



NEW YORK STATE CONSTRUCTION INDUSTRY SAFETY GROUP #469 ANNUAL REPORT 4/1/2008 TO 4/1/2009

Group #469 Completes Another Successful Year

Lovell Safety Management Co., LLC, your group manager, is pleased to inform you that the New York State Construction Industry Safety Group #469 continues to maintain its strong financial standing, and is well-positioned to pay dividends in the future. This year's 25 percent dividend is in addition to our high advance discount. Qualifying members received an advance discount of 25 percent.

2008 marks the first policy period in which all of the Spitzer reforms were in effect. The maximum benefit payable to injured workers was \$500—or \$550 per week after 7/1/2008—while all permanent partial disability claims incurred during the year will be subject to whatever cap might be finally implemented by the Workers' Compensation Board. Manual Rates fell in anticipation of the savings to be achieved through reform. Because of the size, diversity, and geographical scope of Safety Group #469 no generalization will apply to all members. On an aggregate basis, however, we have developed ways of indexing the group's base costs.

Between the 2007 and 2008 year, we estimate that overall base costs fell by 15.3 percent. These savings were weighted toward commercial contractors, as the territorial surcharges associated with the payroll cap fell by approximately 70 percent on the 2008 renewal. These dramatic drops in the base cost for workers' compensation insurance, combined with the group's 25 percent discount and 25 percent dividend, made the 2008 policy period one of the least expensive per \$100 of payroll in many, many years. Given the state of the economy, and the construction business in particular, these cost savings could not have come at a better time.

Our actual loss results for the 2008 year, however, do not yet show any of the savings that were anticipated as a result of reform. Our gross losses increased over last year by 18.2 percent. The payroll exposure covered by the group also grew. Had rates remained constant, we believe the group's performance would have been similar to prior periods. Instead, our loss ratio increased from 42.1 percent to 48.5 percent.

Adjustments to old outstanding losses and premium were modestly lower than last year as the group continued to benefit from substantial premium credits attributable to prior periods. The total value of adjustments to prior premium and losses was \$4,739,435, or 8.7 percent of premium. Last year's adjustments totaled 10.1 percent of premium. Actual earnings on the year were 23.1 percent of premium, or \$12,616,356 or 23.1 percent of premium. Last year, the group earned 42.1 percent of premium.

The key difference between the 2008 year and the 2007 year is the decrease in assessment revenue. In 2007, the assessment revenue amounted to 18.4 percent of premium. This year, because of changes made by the Fund in response to the Spitzer reforms, assessment revenue amounted to 6.7 percent. This decrease provided a substantial benefit to policyholders as it reduced the amount of upfront premium collected by the group, thereby front-loading more of the savings we produce. The loss of revenue, however, did affect the group's results.

For the last several years, the group had seen rather modest increases in existing claims, combined with substantial premium credits attributable to prior years. These favorable results meant that very little of the group's income needed to be used to account for increases in prior periods. During these exceptionally good years, we had urged the executive committee to build the group's contingent balance, just in case loss increases were delayed. Between the 2004

accounting and the 2007 accounting, the group paid an average dividend of 26.2 percent while still adding \$35,025,370 to our surplus.

Accounting Statement 4/1/08 to 4/1/09		
INCOME:		
100.0%	Group Discounted Premium (25%)	\$54,729,365
6.7%	Assessment	\$3,665,541
5.7%	Interest Income	\$3,141,489
112.4%	TOTAL INCOME	\$61,536,395
LESS EXPENSES:		
48.5%	Losses	\$26,540,065
18.2%	State Fund Charges	\$9,975,610
11.8%	Loss Limit Charge (\$750,000 per Occurrence)	\$6,477,524
2.2%	Uncollected Premium	\$1,187,404
80.7%	TOTAL EXPENSES	\$44,180,603
31.7%	GROSS INCOME	\$17,355,792
DISTRIBUTED AS FOLLOWS:		
8.7%	Adjustments in Prior Premium and Losses	\$4,739,435
-1.9%	Decrease in Surplus	-\$1,065,985
25.0%	Dividend	\$13,682,341

This year, in order to fund the dividend, we used \$1,065,985 from surplus. Even after the surplus reduction, the group still has \$77,471,234 in surplus, or 132.7 percent of this year's premium plus assessment.

The group is thus in good financial shape heading into a time of great uncertainty. All of the inflationary factors that were part of the recent reforms were built into the law itself. We have begun to see that inflation in our loss results. All of the savings from the reforms are dependent upon the rules and regulations adopted by the executive branch. We do not yet see these savings in our loss results. The pricing enjoyed by members on this renewal continues to presume the success of all the reform measures that have yet to be implemented. If those savings materialize, then we will be able to use the surplus we have accumulated to pay dividends to group members. On the other hand, if the savings from reform do not materialize, the group will have some money set aside to cope with the increasing cost of workers' compensation claims.

The 2010 renewal is the second renewal for Group #469 under the new system for setting rates. The State Fund has increased its loss cost multiplier, so the increase in manual rates on this renewal for many of the group's codes is a result of a combination of increases in the underlying loss costs as well as an increase in the loss cost multiplier. As

this report will explain, the payroll cap has increased, while the regional surcharges have continued to decrease. These changes, however, still have not fully offset the rate decreases on the 2008 and 2009 renewals. Under the circumstances, we were very pleased to be able to maintain our 25 percent advance discount for the 2010 renewal.

Safety Group #469 has been fulfilling your workers' compensation insurance needs since 1960, and continues to provide the most comprehensive coverage available at the lowest possible cost. Your group is healthy and secure.

Group #469 Maintains its Financial Standing

Group premium for policy year 2008 totaled \$54,729,365 after the 25 percent advance discount. In addition to premium, Group #469 had two sources of revenue for this policy period:

- Interest income from surplus: \$78,537,219 was left on deposit from the previous year to pre-fund future losses and to meet the State Insurance Fund's surplus requirements. At the State Fund's current four percent interest rate, the group's surplus earned \$3,141,489.
- Assessment income: New York State requires all carriers to charge an assessment on workers' compensation policies to underwrite the administrative costs of the workers' compensation system. At Lovell's suggestion, the State Fund agreed to consider the assessment charge as group income—a decision that permits us to use the assessment to pay claims and/or to return to policyholders in the dividend. Assessments for the 2008 policy year amounted to \$3,665,541 or 6.7 percent of this year's premium.

