



Wisconsin Compensation Rating Bureau

WISCONSIN WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE MANUAL

(WI BASIC MANUAL)

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INTRODUCTION – APPLICATION OF MANUAL RULES

The following rules and all other manual rules, rates, forms and rating plans filed by the Wisconsin Compensation Rating Bureau (WCRB) with the Office of the Commissioner of Insurance (OCI) shall govern the writing of Worker's Compensation and Employers Liability Insurance in the State of Wisconsin.

1. Rules apply separately to each policy, except as provided in the rules related to premium discount and executive officers.
2. This manual applies only from the date that occurs on or after the effective date of this manual.
3. The effective date of a change in any rule, classification, rate, form, or filing is 12:01 A.M. on the date approved for use.
4. Changes made during a policy period are effective as of the next policy date on or after the date of change, unless otherwise specified.
5. The WCRB may determine the propriety of classification assignments and applicability of all **Basic Manual** rules. The WCRB shall inspect Wisconsin operations when it is necessary to determine the proper classification(s). This information will be furnished to the current insurer and, if authorized in writing by the risk, be available to other interested parties. The WCRB will not discuss this information with any person who is not so authorized.
 - a. In the case of policies issued to risks that have not been inspected, the insurer should assign appropriate class(es) by judgment, until such time as the proper classification is determined by the WCRB.
 - b. When the assigned classification has no specific rate shown in the manual, the WCRB will establish an appropriate "A" rate.
6. The WCRB is authorized to make a test audit of the payrolls expended, the classifications assigned, and the premium charged on any risk. The WCRB shall notify the carrier whenever the test audit develops a premium significantly different from that charged by the carrier so that adjustments can be made. If the actual premium is significantly less than that charged by the carrier, the excess premium shall be refunded to the risk upon notice from the WCRB. In all cases, the WCRB shall be notified of any adjustments.
7. Appeals involving the application of the rules or classifications of this manual may be resolved through the applicable administrative appeals process. *Refer to **Appendix** for more information.*
8. Interpretation of state or federal laws pertaining to coverage issues is not within the jurisdiction of WCRB.
9. Additions, deletions, and changes will be identified by strike-thru and highlighting.
10. Some **Basic Manual** rules may have special assigned risk rules, notes, or exceptions.

RULE I – GENERAL

A WORKER’S COMPENSATION

Worker’s compensation, as used in this manual with respect to Wisconsin, shall mean all obligations imposed upon the insurer by the provisions of The Worker’s Compensation Act (Chapter 102, Wis. Stats.), including compensation, statutory medical aid, and loss from liability for damages on account of personal injuries sustained by any employee or employees of the insured.

B STANDARD POLICY

Standard Policy means the Worker’s Compensation and Employers Liability Insurance Policy and the Information Page filed by the WCRB, approved by the OCI and located on the WCRB web site.

Exact copies of new and renewal policies issued to specific risk with operations in Wisconsin must be filed with the WCRB. These policies will be reviewed by the WCRB for accuracy and propriety. If a change has occurred, if an error was found or if some information is missing or unclear, the WCRB will send a Notice To Carrier (NTC) to the insurance company. The NTC and the appropriate response must be returned to the WCRB within 60 days. Failure to respond within 60 days will initiate the following fining schedule:

NTC Fine Program:

| Notice | No. of Days to Remit Response | Amount of Fine |
|---------------------------|-------------------------------|----------------|
| First | 60 | None |
| Second | 90 | \$150.00 |
| Third | 120 | \$250.00 |
| Fourth | 150 | \$350.00 |
| Fifth and each subsequent | 180 or greater | \$500.00 |

In addition, for any WI only policy where it is known that the employer has separate out of state coverage, a copy of the WI only policy must also be filed with the NCCI.

The term *policies* include:

1. Policy Information Page
2. All standard or state endorsements applicable to WI (or acceptable identification numbers)
3. Schedules or other pertinent information relating to the premium

Note: The maximum allowable policy period in WI is three years.

C ENDORSEMENT FORMS

1. Definition

Endorsement forms mean standard and advisory endorsements located under the [Forms Section](#) on the WCRB web site.

Note: Some NCCI standard forms are not acceptable in WI. A list of unacceptable

endorsements can be found on our web site www.wcrb.org No policy can be issued in WI unless properly amended by the required Wisconsin Law Endorsement and the Wisconsin Cancellation and Nonrenewal Endorsement.

