioner has approved revisions to the Delaware Basic Manual and the Delaware Statistical Plan Manual due to the COVID-19 (Coronavirus) Pandemic.

Due to COVID-19, these revisions have been approved effective 12:01 a.m., April 1, 2020 or later for policies in force on March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities. This effective date coincides with COVID related Statistical Plan Manual changes resulting from the approval of DCRB's Filing No. 2001 for COVID claim reporting which was effective April 1, 2020.

The revisions to the Delaware Basic Manual and the Delaware Statistical Plan Manual are as follows:

- 1) Changes to the allocation of payroll rules as a result of COVID-19 (Basic Manual Section I, Rule V, Item B.3.q; Item F.5 and Item F.6)
- 2) Changes to the classification reassignment rules related to the temporary reassignment of duties for COVID-19 (Basic Manual Section I, Rule IV, Item C.8.a.4)
- 3) Creation of Statistical Code 1212 to capture the payroll of employees who are paid but are not working (Basic Manual Section I, Rule V.F.6.c)
- 4) Changes to the Experience Rating and Merit Rating Plans to exclude losses applicable and attributable to COVID-19 (Basic Manual Section 5, Rule V, Items 4; Basic Manual Section 6, Rule Section II, Item 5 and Basic Manual Section 6, Rule Section V., Item 4.b)
- 5) Establishing reporting requirements regarding estimated audit coding, if final premium based on audited exposure cannot be reported due to COVID-19 (Statistical Plan Manual Section II, Item B.9 and Section IV, Item A.6.d)

The changes associated with this circular are noted on the Basic Manual pages and the Statistical Plan Manual pages provided below. Both manuals will be updated on the DCRB's website at a later date.

Please refer to Filing No. 2002, available on the DCRB's website ([www.dcrb.com](http://www.dcrb.com)) under the "Filings" tab, for additional details and information on this revision. Questions regarding the Basic Manual changes should be directed to Delisa Fairley, Vice President – Underwriting Services, at Extension 4411 or [dfairley@dcrb.com](mailto:dfairley@dcrb.com). Questions on the Statistical Plan revisions should be directed to Dawn Belfus, Director – Data Services, at Extension 4478 or [belfus@dcrb.com](mailto:belfus@dcrb.com).

William V. Taylor  
President

WVT/dn  
encl.

*Remember to visit our web site at [www.dcrb.com](http://www.dcrb.com) for more information about this and other topics.*

# DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

*Approved Effective April 1, 2020*

## INFORMATION PAGE

**PREFACE** remains unchanged.

**MEMBERSHIP** remains unchanged.

**TABLE OF CONTENTS** remains unchanged.

## SECTION I – UNDERWRITING RULES

**RULE I** through **RULE III** remain unchanged.

## RULE IV – CLASSIFICATIONS

**ITEM A** remains unchanged.

## ITEM B – CLASSIFICATIONS

**ITEM B.1** remains unchanged.

### 2. Standard Exception Classification

Some occupations are common to so many businesses that special classifications have been established for them. They are called standard exception classifications. Employees within the definition of a standard exception classification are not included in a basic classification unless the basic classification specifically includes those employees. The standard exception classifications are defined below:

- a. **CLERICAL OFFICE EMPLOYEES – Code 953** – are employees exclusively engaged in keeping the books or records of the insured or conducting correspondence or who are engaged wholly in office work where such books or records are kept or such correspondence is conducted.

This classification shall be applied only to employees herein described who work exclusively in separate buildings or on separate floors or in departments on such floors which are separated from all other workplaces of the employer by floor to ceiling partitions except for retail stores where a partition at least five feet high is required and within which no work is performed other than clerical office duties as defined in this rule.

Telecommuters i.e., employees who work from their home by use of the internet, email and telephone, shall also be considered clerical office employees.

Office employees shall be separately classified except in connection with those classes which are designated “all employees including office.”

If any clerical office employee (including drafting employees) has any other regular duty, the entire payroll of that employee shall be assigned in accordance with the class to which the business is assigned.

### **COVID-19 (CORONAVIRUS) EXCEPTION:**

[An employee's job duties may be temporarily reclassified to Code 953 – Clerical Office Employees during any emergency orders, laws, or regulations issued due to COVID-19 \(Coronavirus\), if](#)

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separate, accurate, verifiable records are maintained. If such records are not maintained, the employee is assigned to the classification applicable to their duties prior to any emergency orders, laws, or regulations issued due to COVID-19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

This classification does not apply to:

- (1) The clerk, such as a counter, front desk, lobby, mall kiosk, time, stock or tally clerk or librarian, whose work is necessary, incidental or part of any operation of the business other than clerical office. Such clerk should be assigned to the basic classification of the business.
- (2) A cashier who is responsible for accepting payment for merchandise or services rendered. The cashier's physical location may include but is not necessarily limited to: a booth, behind a counter or on a sales floor. The cashier or any employee whose regular and frequent duty is accepting payment for merchandise or services rendered should be assigned to the basic classification of the business regardless of the physical work location.

**ITEMS B.2.b** through **ITEM B.4.** remain unchanged.

**ITEM C. ASSIGNMENT OF CLASSIFICATIONS**

**ITEMS C.1** through **ITEM C.7** remain unchanged.

**ITEM C.8 – Changing Classifications**

- a. The DCRB is empowered to determine, revise or modify the classification(s) assigned to any individual insured. No written application by the carrier, agent of record or an insured to change an insured's authorized classification(s) shall be considered by the DCRB until the carrier has issued and filed a copy of its policy Information Page written in accordance with an insured's authorized classification(s). The classification(s) shown in any policy shall be subject to correction or modification, or both, if the DCRB finds by survey or otherwise that the classification(s) shown in the policy are inappropriate to the insured. No written application to change the classification(s) for an insured on the grounds that the insured has been improperly classified shall be considered by the DCRB unless such written application is filed directly with the DCRB by the insured, agent of record or the carrier during the policy period with respect to which the application is made, or within 12 months after the termination thereof.
- b.
  - (1) A change in an insured's classification that results from a recent change in the insured's operations (i.e., an operations change that has taken place during the current policy year or the policy year that has just expired) will be applied pro rata as of the date of the change in the insured's operations, regardless of the premium impact to the insured. When a DCRB review discloses the insured's recent operations change, the DCRB will make written notice to the carrier-of-record, changing the insured's authorized classification(s) for the current policy year and, if warranted, for the policy year that has just expired. When the carrier becomes aware of such recent operations change, the carrier shall make written application to the DCRB to change the insured's authorized classification(s) during the current policy year and, if warranted, for the policy year that has just expired.
  - (2) A correction of a misclassification which results in a premium decrease shall be applied to the insured's policy in effect when the application for correction is made and to the prior policy within

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12 months after the termination thereof.

- (3) A correction of a misclassification which results in a premium increase shall be applied to the employer's first policy effective at least six months subsequent to the date of the DCRB's written misclassification notice.