The total income for Group #469 was \$61,536,395. Losses for this policy year totaled \$26,540,065, or 48.5 percent of premium. In addition to paying for our losses the group has two other major expenses: reinsurance and our State Insurance Fund service charge. In 2008, we paid \$6,477,524, or 11.8 percent for reinsurance to limit our exposure on any one claim to \$750,000, and we paid \$9,975,610, or 18.2 percent of premium to the State Insurance Fund for underwriting and claims services, and for the Early Intervention Program.

The State Insurance Fund continues their policy of charging groups for any uncollected funds attributable to canceled risks. Last year, Group #469 was left with \$6,067,738 in outstanding premium. Over the course of the year, we wrote off a total of \$36,297 as uncollectable, while we collected \$703,654. The total amount of our uncollected premiums is probably inflated by estimated audits. On the

current accounting we have \$1,187,404 in premium to collect from canceled risks. We continue to pursue collection of any outstanding premium.

This year's losses, when combined with operating expenses, totaled \$44,180,603. Deducting this from the group's income — \$61,536,395 — left \$17,355,792 or 31.7 percent of premium to distribute. However, before the group can pay dividends, we must account for any increases in old outstanding losses or premium adjustments. After careful review by our Claims Department, the total value of adjustments to prior premium and losses for the year was \$4,739,435, or 8.7 percent of premium. Actual earnings for the group on the year were \$12,616,356 or 23.1 percent of premium.

Lovell succeeded in negotiating a 25 percent dividend, which returns to group members a total of \$13,682,341 in premium. Most of this dividend was funded with the current year's earnings, while \$1,065,985 came from the group's surplus. Group surplus at year's end is \$77,471,234 or 132.7 percent of 2008 premium plus assessment.

Analytical Comparison of the 2007 and 2008 Policy Year

Group premium increased by \$1,435,568 as increased participation in the group offset the decrease in base costs. While our weighted composite effective manual rate fell by 3.2 percent, we believe that the actual decrease in base costs was much greater. Territorial surcharges fell by approximately 70 percent between 2007 and 2008. Using our new statistic, the average cost per person per week, which takes the composite rate and multiplies it by the payroll cap, then applies the territorial surcharge and the assessment, we show a decrease in base costs of 15.3 percent. The total number of policies in the group for this accounting year grew by 179, or 13.1 percent. Between 4/1/2008 and 4/1/2009, the rate of growth of the group accelerated.

In the two prior periods, the group added, on a net basis, between 50 and 60 policies annually. We believe the increased growth in the group over this policy period came as a result of the collapse of the trust industry and the flight to safety and quality occasioned by the recession. Unfortunately, the recession has taken its toll on the construction industry, such that we have seen an increase in business closures, which will have a negative affect on the policy count of the group in future accountings.

Our initial losses for the 2008 year increased by 18.2 percent from \$22,444,555 last year to \$26,540,065 in 2008. Paradoxically, the rest of our loss statistics for the year show improvement over the 2007 year. Our total claim

count fell by 1.1 percent to 1306. The total number of lost time claims fell by 2.5 percent to 628. Claims in excess of \$5000 fell from 512 to 503 or by 1.8 percent. We even saw a decrease in the number of catastrophic claims. Last year, there were three claims that pierced our \$500,000 stop loss. This year, only one claim was valued at greater than our \$750,000 stop loss. This same claim was the only one in excess of \$500,000 too, so the higher stop-loss did not account for the decrease in catastrophe claims. In short, based upon our claim statistics, we would have anticipated better loss results, not worse loss results than in 2007.

Statistical Comparison Last Two Policy Years

	4/1/07-08	4/1/08-09	CHANGE	%
Group Premium	\$53,293,797	\$54,729,365	+ \$1,435,568	2.7%
Losses	\$22,444,555	\$26,540,065	+ \$4,095,510	18.2%
Loss Ratio	42.1%	48.5%	+ 6.4%	15.1%
Surplus	\$78,537,219	\$77,471,234	- \$1,065,985	1.4%
Lost Time Cases	644	628	- 16	2.5%
No Lost Time	676	678	+ 2	0.3%
TOTAL	1320	1306	- 14	1.1%
Average Cost/Claim	\$17,003	\$20,322	+ \$3,318	19.5%
Maximum Cases	3	1	- 2	66.7%
Case \$5M Plus	512	503	- 9	1.8%
STATE FUND CHARGES (PERCENTAGE OF GROUP PREMIUM):				
Loss Limit	\$6,049,183	\$6,477,524		
\$500,000/\$750,000	11.4%	11.8%	+ 0.5%	4.3%
Expense Charge	\$8,756,948	\$9,975,610		
	16.4%	18.2%	+ 1.8%	10.9%
TOTAL	\$14,806,131	\$16,453,134		
	27.8%	30.1%	+ 2.3%	8.2%
LESS:				
Assessment and	\$12,558,718	\$6,807,030		
Interest Income	23.6%	12.4%	- 11.1%	47.2%
Dividend \$/%	\$13,323,449	\$13,682,341		
	25.0%	25.0%	- 0.0%	0.0%
Number of Members	1366	1545	+ 179	13.1%
MANUAL RATES:				
Effective Composite	\$13.23	\$12.81	- \$0.42	3.2%
Average Cost per \$750 w Surcharge	\$120.72	\$102.23	- \$18.49	15.3%

Our higher loss expenses were probably driven by the increase in the maximum benefit level. The cap on permanent partial disabilities was in effect for the entirety of the 2007 year, while the benefit level and elimination of

15-8, second injury fund relief became effective in July of 2007. For the 2008 year, the maximum benefit level was \$500, then \$550 starting on July 1, 2008. Thus, whatever savings may have been achieved by the cap was spread over both the 2007 and 2008 year, while the 2008 year, unlike 2007, saw all the inflationary aspects of reform. These changes could account for the \$3,318 increase in the average cost per claim. For 2008, the average cost per claim increased by 19.5 percent to \$20,322.