With the exception of dividend filings under Section 631.51, Wis. Stats., member carriers may not submit form filings to the OCI. The WCRB will review and file all appropriate forms with the OCI on behalf of all member insurers. Only forms that have been approved by the OCI may be used in WI.

2. Additional Coverages

The standard Worker's Compensation and Employers Liability Insurance Policy may be endorsed to change or provide additional coverages. These are:

- a. Voluntary Compensation Insurance
- b. United States Longshore and Harbor Workers' Compensation (USL&HW) Act
- c. Extensions of the USL&HW Act
- d. Defense Base Act
- e. Outer Continental Shelf Lands Act
- f. Civilian Employees of Non appropriated Fund Instrumentalities Act
- g. Admiralty Law (Jones Act or Merchant Marine Act of 1920)
- h. Federal Employers Liability (FELA)
- i. Coverage Programs Under Admiralty Law or FELA
- j. Program I
- k. Program II
- l. Waters not Subject to Admiralty Jurisdiction

D. POLICY AND APPLICATION FORMS

Refer to the WCRB web site for a complete description of coverages and instructions on use of approved policy and application forms.

E. APPLICATION OF MANUAL RULES

Rules apply separately to each policy, except as provided in the rules related to premium discount and executive officers.

F. EFFECTIVE DATE

1. Manual

This manual applies only from the policy date that occurs on or after the effective date of this manual.

2. Changes

The effective date of a change in any rule, classification, or rate is 12:01 A.M. on the date specified on the Summary of Changes Table at the end of the manual. Unless specified otherwise, each change applies only from the policy date that occurs on or after the effective date of the change.

RULE II - EXPLANATION OF COVERAGES AND METHODS OF INSURING

A PART ONE – WORKER’S COMPENSATION INSURANCE

1. Description of Worker’s Compensation Coverage

Worker’s compensation insurance provides coverage for the statutory obligation of an employer to provide benefits for employees as required by:

- a Worker’s compensation law or occupational disease law of WI or any state or territory of the United States, including the District of Columbia, and
- b United States Longshore and Harbor Workers’ Compensation Act.(USL&HW)

2. Wisconsin Coverage

WI worker’s compensation insurance may be provided only by the Standard Policy.

3. Longshore Coverage

USL&HW may be provided by attaching the Longshore and Harbor Workers’ Compensation Act Coverage Endorsement to the Standard Policy. *Refer to Rule XII.*

B PART TWO – EMPLOYERS LIABILITY INSURANCE

1. Description of Employers Liability Coverage

Employers liability insurance provides coverage for the legal obligation of an employer to pay damages because of bodily injury by accident or disease, including resulting death, sustained by an employee. Employers liability coverage applies only if the injury or death of an employee arises out of and in the course of employment and is sustained:

- a In the United States of America, its territories or possessions, or Canada, or
- b While temporarily outside the United States of America, its territories or possessions, or Canada, if the injured employee is a citizen or resident of the United States or Canada; but suits for damages and actions on judgments must be in or from a court of the United States, its territories or possessions or Canada.

2. Employers Liability Insurance for Diseases

Employers liability insurance for diseases not covered by Chapter 102, Wis. Stats., is not available in WI.

3. Admiralty Law or Federal Employers Liability Act

Employers liability insurance for liability of an employer under admiralty law or Federal Employers Liability Act is not provided by the Standard Policy. *Refer to Rule XIII for rules and endorsements to cover or limit this exposure.*

4. Employers Liability Insurance with Worker’s Compensation Insurance

Employers liability insurance written with worker’s compensation insurance is provided by the Standard Policy in WI and in other states where permitted.

5. Employers Liability Insurance Without Worker’s Compensation Insurance

Employers liability insurance without worker’s compensation insurance is not available in WI.

C. PART THREE – OTHER STATES INSURANCE

1. Description of Other States Coverage

- a. Employers liability insurance and, where permitted by law, worker's compensation insurance is provided in other states not listed in Item 3.A. of the Information Page by listing states where coverage is to be provided in Item 3.C. of the Information Page.
- b. If worker's compensation insurance does not apply because the insured or carrier is unable to take the necessary action to bring the insured under a worker's compensation law, the carrier will reimburse the insured for all compensation and other benefits required of the insured under such law.
- c. WI Limited Other States Insurance Endorsement may be attached to WI policies.
- d. Part Three – Other States Insurance does not provide USL&HW coverage. Such coverage may be afforded in accordance with Rule XII.