- (4) When the temporary interruption or suspension of normal business activities caused by COVID-19 results in a change in business operations, an employer may be temporarily reassigned to an alternate classification if separate, accurate, verifiable records are maintained. If such records are not maintained, the operations are assigned to the classification applicable to the business prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

- c. Any correction of a misclassification arising from discovery by the carrier of a material misrepresentation or intentional omission by the insured, its agent, employees, officers or directors shall be applied effective the date upon which it would have applied had such material misrepresentation or intentional omission not been made. It is recommended that a carrier claiming material misrepresentation or intentional omission as contemplated in this Rule secure a declaratory judgment from the appropriate Court establishing same prior to proceeding with application of this Rule.
- d. The reallocation of payroll by a carrier among an insured's authorized classifications or the DCRB requiring a carrier to reallocate payroll among an insured's authorized classifications or to report payroll under an insured's authorized classifications for an insured's current policy or for the insured's prior policy within 12 months after the termination thereof does not constitute a class change or correction.
- e. Any reclassification pursuant to a revision in classification procedure that DCRB has filed with and that has been approved by the Insurance Commissioner shall be effective only upon any insured's first policy effective date on or later than the effective date for the revision approved by the Insurance Commissioner.

**ITEMS C.9 through ITEM C.10** remain unchanged.

**ITEMS D and ITEM E.** remain unchanged.

**RULE V – PREMIUM BASIS**

**ITEM A.** remains unchanged.

**ITEM B. REMUNERATION – PAYROLL**

**ITEMS B. 1 and ITEM B.2** remain unchanged.

**ITEM B.3 EXCLUSIONS**

**ITEMS B.3.a. through ITEMS B.3.p.** remain unchanged.

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- q.** Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws, or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. However, any appropriated funds or loans received by an employer specifically to retain or hire **working** employees are not excluded.

Refer to Rule V.F.6 for the definitions of paid furloughed employees and payments to paid furloughed employees.

Item q. is applicable to policies in force on March 1, 2020 through December 31, 2020 which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

ITEMS B.4 through ITEM E. remain unchanged.

**ITEM F. BASIS OF PREMIUM – ADDITIONAL INFORMATION**

ITEMS F.1 through ITEM F.4 remain unchanged.

**5. Wages Paid for Idle Time**

Idle time is downtime that occurs when employees are not **working** and the employer pays the employees for the amount of time not worked. Idle time does not include "paid furloughed employees" or "payments to paid furloughed employees" as defined in Rule V.F.6.

1. The entire amount of wages paid for idle time shall be included as payroll.
2. Wages paid for idle time due to the following causes shall be assigned in their entirety to the classification which applies to the work normally performed by the employee involved:
  - a. Suspension or delay of work on account of weather conditions.
  - b. Delays while waiting for materials.
  - c. Delays while waiting for another contractor to complete certain work.
  - d. Delays arising from breakdown of equipment.
  - e. "Stand-by" time where employees such as operators of cranes, hoists or other equipment are on the job but their active services are not required continuously.
  - f. Special union requirements or agreements between employer and employees calling for pay for idle time under specified circumstances.
  - g. Other cause of similar nature.
3. Wages paid to key employees of construction, erection or stevedoring risks, such as superintendents, foremen or engineers, for periods during which no jobs are in progress, shall be assigned to the classification applicable to the work which each one normally performs. (Exception: Reference Strike Periods – Wages Paid.)
4. The entire amount of wages paid for idle time to an employee engaged in work other than construction, erection or stevedoring must be assigned without division to the classification which normally applied to that employee.

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**6. Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to COVID-19(Coronavirus) Pandemic**

- a.** For purposes of this rule, “paid furloughed employees” and “payments to paid furloughed employees” are defined within this rule. “Paid furloughed employees” means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.
- b.** “Payments to paid furloughed employees” means payments made by an employer or any public governmental entity to paid furloughed employees a result of federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer’s staffing or business operations. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire **working** employees.
- c.** Payments to paid furloughed employees must be assigned to Code 1212, in accordance with the Statistical Plan. Payments to paid furloughed employees made in accordance with this Rule V.F.6 are excluded from the premium, experience rating and merit rating calculations only if the employer keeps separate, accurate, and verifiable records. If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic.
- d.** If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with Manual Rule IV.A.1.
- e.** Rule V.F.6 is effective for policies in force March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.



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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31)x [ (32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	[(36)+(38)+(42)+(44)+(46)+(48)]x[(-49) expressed as a decimal]
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	(51)x[(52) expressed as a decimal]
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	[(51)+(53)]x[(-54) expressed as a decimal]
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	[(51)+(53)+(55)+(57)]x[(58)-1.0000] if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)>[(51)+(53)+(55)+(57)+(59)+(61)], (62)-[(51)+(53)+(55)+(57)+(59)+(61)], otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	[(51)+(53)+(55)+(57)+(59)+(63)]
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on [(51)+(53)+(55)+(57)+(59)+(63)]
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	(61)+(64)-(65)+(66)+(67)+(68)
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computer employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	[(69)-(11)-(55)]x(70) NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)
(73)	<a href="#">Payments to Paid Furloughed Employees Due to Covid-19</a>	<a href="#">1212</a>	(73)	<a href="#">Risk Characteristic</a>

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*Approved Effective April 1, 2020*

## SECTION 5 – EXPERIENCE RATING PLAN

RULES I through RULE IV remain unchanged.

### RULE V

#### TABULATION OF EXPERIENCE

- 1. Experience Used for Rating.** The experience used for rating purposes shall be the individual risk experience valued at least three months prior to the rating date and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include Voluntary Compensation insurance, but shall exclude Maritime Employments and Employments under the Federal Employers' Liability Act.
- 2. Rating Forms.** To determine the experience modification the prescribed experience shall be tabulated by the Bureau on approved rating forms.
- 3. Payrolls.** The audited payrolls or other exposures for each classification for the experience period.
- 4. Losses.** Incurred losses shall be tabulated by policy years in the manner indicated below.

- (a) Losses as reported (indemnity, medical and total) shall be shown for each policy year. Losses incurred shall be on a gross basis, before the application of the deductible when such coverage is provided.
- (b) Losses which are subject to average or limiting values, as provided in Rule 5 of this Section, shall be listed individually, showing the total cost of each case as reported and as used for rating purposes. Multiple injury accidents shall be identified in the appropriate column of the rating form.

**Exception:** All claims reported with Catastrophe Code No. 48 shall be excluded from experience rating calculations. Refer to Delaware Workers Compensation Statistical Plan Manual, Section 2, C. 11. for definition of losses included under Catastrophe Code No. 48.

[Exception: All claims reported with Catastrophe Code No. 12 shall be excluded from experience rating calculations. Refer to the Delaware Statistical Plan Manual, Section 2, C.11 for the definition of losses included under Catastrophe Code No.12.](#)

- 5. Limitation on Total Losses Employed in a Rating.** To prevent unreasonable increases in rate for accidents whose occurrence or severity is a matter of chance, a scale of values has been determined and is to be used in place of the actual cost of such accidents when the actual cost exceeds the limiting value. No single accident, whether to one or more persons, shall be used for rating purposes at a value greater than that shown in Table B, column (3).
- 6. Moral Responsibility.** No loss shall be excluded from the experience of a risk on the ground that the employer was not morally responsible for the accident that caused such loss.
- 7. Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases:
  - (a) where loss values are included or excluded through mistake other than error of judgment, or
  - (b) where a claim is declared non-compensable (see note below), or
  - (c) where the claimant or carrier has recovered in an action against a third party, or

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- (d) where a claim should have been reported with Catastrophe Code No. 48, or
- (e) where a claim or a portion of a claim is ruled or officially declared fraudulent, [or](#)
- (f) [where a claim should have been reported with Catastrophe Code No.12.](#)

It shall be permissible to submit a revised reporting requesting adjustment of the affected ratings or ratings, provided such request is made within 24 months of the expiration of the period to which the experience modification applied.