These loss statistics suggest that the group may be seeing some reversal in decade-long claim trends. For many years, accident frequency has been declining at a rate that has largely offset claims inflation. Statewide and National trends have consistently shown accident frequency declining, while accident severity increased. Experts disagree regarding the causes of the increase in average claim costs. Some attribute the increase to medical inflation and to the increase in the cost of pharmaceuticals. Others believe the rise in claim severity is tied to other long-term demographic factors. In New York, however, the change in the law could go a long way toward explaining our increasing costs, as the Workers' Compensation Board has not yet begun to institutionalize the portions of the Spitzer reforms aimed at controlling costs.

The group's fixed expenses increased as a percentage of premium, as this is the first accounting after the State Fund raised their expense charge and reinsurance charge. In 2007, the tabular value of our reinsurance charges, which limited our exposure on any one claim to \$500,000, was 9.81 percent of premium. The State Fund increased this cost on our 2008 renewal to 10.52 percent to limit any one claim to \$750,000. The tabular value of our expense charges increased from 14.2 to 16.2, which included the 1.5 percent cost of the early intervention program, and the 0.2 percent cost of the excess loss risk charge. The reason why these percentages do not match the percentages in the analytical comparison table is because of the method used by the State Fund to calculate the expense charge. To calculate our expenses and reinsurance charges, the State Fund uses this year's total premium and adds to it any adjustments in prior year's premiums.

Last year, adjustments totaled \$8,369,639 in increases to premium, which increased the overall expense charges when expressed as a percentage of premium. This year, the net value of premium adjustments totaled an increase of \$6,844,060. Thus, the State Insurance Fund used a premium base of \$61,573,425 to calculate our expenses. When expressed as a percentage of premium, our

Four Year Comparison

	4/1/05-06	4/1/06-07	4/1/07-08	4/1/08-09
Rating Board Premium	\$75,841,076	\$69,548,140	\$71,058,396	\$72,972,487
Maximum Discount	25.0%	25.0%	25.0%	25.0%
Discount	\$18,960,269	\$17,387,035	\$17,764,599	\$18,243,122
Group Premium	\$56,880,807	\$52,161,105	\$53,293,797	\$54,729,365
Losses Initial	\$18,876,090	\$22,297,716	\$22,444,555	\$26,540,065
Losses Adjusted	\$32,246,178	\$36,546,709	\$31,340,494	
Loss Ratio Initial	33.2%	42.7%	42.1%	48.5%
Loss Ratio Adjusted	56.7%	70.1%	58.8%	
No. of Members	1257	1316	1366	1545
MANUAL RATES:				
Weighted Composite	\$16.08	\$14.26	\$13.23	\$12.81
PRIOR YEAR ADJUSTMENTS:				
Premium	\$1,699,486	\$5,163,276	\$6,582,332	\$6,810,517
Claims	\$5,130,466	\$6,294,230	\$11,939,840	\$11,549,952
Surplus Change	-\$3,430,980	-\$1,130,954	-\$5,357,508	-\$4,739,435
Assessment Income	\$8,598,827	\$9,167,153	\$9,782,283	\$3,665,541
Loss Limit	\$500,000	\$500,000	\$500,000	\$750,000
Interest Earnings	\$1,740,474	\$2,255,993	\$2,776,435	\$3,141,489
Surplus	\$56,399,822	\$69,410,885	\$78,537,219	\$77,471,234
Dividend	30.0%	25.0%	25.0%	25.0%
Surplus to Prem. + Assess.	86.1%	113.2%	124.5%	132.7%

reinsurance charge rose from 11.4 percent to 11.8 percent while our State Fund expenses increased from 16.4 percent to 18.2 percent. The total increase in our expenses, as a percentage of premium, was 2.3 percent.

At the same time, our credit for assessment and interest income decreased by 11.1 percent as the assessment charge

fell from 18.6 to 6.6 percent of premium, while our interest income grew. Last year, the group was credited with \$2,776,435 or 5.2 percent of last year's premium. Since our surplus grew on last year's accounting and our premium increased only modestly this year, the value of our interest rate credit grew as a percentage of premium. This year, we were credited with \$3,141,489, or 5.7 percent of premium.

Manual Rates						
CODE NO.	CLASSIFICATION DESCRIPTION	RATE 4/1/2009	EFF. RATE* 4/1/2009	RATE 4/1/2010	EFF. RATE** 4/1/2010	CHANGE
2737	Sash, Door or Assembled Millwork Mfg. and Drivers	\$7.42	\$7.83	\$8.82	\$9.38	19.8%
5022	Masonry - NOC - Plastering or Stucco Work - Outside	\$14.90	\$15.72	\$15.50	\$16.48	4.8%
5040	Iron or Steel Erection - Erection Iron or Steel Frame Structure	\$23.12	\$24.39	\$27.36	\$29.08	19.2%
5183	Plumbing NOC and Drivers carrier Systems - Pneumatic - Installation or Repair and Drivers	\$6.51	\$6.87	\$7.95	\$8.45	23.0%
5213	Concrete Construction NOC	\$14.22	\$15.00	\$18.39	\$19.55	30.3%
5221	Concrete or Cement Work - Floors Driveways, Yards or Sidewalk & Drivers	\$10.67	\$11.26	\$13.59	\$14.45	28.3%
5403	Carpentry - NOC	\$13.27	\$14.00	\$15.43	\$16.40	17.1%
5445	Wallboard Installation within Building and Drivers	\$7.20	\$7.60	\$9.42	\$10.01	31.7%
5506	Street or Road Construction or Reconstruction, Paving or Repaving All kinds - and Drivers	\$15.96	\$16.84	\$15.16	\$16.12	-4.3%
5547	Roofing - Built Up Roofing	\$24.13	\$25.46	\$33.05	\$35.13	38.0%
5606	Contractor - Executive Supervisors	\$5.09	\$5.37	\$4.98	\$5.29	-1.5%
5645	Carpentry - including Construction	\$11.87	\$12.52	\$14.23	\$15.13	20.8%
6217	Excavating - NOC - Grading of Land NOC and Drivers	\$8.17	\$8.62	\$9.75	\$10.36	20.2%
6319	Gas Mains or Connections Construction and Drivers	\$6.19	\$6.53	\$8.51	\$9.05	38.6%
8227	Contractors - Permanent Yard for maintenance of equipment or storage material	\$8.04	\$8.48	\$11.44	\$12.16	43.4%
8232	Fuel - Lumber - Materials Dealers	\$6.87	\$7.25	\$7.74	\$8.23	13.5%