2. States Where Not Available

Other States coverage is not available in states:

- a. With a monopolistic state fund, or
- b. Where the carrier elects not to write this coverage.

3. Restriction On Use

If an employer has work on the effective date of the policy in any state, that state should be listed in Item 3.A. of the Information Page. If the state is not listed in Item 3.A., the carrier must be notified within 30 days of the policy effective date. Part Three – Other States Insurance (Item 3.C.) does not provide coverage for such work except during the first 30 days of the policy period.

4. Premium

Premium developed for operations covered under Part Three – Other States Insurance shall be based on the worker's compensation rules and rates that apply in those states.

D. VOLUNTARY COMPENSATION INSURANCE

1. Description of Voluntary Compensation Coverage

Voluntary compensation insurance does not provide worker's compensation coverage and is not available for employers subject to Chapter 102, Wis. Stats. This coverage only applies to industrial sponsored athletic teams, volunteer fire departments, masters and members of vessels and USL&HW.

2. How Provided

Voluntary compensation insurance is only provided in WI for the preceding operations by attaching the Standard Voluntary Compensation and Employers Liability Coverage Endorsement to the Standard Policy. *Refer to Rule VIII-B. for rules and reference to rates.*

E. FOREIGN COVERAGE

Foreign Coverage for WI employees is provided under Part One of the policy at no additional charge.

RULE III – POLICY PREPARATION – INSURED, POLICY PERIOD AND STATE OF OPERATIONS

Items 1., 2., and 3.A. of the Information Page

A. EXPLANATION OF TERMS

1. Employer

Employer may be an individual, partnership, joint venture, corporation, limited liability partnership, limited liability company, association, or a fiduciary such as a trustee, receiver or executor, or other legal entity.

2. Insured

Insured means the employer designated in Item 1 of the Information Page.

3. Majority Interest

Majority interest, as defined in the Experience Rating Plan Manual, applies in this manual. The phrase usually means:

- a. Majority of voting stock (greater than 50%) or
- b. Majority of members or directors if there is no voting stock, or
- c. Majority participation of general partners in profits of a partnership.

4. Risk

Risk means all insured operations of one employer within a state.

5. Inception of Policy

Inception means the effective date of the normal policy period.

B. NAME, ADDRESS AND OTHER WORKPLACES OF INSURED – ITEM 1

1. Combination of Legal Entities

Separate legal entities may be insured on one policy only if the same person, or group of persons, owns the majority interest in such entities. Classifications shall be applied separately to each legal entity.

2. Single Location

All operations of any one employer at a single location shall be insured on one policy provided, however, it shall be permissible to exclude from the coverage afforded by the policy the following:

- a. Domestic servants for whom the provisions of chapter 102, Wis. Stats., remain elective.
- b. Persons employed by the State of WI, or the various counties, cities, towns or districts as provided in Chapter 102, Wis. Stats.

3. Multiple Locations

All locations and operations of the employer in WI shall be insured on one policy.

C. POLICY PERIOD – ITEM 2

1. Normal Policy Period

The normal policy period is one year. A policy may be issued for any period not longer than three years.

2. Policy for One Year

- a. The manual rules are based on a policy period of one year.
- b. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy.

3. Policy Longer Than One Year

A policy issued for a period longer than one year and 16 days is treated as follows:

- a. The policy period is divided into consecutive 12-month units.
- b. If the policy period is not a multiple of 12 months, use the Policy Period Endorsement to specify the first or last unit of less than 12 months as a short-term policy.
- c. All manual rules and procedures apply to each such unit as if a separate policy had been issued for each unit.

4. Three Year Fixed Rate Policy Option

If the estimated annual premium is not over \$900, a policy may be issued for a period of three years at a fixed manual rate. Such a policy shall not be issued if the employer is subject to the Experience Rating Plan on the effective date of the policy.