If a case is expected to be open longer than 24 months, upon written application, properly filed with the DCRB by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the experience modification applied. Such application shall give notice to the DCRB that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB files for the risk involved will be preserved.

**Note:** For purposes of this rule, the term "non-compensable" refers to:

- i. an official ruling specifically holding that a claimant is not entitled to benefits under the provisions of the Delaware Workers' Compensation Law.
- ii. a case where no claim was filed during the period of limitation provided by the Delaware Workers' Compensation Law for the filing of such claim and the carrier therefore closes the case.
- iii. a case where the carrier contends, prior to the valuation date, that a claimant is not entitled to benefits under the Delaware Workers' Compensation Law and the claim is officially closed because of the claimant's failure to prosecute his claim.

## **8. Third Party Cases.**

- (a) Pending Cases. When a negligence claim or suit has been instituted by a claimant against a third party, the procedure shall be as follows:

If the claim or suit against the third party has not been settled or finally adjudicated, the incurred loss shall be included in the rating, since failure to recover against a third party is no bar to compensation and the insurance carrier may eventually be obliged to indemnify the claimant in whole or in part for the loss sustained.

- (b) Settled Cases. In cases where the carrier has received reimbursement under subrogation rights, or where the injured employee or his dependents have recovered from a third party, the procedure shall be as follows:

In cases where the total incurred cost prior to recovery is less than the accident limitation value shown in Table B, column (3), only the net loss shall be used in the rating. In cases where the total incurred cost prior to recovery exceeds the accident limitation value shown in Table B, column (3), the amount to be used in the rating shall be such proportion of the limiting value as the net loss bears to the total incurred cost prior to recovery.

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**SECTION 6 – MERIT RATING PLAN**

**SECTION I** remains unchanged.

**SECTION II – DEFINITIONS**

1. Risk. The term “risk” as used in this Plan shall mean
  - (a) A single legal entity.
  - (b) Two or more affiliates which qualify for combination under the rules of Section III of this Plan.
2. **Legal Entity.** The term “legal entity” or “entity” shall mean an individual, partnership, corporation, unincorporated association or fiduciary (e.g., trustee, receiver, executor or administrator). Divisions or similar units of a legal entity do not qualify as separate entities.
3. **Affiliate.** The term “affiliate” shall mean entities in each of which the same entity or group of entities owns a majority interest.
4. **Experience.** For the purpose of this Plan experience shall mean the record established by a risk under Workers Compensation and Employers’ Liability Insurance, as disclosed by the losses incurred by the insurance carrier or carriers and the payrolls or other exposures segregated according to classification of operations. If the classification assigned to a risk is revised or modified, for the purpose of this Plan the Bureau shall similarly reassign the classification of the experience period except that, if the revision is due to a change in operations, no part of the experience period prior to such operations change shall be affected.
5. **Compensable Employee Lost-Time Injury.** The term “compensable employee lost-time injury” for purposes of this Plan shall mean any claim having either an indemnity benefit payment or a case reserve for future indemnity benefit payments.

All claims reported with Catastrophe Code No. 48 shall be excluded from merit rating calculations.

[All claims reported with Catastrophe Code No.12 shall be excluded from merit rating calculations.](#)

6. Rating Effective Date. (RED) is the earliest date that a specific merit rating adjustment is applied to a policy.
7. **Merit Rating Plan Discount.** The term “Merit Rating Plan discount” for purposes of this Plan shall mean a reduction in the subject premium developed by the use of the carrier rates in force on the (RED) applicable to the policy to which the Merit Rating Plan is applied.
8. **Merit Rating Plan Surcharge.** The term “Merit Rating Plan surcharge” for purposes of this Plan shall mean an increase in the subject premium developed by the use of the carrier rates in force on the (RED) applicable to the policy to which the Merit Rating Plan is applied.
9. **Merit Rating Plan Adjustment.** The term “Merit Rating Plan adjustment” for purposes of this Plan shall mean either a Merit Rating Plan discount or a Merit Rating Plan surcharge.
10. **Subject Premium.** The term “subject premium” for purposes of this Plan shall mean the premium developed by the use of carrier rates in force on the (RED) of the policy to which the Merit Rating Plan is applied, exclusive of exceptions listed in Section IV, Paragraph 1.

Note: For special provisions applicable to self-insurers' data see Rule 5 of Section III.

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SECTIONS III and IV remain unchanged.

## SECTION V

### TABULATION OF EXPERIENCE

1. **Experience Used for the Merit Rating Plan.** The experience used for purposes of the Merit Rating Plan shall be the individual risk experience valued at least three months prior to the (RED) and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include voluntary compensation insurance but shall exclude maritime employments and employments under the Federal Employees' Liability Act.
2. **Merit Rating Plan Forms.** To determine the Merit Rating Plan adjustment the prescribed experience shall be tabulated by the Bureau on approved Merit Rating Plan forms.
3. **Payrolls.** The audited payrolls or other exposures for each classification for the experience period shall be tabulated by policy years.
4. **Losses.** Incurred losses or claims reported for all policy periods considered in qualifying a risk for the Merit Rating Plan shall be tabulated in the following manner:
  - (a) Claims having no indemnity benefit payment or case reserve for indemnity benefit payment shall be excluded from the experience tabulation for purposes of the Merit Rating Plan. Losses as reported (indemnity, medical and total) shall be shown for each policy year. Losses incurred shall be on a gross basis, before the application of the deductible when such coverage is provided.
  - (b) All claims not excluded from the experience tabulation for purposes of the Merit Rating Plan by virtue of sections (a) above shall be listed in the experience tabulation with the following information:
    - Policy number
    - Policy effective date
    - Claim number or number of claims
    - Indemnity loss amount
    - Date of loss

All claims reported with Catastrophe Code No. 48 shall be excluded from merit rating calculations.

[All claims reported with Catastrophe Code No. 12 shall be excluded from merit rating calculations.](#)

5. **Moral Responsibility.** No loss shall be excluded from the experience of a risk on the ground that the employer was not morally responsible for the accident that caused such loss.
6. **Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases:
  - (a) where loss values are included or excluded through mistake other than error of judgment, or
  - (b) where a claim is declared non-compensable (see note below), or
  - (c) where the claimant or carrier has recovered in an action against a third party, or
  - (d) where a claim should have been reported with Catastrophe Code No. 48, or

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(e) where a claim or portion of a claim is ruled or officially declared fraudulent, or

(f) where a claim should have been reported with Catastrophe No. 12.

it shall be permissible to submit a revised reporting requesting adjustment of the affected Merit Rating Plan adjustment or adjustments, provided such request is made within 24 months of the expiration of the period to which the merit rating applied.

If a case is expected to be open longer than 24 months upon written application, properly filed with the DCRB by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the merit rating applied. Such application shall give notice to the DCRB that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB files for the risk involved will be preserved.

**Note:** For purposes of this rule, the term "non-compensable" refers to:

- (i) an official ruling specifically holding that a claim is not entitled to benefits under the provisions of the Delaware Workers Compensation Law.
- (ii) a case where no claim was filed during the period of limitation provided by the Delaware Workers Compensation Law for the filing of such claim and the carrier therefore closes the case.
- (iii) a case where the carrier contends prior to the evaluation date that a claimant is not entitled to benefits under the Delaware Workers Compensation or Law and the claim is officially closed because of the claimant's failure to prosecute his claim.