* Assessment Charge = 5.5% **Assessment Charge = 6.3%

Note: Rates for 2009 and 2010 are the State Insurance Fund Manual Rates. Because of the Terrorism Risk Insurance Program Reauthorization Act, the foreign and domestic terrorism charges were consolidated into one terrorism premium. For 2009 this charge is \$0.051 per \$100 of payroll. For 2010 this charge is \$0.054 per \$100 of payroll. The industrial catastrophe charge for 2009 and 2010 is \$0.011 per \$100 of payroll. These charges are not subject to experience rating or any other discounts, but will be used in the calculation of the assessment.

Thus, our net expenses, expressed as a percentage of premium, increased by 13.4 percent of premium from 4.2 percent to 17.6 percent.

Statistical Comparison of the Last Four Policy Years

The chart on page 4 shows Safety Group #469 remains financially strong. Loss development for prior periods has been relatively modest for the last three accountings. With the exception of the 2006 year, the group has produced exceptionally good loss ratios. Over the last several years, we have made significant additions to the Group's surplus. This is the first year in the last four in which we have allowed the surplus to decrease. Even with the modest decrease, our ratio of surplus to premium plus assessment increased to 132.7 percent from 124.5 percent.

This year's initial loss ratio is higher than in older periods. As explained previously, our higher loss ratio was driven by premium decreases as well as by increases in the cost of our losses. Safety groups are non-profit entities that return any underwriting profit to group members. Any extra premium dollars that are collected that are not used to pay losses or expenses can be added to surplus or returned to members in the form of a dividend. The strong surplus protects members from the inherent uncertainties of a loss sensitive program. Our goal is to provide stable and predictable costs for group members. By adding money to surplus in good years, we are prepared for years with poor loss results.

We have several reasons for our guarded outlook. Manual rates still remain historically low, even with this year's increases. At the same time, the maximum benefit level rose to \$600 per week on July 1, 2009 and will rise again next year to two-thirds of the statewide average weekly wage. The New York State Labor department recently announced that the 2009 statewide average weekly wage was \$1109.75. The new maximum benefit level will now rise to \$739.83 per week on July 1, 2010. We are also still uncertain as to whether or not the implementation of the reforms will produce the necessary savings to support the rate decrease. Since the surplus belongs to the membership, if our assumptions prove to be too conservative, future dividends will be increased.

Accounting Adjustments Save Group Members \$15,442,432

As part of our accounting review, our Claims Department reviews every open high cost claim with a view toward achieving the most accurate possible reserve. The State Fund continues to permit us to discuss

claims reserves on an individual case basis and to make corrections where they deem appropriate. This accounting reflects \$15,442,432 in reserve reductions to case reserves made at our suggestion. These changes amounted to 28.2 percent of this year's premium. The group as a whole benefits from these adjustments through better financial results, while individual members will profit from many of these changes through the experience rating plan.

Group #469's Expense Factors

The group has two major expenses, our State Fund Charge and our Reinsurance charge. Both of these expenses increased on our 2008 renewal, but remained the same for 2009. We do not anticipate any increases in 2010. The State Fund Charge covers the cost of the State Fund's underwriting and claims services, such as issuing and billing your policy or paying for the lawyers and investigators necessary to defend your claims. This charge had been 12.5 percent since 2003. In 2008, the Fund faced a major reduction in premium as a result of the Spitzer reforms. While the reforms may ultimately result in expense savings, the cost of defending claims will likely increase until the reforms become more mature.

The Spitzer reforms also did little to address the issue of claims frequency, so it is very unlikely that the actual number of claims will go down. Thus the Fund faced the prospect of increased expenses, with an approximately 20 percent loss of revenue. Effective January 1, 2008, they raised the expense charge to 14.5 percent from 12.5 percent. This 16 percent increase first affected us on this 2008 accounting. Even with this increase, it is likely that the gross dollars collected by the Fund from the group program will still be less than in previous years. The Early Intervention Program charge will remain at 1.5 percent, while the excess loss risk charge will be 0.2 percent, assuming our surplus remains healthy.

The State Fund has also been increasing the group's reinsurance charges. In 2006, our cost for our \$500,000 stop loss was 8.92 percent. For the 2007 renewal, the Fund increased our costs to 9.81 percent. For 2008 our stop loss coverage increased to 10.52 percent, and the State Fund forced us to increase our attachment point to \$750,000 per occurrence. On the 2009 accounting, the Fund again forced us to increase our attachment point to \$1,000,000, but at least lowered our costs to 9.52 percent.

By forcing us to go to a higher stop-loss level, the Fund is passing along to us more of the risk of a frequency of high cost claims. For example, the move from \$750,000 to \$1,000,000 on our last renewal saved us \$547,294 at this year's premium level. That means that if the group incurs only one claim in excess of our stop loss, we would have

achieved a net savings. On the other hand, two claims in excess of \$1,000,000 would all but wipe out any savings we achieve.

Most of our excess losses are driven by high employer's liability claims. Although these types of claims were restricted by the 1996 reforms, we are still subject to large judgments that result from grave injuries.