A policy issued under this option shall be known as a Three-Year Fixed Rate Policy and shall be so designated on the Information Page. *Refer to Rule XI.*

D. STATE LAWS DESIGNATED IN THE POLICY – ITEM 3.A.

1. Listing of States

Insurance for operations conducted in WI, or any other state, is provided by listing WI, or the other state, in Item 3.A. of the Information Page.

2. Longshore Act

The USL&HW Act shall not be entered in Item 3.A. of the Information Page. *Refer to Rule XII.*

3. Additional States

A state may be added after the effective date of the policy. For the additional state operations, apply:

- a. Manual rates in effect on the inception date of the policy to which the state has been added,

- b. Any rate change which applied to outstanding policies for the state being added, and
- c. Any applicable experience rating modification for the policy to which the state has been added. *Refer to the [WI Experience Rating Plan Manual](#).*

RULE IV - CLASSIFICATIONS

Item 4. of the Information Page

A GENERAL EXPLANATION

The object of the classification system is to group employers into classifications so that the rate for each classification reflects the exposures common to those employers. Subject to certain exceptions described later in this rule, it is the business of the employer within a state that is classified, not the separate employments, occupations, or operations within the business.

B EXPLANATION OF CLASSIFICATIONS

1. Basic Classifications

All classifications in the manual are basic classifications, other than the standard exception classifications. Classifications are listed alphabetically in [Class Code Lookup](#) on the WCRB web site.

2. Standard Exception Classifications

Some occupations are common to so many businesses that special classifications have been established for them. They are called standard exception classifications. Employees with 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. **Drivers, Chauffeurs, Messengers, and their Helpers – Code 7380** – are employees engaged in such duties on or in connection with a vehicle. This classification also includes garage employees and employees using bicycles in their operations. Duties include, but are not limited to, delivering products owned by the employer.

Note: Code 7830 does not apply when the basic classification wording includes drivers, chauffeurs, messengers, and their helpers.

- b. **Salespersons and Collectors – Outside – Code 8742**

- 1) This classification is assigned to employees who perform these duties away from the employer's premises.
- 2) This classification is not assigned to employees who:
 - a) Deliver merchandise.
 - b) Use vehicles to deliver or pick up goods, even if they collect or sell. These employees must be assigned to the classification applicable to the business for drivers.
 - c) Use public transportation or walk to deliver goods even if they collect or sell. These employees must be assigned to the governing classification applicable to the business.
 - d) Travel between locations of the employer as district or regional managers to perform various duties not involving outside sales or collection. *Refer to Rule IV E. Payroll Assignment – Multiple Classifications – Interchange of Labor.*
 - e) Perform job site measurements or inspections to prepare bid for a job for a construction contractor.

Note: Code 8742 does not apply when the basic classification wording includes outside salespersons and/or collectors.

- c. **Automobile Salespersons – Code 8748** – are employees engaged in such duties on or away from the employer’s premises. Such employees are treated as Salespersons or Collectors – Outside for purposes of this rule but are assigned to Code 8748.
- d. **Clerical Office Employees – Code 8810** – are employees engaged exclusively in record keeping, correspondence, filing, telephone sales, data entry or word processing, copy or fax machine operations, unless the insured is in the business of making copies or faxing for the public, and other general office work. If such an employee has any other duty, the total payroll of that employee shall be assigned to the highest rated classification of operations to which the employee is exposed. Physical separation of clerical functions is not required.

Note: Code 8810 does not apply when the basic classification wording includes clerical employees.

- e. **Drafting Employees – Code 8810** – are employees engaged exclusively in drafting and confined to office work. The entire payroll of any such employees exposed to any other operations shall be assigned to the highest rated classification of operations to which they are exposed.
- f. **Clerical Office or Drafting Telecommuter Employees – Code 8871** – are employees performing clerical duties in a residence office. A residential office is a clerical work area located within the home of the clerical employee. The resident office must be separate and distinct from the location of the employer. In the event an employer operates a business from a residence and the employer has clerical staff at the employer’s business location residence, these clerical employees are classified to Code 8810 – Clerical.