**DELAWARE STATISTICAL PLAN MANUAL**  
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**INTRODUCTION** remains unchanged.

**SECTION I** remains unchanged.

**SECTION II - REPORTING REQUIREMENTS**

Items **A and B** remain unchanged.

Item **B** Exposure Information

Item Numbers **1 through 8** remain unchanged

**9. Miscellaneous Statistical Codes**

**a. thru e.** remain unchanged.

[f. Paid Furloughed Employees – Code 1212](#)

[Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and or/local emergency orders, laws or regulations, issued due to the COVID-19 \(coronavirus\) pandemic which impact an employer's staffing or business operations must be reported to Statistical Code 1212 – Paid Furloughed Employees. Such payments do not include any appropriated funds or loans received by an employer as authorized by an law or regulations, or public governmental entity, that are used by an employer specifically to retain or hire \*\*working\*\* employees.](#)

[Code 1212 may be used as a Statistical Code to report the payments only. If a carrier is unable to report this experience as a statistical code, please contact the PCRB to discuss reporting requirements.](#)

[Payments reported to Code 1212 are excluded from premium only if the employer keeps separate, accurate and verifiable records.](#)

[For any claims attributable to an employee occurring prior to or after a temporary layoff or an involuntary leave, report losses to the classification for work normally performed by the employee that corresponds to the employee's payroll. No claim can be reported to Code 1212 – Paid Furloughed Employees.](#)

[The expiration date of this code will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.](#)

Item Number **10** remains unchanged.

Item **C** Loss Information

Item Numbers **1 through 10** remain unchanged.

**11. Catastrophe Number (Cat. No.)**



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Any accident resulting in two or more reported claims must be reported as a catastrophe. In reporting catastrophes, all claims (compensable as well as non-compensable and contract medical) resulting from this accident shall be designated by placing the numeral "1" in the column captioned Cat. No. opposite each claim. If there is more than one catastrophe under the policy, each succeeding catastrophe should be designated by means of a separate serial number "2", "3", etc., up to and including "10". After the number "10" is assigned the next number in the sequence will reprocess to number "1". Numbers "11" through "99" are reserved for ISO [or WCIO](#) assigned catastrophe codes. A separate series of catastrophe numbers shall be used for each policy.

Exceptions **a. thru c.** remain unchanged

Item Numbers **12 through 24** remains unchanged.

Item **D** remains unchanged.

**SECTION III** remains unchanged.

### SECTION IV - CODES

Item **A** Codes Common to Premium and Losses

Item Numbers **1 thru 5** remain unchanged

#### 6. Policy Conditions

**a. thru c.** remain unchanged.

- d. Estimated Audit Code
- "Y" = Exposures expressed on the unit report are estimated.
  - "N" = Exposures expressed on the unit report are the result of an audit.
  - "U" = Insured has refused or not responded to requests to provide carrier with access to books and records. Audit has been closed as uncooperative. Exposures expressed on unit report are estimated.

#### Notes:

(1) When the Exposure on the 1<sup>st</sup> report includes Code 9757, report the Estimated Audit Code as "U" in the applicable Policy Conditions, Estimated Audit Code field. If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to "N" and the exposure and premium must reflect the final audit.

(2) If final premium based on audited exposure cannot be reported due to federal, state and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as an "N". This code is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

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**e. thru g.** remain unchanged.

Item **B thru D** remain unchanged.

**SECTION V** remains unchanged.

**SECTION VI** remains unchanged.

**SECTION VII** remains unchanged.

**SECTION VIII** remains unchanged.

**SECTION IX** remains unchanged.

**SECTION X – PREMIUM ALGORITHM (See attached)**

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31)x [ (32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	[(36)+(38)+(42)+(44)+(46)+(48)]x[(-49) expressed as a decimal]
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	(51)x[(52) expressed as a decimal]
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	[(51)+(53)]x[(-54) expressed as a decimal]
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	[(51)+(53)+(55)+(57)]x[(58)-1.0000] if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)>[(51)+(53)+(55)+(57)+(59)+(61)], (62)-[(51)+(53)+(55)+(57)+(59)+(61)], otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	[(51)+(53)+(55)+(57)+(59)+(63)]
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on [(51)+(53)+(55)+(57)+(59)+(63)]
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	(61)+(64)-(65)+(66)+(67)+(68)
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computer employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	[(69)-(11)-(55)]x(70) NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)
(73)	<a href="#">Payments to Paid Furloughed Employees Due to Covid-19</a>	<a href="#">1212</a>	(73)	<a href="#">Risk Characteristic</a>

# DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

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## INFORMATION PAGE

**PREFACE** remains unchanged.

**MEMBERSHIP** remains unchanged.

**TABLE OF CONTENTS** remains unchanged.

## SECTION I – UNDERWRITING RULES

**RULE I** through **RULE III** remain unchanged.

## RULE IV – CLASSIFICATIONS

**ITEM A** remains unchanged.

## ITEM B – CLASSIFICATIONS

**ITEM B.1** remains unchanged.

### 2. Standard Exception Classification

Some occupations are common to so many businesses that special classifications have been established for them. They are called standard exception classifications. Employees within the definition of a standard exception classification are not included in a basic classification unless the basic classification specifically includes those employees. The standard exception classifications are defined below:

- a. **CLERICAL OFFICE EMPLOYEES – Code 953** – are employees exclusively engaged in keeping the books or records of the insured or conducting correspondence or who are engaged wholly in office work where such books or records are kept or such correspondence is conducted.

This classification shall be applied only to employees herein described who work exclusively in separate buildings or on separate floors or in departments on such floors which are separated from all other workplaces of the employer by floor to ceiling partitions except for retail stores where a partition at least five feet high is required and within which no work is performed other than clerical office duties as defined in this rule.

Telecommuters i.e., employees who work from their home by use of the internet, email and telephone, shall also be considered clerical office employees.

Office employees shall be separately classified except in connection with those classes which are designated “all employees including office.”

If any clerical office employee (including drafting employees) has any other regular duty, the entire payroll of that employee shall be assigned in accordance with the class to which the business is assigned.

#### **COVID-19 (CORONAVIRUS) EXCEPTION:**

An employee's job duties may be temporarily reclassified to Code 953 – Clerical Office Employees during any emergency orders, laws, or regulations issued due to COVID-19 (Coronavirus), if separate, accurate, verifiable records are maintained. If such records are not maintained, the

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employee is assigned to the classification applicable to their duties prior to any emergency orders, laws, or regulations issued due to COVID-19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

This classification does not apply to:

- (1) The clerk, such as a counter, front desk, lobby, mall kiosk, time, stock or tally clerk or librarian, whose work is necessary, incidental or part of any operation of the business other than clerical office. Such clerk should be assigned to the basic classification of the business.
- (2) A cashier who is responsible for accepting payment for merchandise or services rendered. The cashier's physical location may include but is not necessarily limited to: a booth, behind a counter or on a sales floor. The cashier or any employee whose regular and frequent duty is accepting payment for merchandise or services rendered should be assigned to the basic classification of the business regardless of the physical work location.