Fate of Reform is Still Uncertain, as Benefit Level Increases Begin to Increase Loss Costs

This is the second year under the new system for setting rates. You may recall that last year we explained the new system in some detail. The New York Compensation Insurance Rating Board no longer publishes rates. Rather, the Board publishes loss costs by class code. These loss costs are meant to reflect the cost of paying and adjusting claims, including the cost of medical treatment, without the cost of insurance company overhead and profit. Each insurance company is now responsible for filing for a loss cost multiplier. This loss cost multiplier is meant to reflect the cost of each insurance company's overhead and profit. The goal of the new system was to try to stimulate competition. The Spitzer administration felt that the old system did not provide adequate incentives for insurance companies to work to lower their internal costs.

The State Insurance Fund published a loss cost multiplier of 1.34. Effective with our April 1, 2010 renewal, the State Fund increased their loss cost multiplier to 1.43. While at the higher end of loss cost multipliers, the State Insurance Fund has retained the right to offer advance discounts. Once the advance discount is factored in, the Fund's effective loss cost multiplier is 1.07, or among the lowest in the industry. The change in the loss cost multiplier added an approximately 6.3 percent increase to most codes, over and above any changes to the underlying loss costs.

Meanwhile, the Rating Board filed revised loss costs, effective on 10/1/09, which will apply to Group #469 members on the 4/1/10 renewal. The loss cost revision resulted in an average increase of 4.5 percent. The Rating Board explained that recent loss experience accounted for an increase of 3.4 percent, while they were projecting an increase in costs of 1.5 percent because of the benefit level increase effective during the year. These increases were partially offset by other small increases and decreases. The bottom line, however, is that the inflationary factors inherent in the Spitzer reforms are beginning to have an affect on loss results.

Against this background, the failure to implement the rules necessary to achieve the major savings of the reform is

very worrisome. Political turmoil, combined with continuing opposition from the plaintiff's bar has made it very difficult for the Board to issue definitive impairment guidelines. There is a special task force meeting regularly to try to hammer out a new system for judging impairment. This task force will issue a report and make recommendations to the Workers' Compensation Board, and then it will be up to the Board to adopt rules that implement these recommendations. It is all but impossible to predict the true cost of permanent partial disabilities under the new system until these guidelines are implemented, and we see how the hearing referees at the Board begin to interpret them.

Several months ago, the Workers' Compensation Board issued its first significant decision regarding caps on permanent partial disabilities. In the Buffalo Auto Recovery decision, the Board signaled that it will no longer wait for new guidelines, but will proceed to cap claims using their existing guidelines. This decision is favorable for employers, as it suggests that the Board is taking seriously the notion that claimants will no longer receive lifetime benefits. This decision will probably be appealed, so we do not yet have any certainty on the ultimate cost savings attributable to the Spitzer reforms.

Almost all construction codes increased significantly as a result of changes to underlying loss costs. The result is almost a mirror image of the 2006 rates in which construction codes fell at a rate much higher than general industry and other codes. Many of these codes, however, still have not returned to their 2004 level. With construction codes, however, manual rates are not the whole story. Base costs are also affected, for commercial construction, by the payroll cap and, the territorial surcharge.

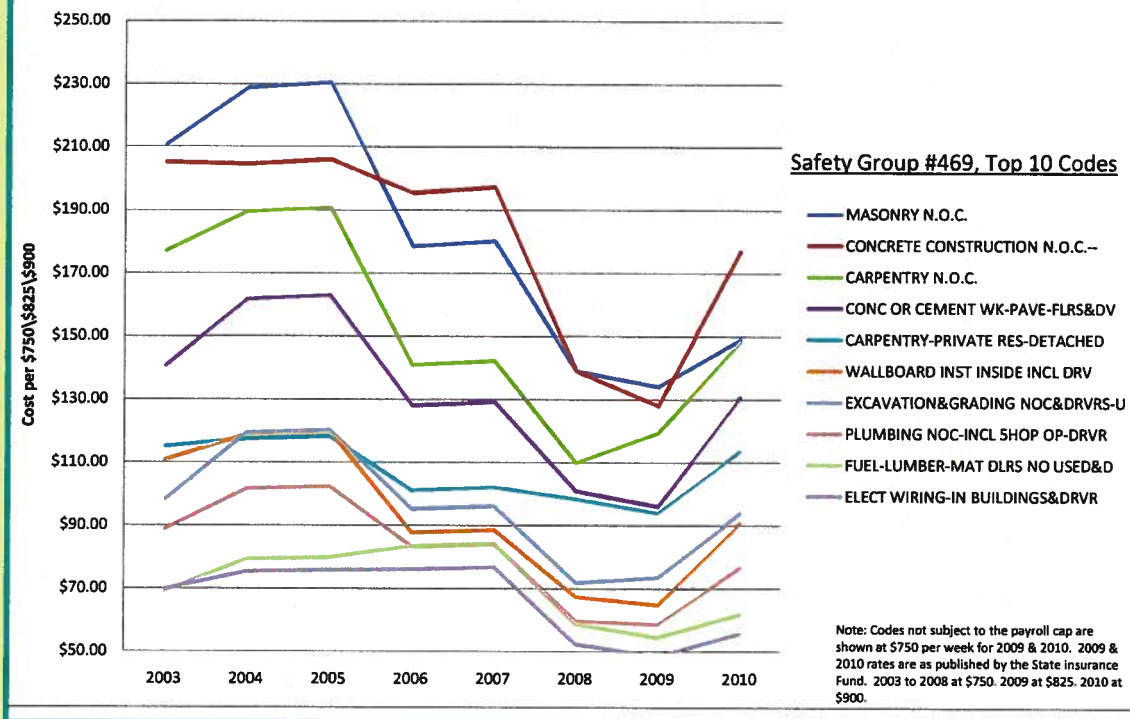
Territorial Surcharges Continue to Decrease, While the Payroll Cap Rises to \$900 Per Week

The New York Workers' Compensation Payroll Limitation Program was implemented to try to balance premium costs between high wage and low wage contractors. This program, which first affected group members on your 4/1/2000 renewal, put in place a system that capped the amount of payroll per person per week that could be used for charging premium. Along with the cap, the law also mandated a system of regional surcharges that sought to balance wage differences between the different parts of the State.