Note: Employees who otherwise meet the requirements for Code 8810 or 8871 will not be disqualified from assignment to this classification if they perform certain incidental non-clerical duties directly related to that employee’s duties in the office. These duties include:

- Depositing of funds in a bank
- Pickup or delivery of mail
- Purchase of office supplies
- Entering an area exposed to the operative hazards of the business for clerical purposes such as delivering paychecks

Employees who otherwise meet the requirements for Code 8810 or Code 8871 will be disqualified from assignment to this classification if their duties involve:

- Outside sales or outside representatives
- Physical Labor
- Any work exposed to the operative hazards of the business, such as a stock or tally clerk, that is necessary, incidental, or related to any operations of the business other than a clerical office.

3. General Inclusions

a. Some operations appear to be separate businesses, but they are included within the scope of all classifications other than the standard exception classifications. These operations are called general inclusions and are:

- Commissaries, restaurants, or stores, operated by the employer for employee use. Such operations shall be assigned to a separate classification if conducted in connection with construction, erection, lumbering, or mining operations.
- Manufacture of containers such as bags, barrels, bottles, boxes, cans, cartons, or packing cases by the employer for use in the operations insured by the policy.
- Hospitals or medical facilities operated by the employer for its employees.
- Maintenance or repair of the employer's buildings or equipment by the employer's employees.
- Printing by the employer on its own products, packaging, brochures, or promotional materials.
- Piloting of unmanned aircraft systems or drone aircraft with a combined weight (including its attached systems, payload, and cargo) of less than 55 pounds.

Exceptions:

- 1) Autonomous drone aircraft computer system designers or programmers who qualify as clerical office employees in accordance with Rule IV B.2.d. and do not pilot or operate the drone aircraft are assigned to the appropriate clerical classification.
- 2) If an employee qualifies as an outside salesperson in accordance with Rule IV B.2.b., the piloting of a drone aircraft to support their sales duties is included within the classification assigned to the outside salesperson.

b. A general inclusion operation shall be separately classified only if:

- The operation is conducted as a separate and distinct business of the employer.
- It is specifically excluded by the classification wording.
- The principal business is described by a standard exception classification.

4. General Exclusions

Some operations in a business are so unusual for the type of business described by the basic classification applicable to the business that they are separately classified. These operations are called general exclusions and are classified separately unless specifically included in the basic classification wording. General exclusions are:

- Aviation – all operations of the flying and ground crews, including piloting of drone aircraft with a combined weight (including its attached systems, payload,

- and cargo) of 55 pounds or more.
- New construction or alterations by the insured’s employees.
- Stevedoring, including tallying and checking incidental to stevedoring.
- Sawmill operations – sawing logs into lumber by equipment such as circular carriage or band carriage saws, including operations incidental to the sawmill.
- Employer operated day care service.

5. Governing Classification

The governing classification at a specific job or location is the basic classification, other than a standard exception classification.

The governing classification is determined in accordance with the Governing Classification Determination Table.

Governing Classification Determination Table

| If..... | Then the governing classification is the ... |
|---|---|
| A basic classification produces the greatest amount of payroll | Basic classification |
| A basic classification is applicable, but no payroll is assigned | |
| Multiple basic classifications apply | Basic classification that is assigned the greatest amount of payroll |
| Multiple basic classifications apply but no payroll is assigned to any of the basic classifications | Basic classification that is the highest rated classification |
| A basic classification is not acceptable | Standard exception classification that is assigned the greatest amount of payroll |

C. CLASSIFICATION WORDING

1. Captions

The caption is the heading or title of the classification.

2. Notes

The note is the phrase that follows the caption.

The classification wording, as a whole, includes the caption and notes, controls, restricts, or explains the classification usage. This wording is also referred to as the “phraseology”.

Example of C.1. and C.2. above:

Store: Fruit or Vegetable – Retail – No handling of fresh meats

In this example, “Store: Fruit or Vegetable – Retail” is the caption and “No handling of fresh meats” is the note. Both are part of the classification wording.

3. Words and Phrases

- a. **All Employees, All Other Employees, All Operations, or All Operations to Completion:** If a classification includes any of these phrases, no other classification shall be assigned to that risk unless specifically directed by classification wording, even though some operations or employees are at a separate location.

Exceptions to 3.a. above:

- 1) Operations described by Contractors' Permanent Yard - Code 8227 and Contractor – Executive Supervisor or Construction Superintendent - Code 5606.
- 2) Classifications describing an operation which is a standard exception or general exclusion shall apply.
- 3) Any separate and distinct business shall be separately classified when conditions of Rule IV D. exist.