**ITEMS B.2.b** through **ITEM B.4.** remain unchanged.

## **ITEM C. ASSIGNMENT OF CLASSIFICATIONS**

**ITEMS C.1** through **ITEM C.7** remain unchanged.

### **ITEM C.8 – Changing Classifications**

- a. The DCRB is empowered to determine, revise or modify the classification(s) assigned to any individual insured. No written application by the carrier, agent of record or an insured to change an insured's authorized classification(s) shall be considered by the DCRB until the carrier has issued and filed a copy of its policy Information Page written in accordance with an insured's authorized classification(s). The classification(s) shown in any policy shall be subject to correction or modification, or both, if the DCRB finds by survey or otherwise that the classification(s) shown in the policy are inappropriate to the insured. No written application to change the classification(s) for an insured on the grounds that the insured has been improperly classified shall be considered by the DCRB unless such written application is filed directly with the DCRB by the insured, agent of record or the carrier during the policy period with respect to which the application is made, or within 12 months after the termination thereof.
- b.
  - (1) A change in an insured's classification that results from a recent change in the insured's operations (i.e., an operations change that has taken place during the current policy year or the policy year that has just expired) will be applied pro rata as of the date of the change in the insured's operations, regardless of the premium impact to the insured. When a DCRB review discloses the insured's recent operations change, the DCRB will make written notice to the carrier-of-record, changing the insured's authorized classification(s) for the current policy year and, if warranted, for the policy year that has just expired. When the carrier becomes aware of such recent operations change, the carrier shall make written application to the DCRB to change the insured's authorized classification(s) during the current policy year and, if warranted, for the policy year that has just expired.
  - (2) A correction of a misclassification which results in a premium decrease shall be applied to the insured's policy in effect when the application for correction is made and to the prior policy within 12 months after the termination thereof.

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- (3) A correction of a misclassification which results in a premium increase shall be applied to the employer's first policy effective at least six months subsequent to the date of the DCRB's written misclassification notice.
- (4) When the temporary interruption or suspension of normal business activities caused by COVID-19 results in a change in business operations, an employer may be temporarily reassigned to an alternate classification if separate, accurate, verifiable records are maintained. If such records are not maintained, the operations are assigned to the classification applicable to the business prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

- c. Any correction of a misclassification arising from discovery by the carrier of a material misrepresentation or intentional omission by the insured, its agent, employees, officers or directors shall be applied effective the date upon which it would have applied had such material misrepresentation or intentional omission not been made. It is recommended that a carrier claiming material misrepresentation or intentional omission as contemplated in this Rule secure a declaratory judgment from the appropriate Court establishing same prior to proceeding with application of this Rule.
- d. The reallocation of payroll by a carrier among an insured's authorized classifications or the DCRB requiring a carrier to reallocate payroll among an insured's authorized classifications or to report payroll under an insured's authorized classifications for an insured's current policy or for the insured's prior policy within 12 months after the termination thereof does not constitute a class change or correction.
- e. Any reclassification pursuant to a revision in classification procedure that DCRB has filed with and that has been approved by the Insurance Commissioner shall be effective only upon any insured's first policy effective date on or later than the effective date for the revision approved by the Insurance Commissioner.

**ITEMS C.9** through **ITEM C.10** remain unchanged.

**ITEMS D** and **ITEM E.** remain unchanged.

**RULE V – PREMIUM BASIS**

**ITEM A.** remains unchanged.

**ITEM B. REMUNERATION – PAYROLL**

**ITEMS B. 1** and **ITEM B.2** remain unchanged.

**ITEM B.3 EXCLUSIONS**

**ITEMS B.3.a.** through **ITEMS B.3.p.** remain unchanged.



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- q. Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws, or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. However, any appropriated funds or loans received by an employer specifically to retain or hire working employees are not excluded.

Refer to Rule V.F.6 for the definitions of paid furloughed employees and payments to paid furloughed employees.

Item q. is applicable to policies in force on March 1, 2020 through December 31, 2020 which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

**ITEMS B.4 through ITEM E.** remain unchanged.

**ITEM F. BASIS OF PREMIUM – ADDITIONAL INFORMATION**

**ITEMS F.1 through ITEM F.4** remain unchanged.

**5. Wages Paid for Idle Time**

Idle time is downtime that occurs when employees are not working and the employer pays the employees for the amount of time now worked. Idle time does not include "paid furloughed employees" or "payments to paid furloughed employees" as defined in Rule V.F.6.

1. The entire amount of wages paid for idle time shall be included as payroll.
2. Wages paid for idle time due to the following causes shall be assigned in their entirety to the classification which applies to the work normally performed by the employee involved:
  - a. Suspension or delay of work on account of weather conditions.
  - b. Delays while waiting for materials.
  - c. Delays while waiting for another contractor to complete certain work.
  - d. Delays arising from breakdown of equipment.
  - e. "Stand-by" time where employees such as operators of cranes, hoists or other equipment are on the job but their active services are not required continuously.
  - f. Special union requirements or agreements between employer and employees calling for pay for idle time under specified circumstances.
  - g. Other cause of similar nature.
3. Wages paid to key employees of construction, erection or stevedoring risks, such as superintendents, foremen or engineers, for periods during which no jobs are in progress, shall be assigned to the classification applicable to the work which each one normally performs. (Exception: Reference Strike Periods – Wages Paid.)
4. The entire amount of wages paid for idle time to an employee engaged in work other than construction, erection or stevedoring must be assigned without division to the classification which normally applied to that employee.

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*Approved Effective April 1, 2020*

- 6. Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to COVID-19(Coronavirus) Pandemic**
- a. For purposes of this rule, “paid furloughed employees” and “payments to paid furloughed employees” are defined within this rule. “Paid furloughed employees” means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.
  - b. “Payments to paid furloughed employees” means payments made by an employer or any public governmental entity to paid furloughed employees a result of federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer’s staffing or business operations. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.
  - c. Payments to paid furloughed employees must be assigned to Code 1212, in accordance with the Statistical Plan. Payments to paid furloughed employees made in accordance with this Rule V.F.6 are excluded from the premium, experience rating and merit rating calculations only if the employer keeps separate, accurate, and verifiable records. If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic.
  - d. If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with Manual Rule IV.A.1.
  - e. Rule V.F.6 is effective for policies in force March 1, 2020 through December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

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*Approved Effective April 1, 2020*

**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31)x [ (32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	[(36)+(38)+(42)+(44)+(46)+(48)]x[(-49) expressed as a decimal]
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	(51)x[(52) expressed as a decimal]
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	[(51)+(53)]x[(-54) expressed as a decimal]
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	[(51)+(53)+(55)+(57)]x[(58)-1.0000] if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)>[(51)+(53)+(55)+(57)+(59)+(61)], (62)-[(51)+(53)+(55)+(57)+(59)+(61)], otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	[(51)+(53)+(55)+(57)+(59)+(63)]
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on [(51)+(53)+(55)+(57)+(59)+(63)]
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	(61)+(64)-(65)+(66)+(67)+(68)
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computer employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	[(69)-(11)-(55)]x(70) NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)
(73)	Payments to Paid Furloughed Employees Due to Covid-19	1212	(73)	Risk Characteristic

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**SECTION 5 – EXPERIENCE RATING PLAN**

**RULES I through RULE IV** remain unchanged.

**RULE V**

**TABULATION OF EXPERIENCE**

1. **Experience Used for Rating.** The experience used for rating purposes shall be the individual risk experience valued at least three months prior to the rating date and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include Voluntary Compensation insurance, but shall exclude Maritime Employments and Employments under the Federal Employers' Liability Act.
2. **Rating Forms.** To determine the experience modification the prescribed experience shall be tabulated by the Bureau on approved rating forms.
3. **Payrolls.** The audited payrolls or other exposures for each classification for the experience period.
4. **Losses.** Incurred losses shall be tabulated by policy years in the manner indicated below.
  - (a) Losses as reported (indemnity, medical and total) shall be shown for each policy year. Losses incurred shall be on a gross basis, before the application of the deductible when such coverage is provided.
  - (b) Losses which are subject to average or limiting values, as provided in Rule 5 of this Section, shall be listed individually, showing the total cost of each case as reported and as used for rating purposes. Multiple injury accidents shall be identified in the appropriate column of the rating form.