For the last several years, weekly payroll for commercial contractors has been capped at \$750 per week. The law that implemented the cap set the payroll limit as the greater of \$750 or the weekly wage on which the maximum benefit

(continued on page 9)

\$750 /\$825/\$900 per Week in Payroll, Territory 1, With Assessment Charge



Per Person Per Week Costs Begin to Rise, but Remain Lower than in Prior Periods

In order to try to assess the impact of all of the factors that contribute to determining the base cost for workers' compensation, we have begun to track the cost of the ten codes that provide the majority of the premium for Safety Group #469. To get to a bottom line on costs, we decided to track the base cost of coverage for one employee who worked one week and was paid at least the capped amount of payroll. Until 2008, that cap was at \$750 per week. In 2009, the cap rose to \$825 per week and then to \$900 per week on the 4/1/10 renewal. In this report, we show only the results for Territory 1, New York City, but the trends for the other two territories are similar. Note that for the Carpentry, Private Residence, Detached code and the Fuel-Lumber Material Dealers code, we used \$750 for both the 2009 and 2010 year because both codes are not subject to the payroll cap.

As can be seen on the chart above, the 2004 and 2005 policy years showed the highest base cost for most codes. It is important to note that rate decreases began before the effective date of the Spitzer reforms. The reforms were signed into law in March of 2007. The first rating cycle that took into account the reforms was the 10/1/07 rates, which affected group members in 2008. The 2009 rates also reflected the impact of reforms. For 2010, the trend has reversed itself, and we are starting to see rate increases.

Most of the loss experience that was used as the basis for the 2010 rates occurred prior to the onset of the recession. If there is increased utilization of the workers' compensation system as a result of the recession, rates will be affected next year, and in subsequent years. This year's increase was probably not driven by increased claims volume tied to the economy.

A New System for Evaluating Lost Wage Earning Capacity

As of this writing, the task force charged with making recommendations to the Workers' Compensation Board regarding revised disability guidelines has not yet completed its work or released its final report. The commission is struggling with the difficult issue of how to evaluate lost wage earning capacity. Under the pre-reform system, lost wage earning capacity was generally determined by the evaluations of medical specialists. Doctors used guidelines published by the Board in order to make findings regarding the degree of disability suffered by an individual claimant.

The task force is seeking to refine this system such that the determination of lost wage earning capacity becomes not just the province of doctors, but also takes into account many other vocational issues. While the Workers' Compensation Board always had the discretion to interpret a

doctor's medical findings and render a decision regarding loss of wage earning capacity, as a practical matter, the testimony of the doctor was dispositive. According to informed sources, the task force may recommend a system in which factors beyond the straightforward medical condition of the claimant become important to determining a claimant's benefits. While such a formalized procedure for rating the loss of wage earning capacity of claimants may ultimately be judged a fairer system, we remain concerned that the cost of such a system has not been taken into consideration by policymakers.

level was set. In 2008, the maximum benefit level rose to \$550 per week, which implies a weekly wage of \$825 per week. As a result, the cap was increased to \$825 per person per week last year. On July 1st of 2009, the maximum benefit level rose to \$600 per week. As a result, on the 2010 renewal the payroll cap will rise to \$900 per person per week. We have recently learned that the maximum benefit level will be rising to \$739.83 on July 1, 2010. This increase is based upon a \$1,109.75 average weekly wage. So the payroll cap on our 2011 renewal will rise to \$1,109.75.

The regional surcharges continued to decline again this year. The decline in the regional surcharges offset some of the increase attributable to the increase in the maximum payroll amount.

Surcharges by Region				
Territory	2007	2008	2009	2010
1 Bronx, Kings, New York, Queens, & Richmond Counties	29.0%	8.5%	3.4%	0.5%
2 Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, & Westchester Counties	22.0%	6.8%	2.9%	0.4%
3 All other counties	14.0%	4.0%	2.0%	0.3%

The State Insurance Fund Elects to Reduce the Assessment Charge to 6.3 Percent

The assessment charge, which is calculated using a statutory formula separate and apart from the rates, decreased from 18.6 percent for the 2007 year, to 15.5 percent for the 2008 year, and to 13.4 percent for the 2009 year. On the current renewal, the assessment charge is 14.2 percent. The 2007 reforms closed the Second Injury Fund to claims that occur on or after July 1, 2007. The State Insurance Fund believes that it is therefore unnecessary to continue to collect the portion of the assessment charge that is attributable to the Second Injury Fund because it has already accrued all of the money it needs to pay for future assessments. The portion of the assessment charge attributable to the Second Injury Fund is 7.9%, so the assessment charged by the Fund will be 6.3% for 2010.

Our Early Intervention Program Shows Continued Success

The Early Intervention Program is a unique, proactive claims management protocol, developed by Lovell,

which was implemented for Group #469 in the spring of 1998. The program provides critical contact among employer, injured employee and medical provider within 24 hours of any reported lost time claim. For this program to work effectively, it's essential that employers file their Employer's First Report of Injury/Form C-2 promptly—with our offices. That way, Lovell can manage the process of coordinating and expediting necessary medical care, hastening benefit approvals, implementing a return-to-work strategy or contesting the claim.

Our statistics have confirmed what member response tells us: legitimate claims are being processed more efficiently and questionable claims are being challenged more aggressively. The cost for this program is 2.5 percent of premium, of which 1.5 percent of premium is paid for directly by the group, and the State Insurance Fund pays for the rest. Our contract with the State Insurance Fund expires on 7/1/10. We are currently negotiating with the State Insurance Fund to try to continue the program. The Fund has indicated to us that they can no longer afford to contribute to the program. In January, the Executive Committee voted to increase the group share to 2.0 percent from 1.5 percent in order to be able to continue the program. We will inform you of the results of our negotiations when they are completed.

