# TEXAS EXPERIENCE RATING PLAN

# SECTION I - GENERAL RULES

These rules govern the experience rating procedure to be followed in connection with Workers' Compensation and Employers' Liability coverage.

## A. Application of This Plan

The application of this Plan is mandatory for all eligible insureds. Any action taken to evade the application of an experience modifier will be subject to investigation by the Department and action permitted by law may be taken.

At least 60 days prior to the anniversary rating date, the company insuring all or part of a risk shall make available a copy of the experience modifier calculation, free of charge, to the insured. A plain language transmittal letter shall be sent to the insured explaining the modifier calculation, the insured's right of appeal, and advising that one copy of the unit statistical data used in the calculation will be furnished to the insured upon request, at no charge.

If entities combinable for experience rating purposes are written by more than one insurance company, the insurance company writing the policy with the greatest amount of premium is responsible for calculating the experience modifier using all of the experience for all of the combinable entities.

Each insuring company shall file a copy of its standard transmittal letter and experience rating form, if other than ERM-1.2, with the Department prior to use. Such forms and letters may be disallowed by the Commissioner.

The insuring company for the policy in effect on the anniversary rating date is responsible for furnishing, free of charge, one copy of the modifier calculation to the producer of record for that policy within ten (10) working days of the modifier being calculated or received by the company.

Upon receipt of a written request, an insurance company must provide unit statistical data to the insurance company responsible for calculating the experience modifier for an insured or to the entity that calculates experience modifiers on behalf of that insurance company. In addition, upon request, an insurance company must provide a copy of the modifier calculation of an insured to another insurance company. All requests must include either the current policy information page for the insured or a letter of authority signed by the insured. A request for data shall be responded to in a timely manner, but in all instances within 30 days of receipt of the request. No charge may be made for this information.

No experience modifier once promulgated shall be withdrawn unless additional information is furnished, showing that a gross injustice has been done either the insured or the company, or unless material error has been made. Provisions of this rule may be applied regardless of any rule in this plan.

Note: "Test modifiers" cannot be applied to the policy in determining premium and cannot be negotiated.

## B. Policy Period

These rules apply to policies issued for a period of one year. Policies written for periods of more than one year, shall be considered as consisting of consecutive units of 12 months. If the period of coverage is not a multiple of 12 months the first or last unit shall be considered as a short term policy. If coverage is written for a period of more than one year but not more than one year and 16 days, the period shall be considered as a unit of coverage.

Each unit as defined above shall be considered as a unit of coverage. Each unit shall be subject separately to all of the rules and procedures specified in this Plan to the same degree as if it actually constituted a separate policy.

If the policy period is more than one year and 16 days, an endorsement shall be attached to the policy specifying the first or last unit as a short term policy.

## C. ANNIVERSARY RATING DATE

### 1. Definition

The anniversary rating date is the effective month and day of the policy in effect and each annual anniversary thereafter. The insuring company responsible for calculating the experience modifier for the risk is also responsible for establishing the anniversary rating date. A material change of ownership accompanied by a substantial change in operations may cause a new anniversary rating date to be established.

**B. CLASSIFICATIONS**

1. Policies shall show classifications approved for the expiring insurance and payrolls updated to reflect current conditions.

2. Changes in classifications of current insurance may be made only after approval by this Department. The approval will be conditioned upon receipt by this Department of reliable information from the insurance carrier, the insured, or inspection. A memorandum briefly describing the operations must accompany any classification change or addition. This Department may require the insurance carrier or the insured to submit sworn statements. The effective date of the change in classifications, if any, shall be clearly shown on the reclassification endorsement.

3. Classifications applicable to a policy covering an employer not previously a subscriber to the Workers' Compensation Law may be selected in accordance with the best judgment of the carrier. Classifications may be subject to change by this Department.

4. Where the insurance carrier is in doubt as to the classifications applicable to any given operation which is not described by a classification appearing on the policy, this Department will determine the classification.

5. For risks involving more than one specific location, each classification other than the Standard Exceptions shall be designated against the location to which it applies. Likewise, when a policy covers more than one entity, each entity with corresponding classifications shall be separately scheduled.

**C. RATES**

1. Each insurer shall file with the Texas Department of Insurance all rates, supplementary rating information and reasonable and pertinent supporting information for risks written in this state. An insurer may not make such filing more frequently than every six months.

2. The effective date of the policy, and not the anniversary rating date, determines the filed rates to be used in calculating premium. Changes specifically approved by the Commissioner apply to outstanding policies if such changes are deemed necessary to comply with Article 5.55, Insurance Code.

**D. RATING DATA**

1. Insuring companies shall automatically file with the designated statistical agent all data required by the Texas Workers' Compensation Statistical Plan in accordance with its provisions.

2. Where no experience modifier has been promulgated, and it appears to the insuring company that an insured and/or risk may qualify for experience rating, it is the duty of the insuring company to calculate the modifier. The agent of record, insured or other authorized parties may request that an initial modifier be promulgated.

3. A copy of the experience modifier shall be made available to the insured without charge on form ERM-1.2 or any other experience rating form that includes at least the same information as contained in form ERM-1.2. A plain language transmittal letter shall be sent to the insured explaining the modifier calculation, the insured's right of appeal, and advising that one copy of the unit statistical data used in the calculation will be furnished to the insured upon request at no charge.

Each insuring company shall file a copy of its standard transmittal letter and experience rating form, if other than ERM-1.2, with the Department prior to use. Such forms and letters may be disallowed by the Commissioner.

4. Upon receipt of a written request, an insurance company must provide unit statistical data to the insurance company responsible for calculating the experience modifier for an insured or to the entity that calculates experience modifiers on behalf of that insurance company. In addition, upon request, an insurance company must provide a copy of the modifier calculation of an insured to another insurance company. All requests must include either the current policy information page for the insured or a letter of authority signed by the insured. A request for data shall be responded to in a timely manner, but in all instances within 30 days of receipt of