**Exception:** All claims reported with Catastrophe Code No. 48 shall be excluded from experience rating calculations. Refer to Delaware Workers Compensation Statistical Plan Manual, Section 2, C. 11. for definition of losses included under Catastrophe Code No. 48.

**Exception:** All claims reported with Catastrophe Code No. 12 shall be excluded from experience rating calculations. Refer to the Delaware Statistical Plan Manual, Section 2, C.11 for the definition of losses included under Catastrophe Code No.12.
5. **Limitation on Total Losses Employed in a Rating.** To prevent unreasonable increases in rate for accidents whose occurrence or severity is a matter of chance, a scale of values has been determined and is to be used in place of the actual cost of such accidents when the actual cost exceeds the limiting value. No single accident, whether to one or more persons, shall be used for rating purposes at a value greater than that shown in Table B, column (3).
6. **Moral Responsibility.** No loss shall be excluded from the experience of a risk on the ground that the employer was not morally responsible for the accident that caused such loss.
7. **Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases:
  - (a) where loss values are included or excluded through mistake other than error of judgment, or
  - (b) where a claim is declared non-compensable (see note below), or
  - (c) where the claimant or carrier has recovered in an action against a third party, or

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*Approved Effective April 1, 2020*

- (d) where a claim should have been reported with Catastrophe Code No. 48, or
- (e) where a claim or a portion of a claim is ruled or officially declared fraudulent, or
- (f) where a claim should have been reported with Catastrophe Code No.12.

It shall be permissible to submit a revised reporting requesting adjustment of the affected ratings or ratings, provided such request is made within 24 months of the expiration of the period to which the experience modification applied.

If a case is expected to be open longer than 24 months, upon written application, properly filed with the DCRB by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the experience modification applied. Such application shall give notice to the DCRB that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB files for the risk involved will be preserved.

**Note:** For purposes of this rule, the term "non-compensable" refers to:

- i. an official ruling specifically holding that a claimant is not entitled to benefits under the provisions of the Delaware Workers' Compensation Law.
- ii. a case where no claim was filed during the period of limitation provided by the Delaware Workers' Compensation Law for the filing of such claim and the carrier therefore closes the case.
- iii. a case where the carrier contends, prior to the valuation date, that a claimant is not entitled to benefits under the Delaware Workers' Compensation Law and the claim is officially closed because of the claimant's failure to prosecute his claim.

## **8. Third Party Cases.**

- (a) Pending Cases. When a negligence claim or suit has been instituted by a claimant against a third party, the procedure shall be as follows:

If the claim or suit against the third party has not been settled or finally adjudicated, the incurred loss shall be included in the rating, since failure to recover against a third party is no bar to compensation and the insurance carrier may eventually be obliged to indemnify the claimant in whole or in part for the loss sustained.

- (b) Settled Cases. In cases where the carrier has received reimbursement under subrogation rights, or where the injured employee or his dependents have recovered from a third party, the procedure shall be as follows:

In cases where the total incurred cost prior to recovery is less than the accident limitation value shown in Table B, column (3), only the net loss shall be used in the rating. In cases where the total incurred cost prior to recovery exceeds the accident limitation value shown in Table B, column (3), the amount to be used in the rating shall be such proportion of the limiting value as the net loss bears to the total incurred cost prior to recovery.

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*Approved Effective April 1, 2020*

**SECTION 6 – MERIT RATING PLAN**

**SECTION I** remains unchanged.

**SECTION II – DEFINITIONS**

1. Risk. The term “risk” as used in this Plan shall mean
  - (a) A single legal entity.
  - (b) Two or more affiliates which qualify for combination under the rules of Section III of this Plan.
2. **Legal Entity.** The term “legal entity” or “entity” shall mean an individual, partnership, corporation, unincorporated association or fiduciary (e.g., trustee, receiver, executor or administrator). Divisions or similar units of a legal entity do not qualify as separate entities.
3. **Affiliate.** The term “affiliate” shall mean entities in each of which the same entity or group of entities owns a majority interest.
4. **Experience.** For the purpose of this Plan experience shall mean the record established by a risk under Workers Compensation and Employers’ Liability Insurance, as disclosed by the losses incurred by the insurance carrier or carriers and the payrolls or other exposures segregated according to classification of operations. If the classification assigned to a risk is revised or modified, for the purpose of this Plan the Bureau shall similarly reassign the classification of the experience period except that, if the revision is due to a change in operations, no part of the experience period prior to such operations change shall be affected.
5. **Compensable Employee Lost-Time Injury.** The term “compensable employee lost-time injury” for purposes of this Plan shall mean any claim having either an indemnity benefit payment or a case reserve for future indemnity benefit payments.

All claims reported with Catastrophe Code No. 48 shall be excluded from merit rating calculations.

All claims reported with Catastrophe Code No.12 shall be excluded from merit rating calculations.
6. Rating Effective Date. (RED) is the earliest date that a specific merit rating adjustment is applied to a policy.
7. **Merit Rating Plan Discount.** The term “Merit Rating Plan discount” for purposes of this Plan shall mean a reduction in the subject premium developed by the use of the carrier rates in force on the (RED) applicable to the policy to which the Merit Rating Plan is applied.
8. **Merit Rating Plan Surcharge.** The term “Merit Rating Plan surcharge” for purposes of this Plan shall mean an increase in the subject premium developed by the use of the carrier rates in force on the (RED) applicable to the policy to which the Merit Rating Plan is applied.
9. **Merit Rating Plan Adjustment.** The term “Merit Rating Plan adjustment” for purposes of this Plan shall mean either a Merit Rating Plan discount or a Merit Rating Plan surcharge.
10. **Subject Premium.** The term “subject premium” for purposes of this Plan shall mean the premium developed by the use of carrier rates in force on the (RED) of the policy to which the Merit Rating Plan is applied, exclusive of exceptions listed in Section IV, Paragraph 1.

Note: For special provisions applicable to self-insurers' data see Rule 5 of Section III.



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**SECTIONS III and IV** remain unchanged.