Group Membership a Privilege—Not a Right

As your group manager, Lovell takes its duty to underwrite Group #469 very seriously. One of the keys to guarding the financial health of the group is to ensure that all members continue to maintain acceptable loss ratios. To that end, we reviewed 296 members with a loss ratio greater than 40 percent with the Underwriting Committee. The committee judged that 141 members satisfied our underwriting criteria, and were given the full advance discount; another 87 members received a portion of the advance discount; 46 were denied any discount; 13 members were surcharged; and 9 were removed.

You are urged to review your Loss Cost Report. Your experience, as reflected in the report, is what Lovell uses to determine your continued eligibility for group membership. If your loss ratio exceeds 40 percent over the period on the report, you may be subject to losing the advance discount or to exclusion from the group. The State Fund has adopted more restrictive underwriting guidelines based on experience modifications. These too can have an impact on your discount or your continued membership in Safety Group #469. So, we remind you that membership in your safety group is a privilege—not an entitlement!

Rocket Docket Blasts Off

One of the major complaints from organized labor over the last several years has been the time it takes to adjudicate a controverted case. Controverted claims are those claims where the employer and insurance carrier believe that a claim is not compensable under the workers' compensation law. While claims are controverted, injured employees do not receive payment. Organized labor believed that insurance companies used the torpor of the system to their advantage to try to "starve out" injured workers. They urged the Spitzer administration to try to do something about the time it took to resolve disputes.

After studying the problem for almost a year, the Workers' Compensation Board issued their so-called Rocket Docket rules. We provided you with an extensive written explanation and summary of these rules at the beginning of 2009. These rules place new burdens on both employers and claimants alike to try to force resolution of controverted claims within ninety days.

For example, insurance companies are required to file a form with the Board 21 days after a notice of controversy that outlines the legal basis for the controversy, provides the names of all witnesses who will testify, and gives some indication of what that testimony will show. This prehearing form forces insurance carriers to rapidly investigate and develop their case. The penalty for not presenting this information to the Board is the potential loss of the possibility of making a case against a particular claim. In addition, the Board now has the ability to sanction both employers and insurance carriers for frivolous controversies. It is extremely important that employer witnesses show up for hearings, as the Board now also has the ability to fine employers for not appearing.

Lovell and Group #469—Working Together to Prevent Injuries

During policy year 2008, our Safety staff conducted 1627 on-site visits to Group #469 members across New York State. 621 of these were regularly scheduled visits; 433 were conducted at the request of group members (some of these were to assist with an OSHA citation conference); 95 were performed at the request of the LSM underwriting committee to help us ascertain safety conditions as well as the level of the group member's commitment to safety; 45 were for Code Rule 59 compliance; and 157 were new client visits. In addition, 276 group members took advantage of our OSHA 10-hour training programs that we offered throughout the year.

A primary focus of our Safety staff is helping group members develop and implement successful safety

programs aimed at reducing and, hopefully, eliminating work-related injuries and illnesses. To this end, we offer training programs, manuals and News Bulletins. Of particular note to Group #469 members are our programs in scaffold safety, fall protection, lifting safety, and hazard communication. For a complete list of training programs and News Bulletins, visit www.lovellsafety.com, or call 212-709-8600 or 1-800-5-LOVELL.

OSHA Under the Obama Administration

Many changes have already been felt in our local OSHA area offices during this past year. Inspections have yielded much higher-cost citations and negotiations are much more difficult. OSHA is unable to quickly change legislation, however they can, and have, changed their compliance directives and citation procedures. Regulations that were previously considered "de minimis" are now being reclassified. For example the directive regarding tripping hazards and the installation of nets or floors during steel erection has been revisited. There is also a new National Emphasis program for recordkeeping and the Cranes and Derricks, as well as the Confined Space standards are being reopened. OSHA has promised to finalize any new standards quickly and then to begin enforcement. Ergonomic-related hazards can now be cited once again under the general duty clause.

David Michaels was appointed to head OSHA. Michaels helped to create the Energy Employees Occupational Illness Compensation Program, which has paid more than \$5 billion in compensation and medical benefits to over 52,600 claimants, according to the Labor Department.

Michaels has written that OSHA "badly needs a change in direction and philosophy" and listed four objectives the agency should undertake: issuing a workplace injury and illness prevention program rule, increasing training grants, developing a new electronic recordkeeping and reporting system, and launching a public awareness campaign to "change the way the nation thinks about workplace safety."

Expect a new and more vocal OSHA. As always, the Lovell Safety staff is available to help you at all phases of your OSHA compliance.

Members of Group #469 Achieve Honor Roll Status

We are pleased to report there were 856 Group members that remained injury-free during the 4/1/08 – 4/1/09 policy year. They represent 55.4 percent of your group's membership and accounted for 33.1 percent of group

premium. In addition to maximizing the potential benefit of the experience rating plan, these members benefit the entire group by reducing overall group losses.

Injury Trends for Group #469

By examining trends, a company can develop programs that target areas of concern. In the following section we have analyzed the accident and injury trends for this group and their associated costs. These costs are the actual dollars the group paid out. They have been adjusted for the stop loss coverage the group retains.

- Falls (39% of costs/27% of injuries) – These percentages are very high yet they have decreased significantly from last year. See breakdown and analysis below.
- Lifting/Body Strain (24% of costs/24% of injuries) – These injuries were a result of moving construction materials and working in awkward positions. Injured workers strained their bodies while lifting, painting, digging, and working overhead. The most commonly injured body parts were shoulders, knees, wrists and backs. Employers should consider the use of mechanical equipment to try to eliminate these exposures. Pallet jacks, carts, and even team lifting, could greatly reduce the load employees need to handle. Employers should also continue to teach proper body mechanics and to perform ergonomic evaluations of various jobs.
- Struck By (18% of costs/26% of injuries) – Most of these injuries were a result of:
 - Portable power tools kicking back
 - Materials falling on employees at the work sites, mostly from scaffolds
 - The misuse of nail guns
- Motor Vehicle (3% of costs/6% of injuries) – Routine motor vehicle accidents accounted for a number of injuries, but the high cost of this category was, once again, a result of employees hit by vehicles while walking to and from the work site.

Falls Analysis

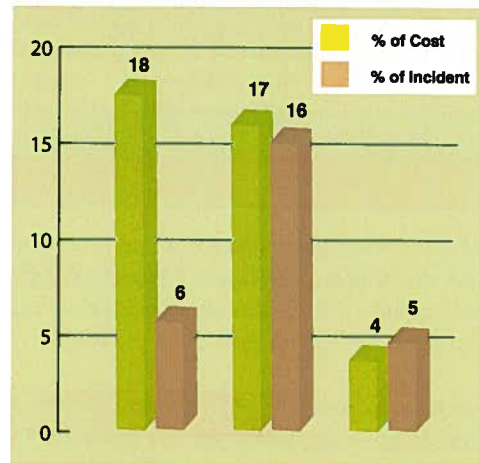
Falls from Height – Falls continue to account for the most expensive type of incidents for this safety group. We categorize falls from a height for the purpose of this report as any fall greater than 4 feet. Falls from a height were the most expensive category of incidents. Employees fell off scaffolds and residential roofs. 100% fall protection, and it's enforcement, is essential.

Falls on Same Level – Employees fell over debris, holes, and tripped on steps. Contractors need to maintain and

enforce good housekeeping at work sites. Holes must be covered and steps must be kept in good condition and free of leaves, debris, or other materials. Handrails must also be installed.

Falls from Ladders – We urge group members to maintain focus on ladder safety. The selection of the proper ladder and its proper set up remains a crucial way in which employers can keep their employees safe. Employers must also teach their employees to climb ladders with free hands. Employees were injured during this policy period when they slipped or jumped off ladders. Employees were also injured when improperly placed or secured ladders fell. In many cases, accident descriptions revealed that employees climbed ladders without holding on and maintaining proper 3 point contact.

Analysis of Falls



	Falls from Heights	Falls on Same Level	Falls from a Ladder
% of Cost	18	17	4
% of Incident	6	16	5

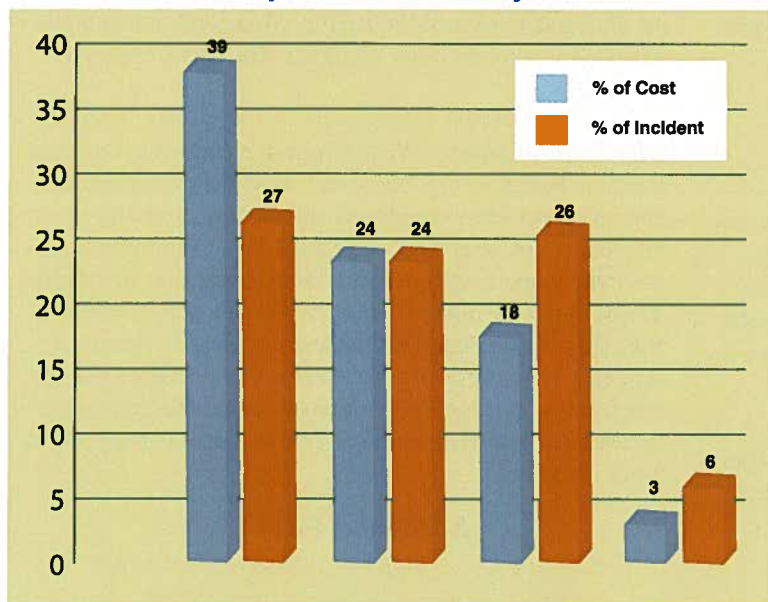
Safety News Alerts Available from Lovell

In order to keep group members up-to-date on the most current safety and health news, Lovell issues periodic Safety News Alerts. Some are relevant to your specific operations; others may be of general interest. These are now emailed to you. For your free copy, contact Lovell's Safety and Health Department at 212-709-8600 or 1-800-5-LOVELL, or visit us online at www.lovellsafety.com.

Conclusion

2008 was the first full year that occurred after the effective date of all the major provisions of the Spitzer reforms.

Group #469 - Costs v. Injuries



	Falls	Lifting/Body Strain	Struck By	Motor Vehicle
% of Cost	39	24	18	3
% of Incident	27	24	26	6

Because of the dramatic rate decreases and other changes prompted by the reforms, the Group's income fell relative to its payroll exposure. This was very positive for members, as most saw large savings on their 2008 renewal.

The drop in revenue had not yet been accompanied by any major reduction in losses, so the group's loss ratio for this year was higher than last year. At the same time, adjustments to old outstanding losses and premiums remained steady. Actual earnings on the year were 23.1 percent. Because we had put money into surplus over the last few years, we were able to pay a 25 percent dividend and continue to offer members a 25 percent advance discount. Even after using \$1,065,985 from surplus, the ratio of group surplus to premium plus assessment is 132.7 percent at the close of the accounting—an increase over last year's ratio of 124.5 percent.

Dividend and Discount History		
	Discount	Dividend
2004	25.0%	25.0%
2005	25.0%	30.0%
2006	25.0%	25.0%
2007	25.0%	25.0%
2008	25.0%	25.0%
AVERAGE	25.0%	26.0%

Safety Group #469 remains an important resource for its members, permitting them to enjoy the benefits of a loss

sensitive insurance program within a guaranteed cost insurance contract. The most that group members will ever be required to pay is their discounted premium. There is no joint and several liability, and no possibility of future assessments should claims increase. Furthermore, Group #469's surplus suggests that your group is healthy and secure, and well-positioned to continue its consistent 50-year track record of savings. We thank you for the opportunity to serve you.

Respectfully Submitted,

*Barry Lovell, President
Lovell Safety Management Co., LLC*

*Part I: Wednesday, April 28, 2010
LaGuardia Marriott Hotel, East Elmhurst, NY*

*Part II: Thursday, April 29, 2010
Desmond Hotel, Albany, NY*

*Part III: Tuesday, May 4, 2010
Hilton Garden Inn, Buffalo, NY*

*Part IV: Wednesday, May 5, 2010
Doubletree Hotel, Syracuse, NY*



Safety Pays Dividends

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