**SECTION V**

**TABULATION OF EXPERIENCE**

1. **Experience Used for the Merit Rating Plan.** The experience used for purposes of the Merit Rating Plan shall be the individual risk experience valued at least three months prior to the (RED) and reported in accordance with the provisions of the Delaware Workers' Compensation Statistical Plan. It shall include voluntary compensation insurance but shall exclude maritime employments and employments under the Federal Employees' Liability Act.
2. **Merit Rating Plan Forms.** To determine the Merit Rating Plan adjustment the prescribed experience shall be tabulated by the Bureau on approved Merit Rating Plan forms.
3. **Payrolls.** The audited payrolls or other exposures for each classification for the experience period shall be tabulated by policy years.
4. **Losses.** Incurred losses or claims reported for all policy periods considered in qualifying a risk for the Merit Rating Plan shall be tabulated in the following manner:
  - (a) Claims having no indemnity benefit payment or case reserve for indemnity benefit payment shall be excluded from the experience tabulation for purposes of the Merit Rating Plan. Losses as reported (indemnity, medical and total) shall be shown for each policy year. Losses incurred shall be on a gross basis, before the application of the deductible when such coverage is provided.
  - (b) All claims not excluded from the experience tabulation for purposes of the Merit Rating Plan by virtue of sections (a) above shall be listed in the experience tabulation with the following information:
    - Policy number
    - Policy effective date
    - Claim number or number of claims
    - Indemnity loss amount
    - Date of loss

All claims reported with Catastrophe Code No. 48 shall be excluded from merit rating calculations.

All claims reported with Catastrophe Code No. 12 shall be excluded from merit rating calculations.

5. **Moral Responsibility.** No loss shall be excluded from the experience of a risk on the ground that the employer was not morally responsible for the accident that caused such loss.
6. **Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases:
  - (a) where loss values are included or excluded through mistake other than error of judgment, or
  - (b) where a claim is declared non-compensable (see note below), or
  - (c) where the claimant or carrier has recovered in an action against a third party, or
  - (d) where a claim should have been reported with Catastrophe Code No. 48, or

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- (e) where a claim or portion of a claim is ruled or officially declared fraudulent, or
- (f) where a claim should have been reported with Catastrophe No. 12.

it shall be permissible to submit a revised reporting requesting adjustment of the affected Merit Rating Plan adjustment or adjustments, provided such request is made within 24 months of the expiration of the period to which the merit rating applied.

If a case is expected to be open longer than 24 months upon written application, properly filed with the DCRB by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the merit rating applied. Such application shall give notice to the DCRB that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB files for the risk involved will be preserved.

**Note:** For purposes of this rule, the term "non-compensable" refers to:

- (i) an official ruling specifically holding that a claim is not entitled to benefits under the provisions of the Delaware Workers Compensation Law.
- (ii) a case where no claim was filed during the period of limitation provided by the Delaware Workers Compensation Law for the filing of such claim and the carrier therefore closes the case.
- (iii) a case where the carrier contends prior to the evaluation date that a claimant is not entitled to benefits under the Delaware Workers Compensation or Law and the claim is officially closed because of the claimant's failure to prosecute his claim.

**DELAWARE STATISTICAL PLAN MANUAL**  
*Approved Effective April 1, 2020*

**INTRODUCTION** remains unchanged.

**SECTION I** remains unchanged.

**SECTION II - REPORTING REQUIREMENTS**

Items **A and B** remain unchanged.

Item **B** Exposure Information

Item Numbers **1 through 8** remain unchanged

**9. Miscellaneous Statistical Codes**

**a. thru e.** remain unchanged.

**f.** Paid Furloughed Employees – Code 1212

Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and or/local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations must be reported to Statistical Code 1212 – Paid Furloughed Employees. Such payments do not include any appropriated funds or loans received by an employer as authorized by an law or regulations, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

Code 1212 may be used as a Statistical Code to report the payments only. If a carrier is unable to report this experience as a statistical code, please contact the PCRB to discuss reporting requirements.

Payments reported to Code 1212 are excluded from premium only if the employer keeps separate, accurate and verifiable records.

For any claims attributable to an employee occurring prior to or after a temporary layoff or an involuntary leave, report losses to the classification for work normally performed by the employee that corresponds to the employee's payroll. No claim can be reported to Code 1212 – Paid Furloughed Employees.

The expiration date of this code will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

Item Number **10** remains unchanged.

Item **C** Loss Information

Item Numbers **1 through 10** remain unchanged.

**11. Catastrophe Number (Cat. No.)**

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Any accident resulting in two or more reported claims must be reported as a catastrophe. In reporting catastrophes, all claims (compensable as well as non-compensable and contract medical) resulting from this accident shall be designated by placing the numeral "1" in the column captioned Cat. No. opposite each claim. If there is more than one catastrophe under the policy, each succeeding catastrophe should be designated by means of a separate serial number "2", "3", etc., up to and including "10". After the number "10" is assigned the next number in the sequence will reprocess to number "1". Numbers "11" through "99" are reserved for ISO or WCIO assigned catastrophe codes. A separate series of catastrophe numbers shall be used for each policy.

Exceptions **a. thru c.** remain unchanged

Item Numbers **12 through 24** remains unchanged.

Item **D** remains unchanged.

**SECTION III** remains unchanged.

### **SECTION IV - CODES**

Item **A** Codes Common to Premium and Losses

Item Numbers **1 thru 5** remain unchanged

#### **6. Policy Conditions**

**a. thru c.** remain unchanged.

- d. Estimated Audit Code
- "Y" = Exposures expressed on the unit report are estimated.
  - "N" = Exposures expressed on the unit report are the result of an audit.
  - "U" = Insured has refused or not responded to requests to provide carrier with access to books and records. Audit has been closed as uncooperative. Exposures expressed on unit report are estimated.

Notes:

(1) When the Exposure on the 1<sup>st</sup> report includes Code 9757, report the Estimated Audit Code as "U" in the applicable Policy Conditions, Estimated Audit Code field. If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to "N" and the exposure and premium must reflect the final audit.

(2) If final premium based on audited exposure cannot be reported due to federal, state and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as an "N", This code is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Delaware regulatory authorities.

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**e. thru g.** remain unchanged.

Item **B thru D** remain unchanged.

**SECTION V** remains unchanged.

**SECTION VI** remains unchanged.

**SECTION VII** remains unchanged.

**SECTION VIII** remains unchanged.

**SECTION IX** remains unchanged.

**SECTION X – PREMIUM ALGORITHM (See attached)**

**DELAWARE STATISTICAL PLAN MANUAL**  
*Approved Effective April 1, 2020*

**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(1)	Classification	xxxx	(1)	Carrier value
(2)	Exposure	xxxx	(2)	Risk characteristic
(3)	Carrier Rating Value	xxxx	(3)	Carrier value
(4)	Classification Manual Premium		(4)	(2)/100x(3) if classification has payroll exposure. Special procedures apply to non-payroll classes
(5)	Total Policy Manual Premium		(5)	Sum of (4) for all classifications on the policy
(6)	Employer Liability Increased Limits Factor	xxxx	(6)	Carrier value
(7)	Employer Liability Increased Limits Premium Charge		(7)	(5)x(6) expressed as a decimal]
(8)	Minimum Premium Employer Liability Increased Limits	9848	(8)	Carrier value
(9)	Minimum Premium Employer Liability Increased Limits Premium Charge	9848	(9)	[(8)-(7)] if (7)<(8) and (6) >0, otherwise zero
(10)	Subject Deductible Credit Percentage	9664	(10)	Carrier value
(11)	Subject Deductible Premium Credit	9664	(11)	[(5)+(7)+(9)]x[(-10) expressed as a decimal]
(12)	Waiver of Subrogation Charge	0930	(12)	Carrier value - subject to experience modification
(13)	Waiver of Subrogation Premium	0930	(13)	Value from Line (12)
(14)	Total Subject Premium		(14)	[(5)+(7)+(9)+(11)+(13)]
(15)	Experience Modification	9898	(15)	Zero for non-experience-rated risks
(16)	Modified Premium		(16)	(14)x(15)
(17)	Merit Rating Credit Factor	9885	(17)	Zero if Merit Rating Credit does not apply
(18)	Merit Rating Credit	9885	(18)	(14)x[(-17) expressed as a decimal]
(19)	Merit Rating Neutral Factor	9884	(19)	Zero whether Merit Rating Neutral Adjustment (no credit or debit) does or does not apply
(20)	Merit Rating Neutral Adjustment	9884	(20)	(14)x[(19) expressed as a decimal]
(21)	Merit Rating Debit Factor	9886	(21)	Zero if Merit Rating Debit does not apply
(22)	Merit Rating Charge	9886	(22)	(14)x[(21) expressed as a decimal]
(23)	Premium After Experience Modification or Merit Rating		(23)	(16) if Experience-Rated, [(14)+(18)+(20)+(22)] if Merit-Rated, (14) if Non-Rated
(24)	Non-Ratable Classifications	xxxx	(24)	Carrier Value
(25)	Non-Ratable Classifications Exposure		(25)	Portion of payroll exposure subject to Non-Ratable Classifications
(26)	Non-Ratable Classification Rating Value	xxxx	(26)	Carrier Value
(27)	Non-Ratable Classification Premium		(27)	(25)/100x(26) [based on applicable Non-Ratable Classification exposure]
(28)	Workfare Program Employees Exposure (PA)	0982	(28)	Number of person weeks. A partial workweek for any worker to be counted as 1 person week.

**DELAWARE STATISTICAL PLAN MANUAL**  
*Approved Effective April 1, 2020*

**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(29)	Workfare Program Employees Rating Value (PA)	0982	(29)	Carrier Value
(30)	Workfare Program Employees Premium (PA)	0982	(30)	(28) x (29)
(31)	Non-Ratable Classification Premium Total		(31)	Sum of all (27)+(30) premiums
(32)	Non-Ratable Classification Increased Limits Factor	xxxx	(32)	Carrier value
(33)	Non-Ratable Classification Increased Limits Premium Charge	xxxx	(33)	(31)x [ (32) expressed as a decimal]
(34)	Minimum Premium Non-Ratable Classification Increased Limits	9848	(34)	Carrier value
(35)	Minimum Premium Non-Ratable Classification Increased Limits Premium Charge	9848	(35)	[(34)-(33)] if (33) < (34) and (32) > 0, otherwise zero
(36)	Premium Before Schedule Rating		(36)	(23)+(31)+(33)+(35)
(37)	Schedule Rating Plan Adjustment Factor	9887/9889	(37)	Carrier value - use 9887 for schedule credits and 9889 for schedule debits
(38)	Schedule Rating Plan Premium Adjustment	9887/9889	(38)	(36)x[(37) expressed as a decimal]. For schedule credits Line (38) will be negative
(39)	Certified Safety Committee Credit Factor (PA)	9890	(39)	Credit applies if insured is certified.
(40)	Certified Safety Committee Premium Credit (PA)	9890	(40)	[(36)+(38)]x[(-39) expressed as a decimal]
(41)	Workplace Safety Program Credit Factor (DE)	9880	(41)	Credit applies if insured qualifies
(42)	Workplace Safety Program Premium Credit (DE)	9880	(42)	[(36)+(38)]x[(-41) expressed as a decimal]
(43)	Construction Classification Premium Adjustment Program Credit Factor	9046	(43)	Based on wage level(s), application to rating organization
(44)	Construction Classification Premium Adjustment Program Premium Credit	9046	(44)	[(36)+(38)]x[(-43) expressed as a decimal]
(45)	Drug-Free Workplace Factor	9846	(45)	Carrier value
(46)	Drug-Free Workplace Credit	9846	(46)	[(36)+(38)+(42)+(44)]x[(-45) expressed as a decimal]
(47)	Managed Care Factor	9874	(47)	Carrier value
(48)	Managed Care Credit	9874	(48)	[(36)+(38)+(42)+(44)+(46)]x[(-47) expressed as a decimal]
(49)	Package Credit Factor	9721	(49)	Carrier value
(50)	Package Credit	9721	(50)	[(36)+(38)+(42)+(44)+(46)+(48)]x[(-49) expressed as a decimal]
(51)	Premium After Managed Care and Package Credit If Applicable		(51)	[(36)+(38)+(40)+(42)+(44)+(46)+(48)+(50)]

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**Premium Calculation Algorithm**

Line #	Item Name	Associated Statistical Code	Line #	Source & Derivation
(52)	Assigned Risk Surcharge Factor (DE)	0277	(52)	May apply to some or all assigned risks based on plan and characteristics of individual insured
(53)	Assigned Risk Premium Surcharge (DE)	0277	(53)	(51)x[(52) expressed as a decimal]
(54)	Deductible Credit Factor	9663	(54)	Carrier value
(55)	Deductible Premium Credit	9663	(55)	[(51)+(53)]x[(-54) expressed as a decimal]
(56)	Loss Constant	0032	(56)	Carrier value - may vary based on risk premium size
(57)	Loss Constant Charge	0032	(57)	Line (56) if applicable
(58)	Short Rate Cancellation Factor	0931	(58)	Carrier value - zero if short rate cancellation does not apply
(59)	Short Rate Premium	0931	(59)	[(51)+(53)+(55)+(57)]x[(58)-1.0000] if (58)>0, otherwise zero
(60)	Expense Constant	0900	(60)	Carrier value if applicable
(61)	Expense Constant Charge	0900	(61)	Line (60)
(62)	Minimum Premium	0990	(62)	Carrier value
(63)	Minimum Premium Charge	0990	(63)	If (62)>[(51)+(53)+(55)+(57)+(59)+(61)], (62)-[(51)+(53)+(55)+(57)+(59)+(61)], otherwise zero
(64)	Unit Statistical Report Total Standard Premium		(64)	[(51)+(53)+(55)+(57)+(59)+(63)]
(65)	Premium Discount Amount	0063/0064	(65)	Carrier value based on [(51)+(53)+(55)+(57)+(59)+(63)]
(66)	Additional premium Waiver of Subrogation (flat charge)	9115	(66)	Carrier value(s)
(67)	Terrorism	9740	(67)	(Total payroll/100) x carrier rating value
(68)	Catastrophe (other than Certified Acts of Terrorism)	9741	(68)	(Total payroll/100) x carrier rating value
(69)	Total Policy Premium Subject to Employer Assessment		(69)	(61)+(64)-(65)+(66)+(67)+(68)
(70)	Employer Assessment Factor Pursuant to Act 57 of 1997 (PA)	0938	(70)	PCRB value for the specific purpose of computer employer assessments
(71)	Employer Assessment Amount Pursuant to Act 57 of 1997 (PA)	0938	(71)	[(69)-(11)-(55)]x(70) NOTE: Cells (11) and (55) are credits. Subtracting these credits as shown effectively adds the premium reduction given for deductible coverage back into the premium for purposes of calculating employer assessments
(72)	Audit Noncompliance Charge	9757	(72)	Carrier Value x (69)
(73)	Payments to Paid Furloughed Employees Due to Covid-19	1212	(73)	Risk Characteristic