Example of Exception 1) to 3.a. above

Code 6217 – Excavation & Drivers
Code 8227 – Contractors' Permanent Yard

All work related to excavation shall be assigned to Code 6217.

Operations conducted with respect to materials stored or the maintenance and repair of excavator's own equipment performed at excavator's premises shall be assigned to Code 8227, subject to the following conditions.

Employees must either work full-time in the permanent year or interchange duties between excavation jobs and the yard.

Excavator's records must contain an allocation of the payroll of each such employee. If separate payroll records are not maintained, the payroll of each such employee shall be assigned to code 6217. Code 8227 shall not be assigned if the phraseology of a classification specifically includes yard operations or provides for the assignment of yard operations to another classification.

Examples of 3.a. above:

Code 9186 – Circus, Carnival, or Amusement Device Operator – Traveling – All Employees & Drivers

All employees shall be assigned to this classification.

Code 8385 – Bus Co. – Garage Employees
Code 7382 – Bus Co. – All Other Employees & Drivers

All employees, other than garage employees, shall be assigned to Code 7382.

Code 5402 – Greenhouse Erection – All Operations

All work for erection of a greenhouse shall be assigned to Code 5402.

Code 6005 – Jetty or Breakwater Construction – All Operations to Completion & Drivers.

All work for the construction of a jetty from beginning to end of the project shall be assigned to Code 6005.

These examples are subject to exceptions 1), 2), and 3) to 3.a. above.

- b. **Clerical** means clerical office employees and telecommuters as defined in Rule IVB.
- c. **Drivers** means drivers, chauffeurs and their helpers as defined in Rule IVB.
- d. **Includes** or **&**: If a classification contains “includes” or “&”, the operations or employees that are so designated shall not be assigned to a separate classification even though such operations or employees are described by another classification or are at a separate location.

Example of 3.d. above

Code 5183 – Insulation – Steam Pipe or boiler & Drivers – Includes shop. This classification also applies to shop operations and drivers.

- e. **Local Manager** means the employee in direct charge of operative procedures in a yard and as such is normally subject to the hazards of the governing classification. Such an individual may appear in the organization as “manager” or otherwise or without title. The payroll of any local managers shall be assigned to the governing classification.
- f. **No** or **Not**. A classification which includes a restrictive phrase beginning with “no” or “not” shall not apply to any employer that conducts any operation described in the restrictive phrase.

Exceptions to 3.f. above

For mercantile businesses, such as dealers or stores, or for mining, construction or oil and gas field operations, this rule applies to each location.

Example:

Code 8106 – Iron or Steel Merchant & Drivers – Not applicable to junk dealers or iron or steel scrap dealers.

This classification shall not be assigned to a steel merchant that also deals in junk. That risk shall be assigned to code 8263 - Junk Dealers.

- g. **NOC** means Not Otherwise Classified. A classification designated “NOC” shall apply only if no other classification more specifically describes the insured business.
- h. **Salespersons** means salespersons, collectors, and messengers as defined in Rule IV B.
- i. **Story in Height.** This manual contains several classifications that refer to “stories in height”. A story is defined as 15 feet in height. It is measured from the lowest point above ground level to the highest point above ground level.
- j. **To Be Separately Rated.** If a classification requires operations or employees “to be separately rated”, all such operations or employees shall be separately classified when the conditions of Rule IV D. 4. exist.

Example of 3.j. above Code 4131 – Mirror Mfg.

Mfg. of glass, frames, backs, or handles to be separately rated.

In a risk which makes mirrors, the work of producing glass, or fabricating frames, backs, or handles, shall be separately classified.

- k. **Separate and Distinct Business.** Separate and distinct business means an additional operation of the employer that is not included in the basic classification on the policy. Refer to the following:

Rule IV D.4. for the assignment of more than one basic classification.

Rule VII F. for the combination of legal entities, locations, and operations on a single policy.

D. ASSIGNMENT OF CLASSIFICATIONS

1. Object of Classification Procedure

The object of the classification procedure is to assign the one basic classification that best describes the business of the employer within a state. Subject to certain exceptions described in this rule, each classification includes all the various types of labor found in a business. It is the business that is classified, not the individual employments, occupations or operations within a business. Additional classifications shall be assigned as provided below.

2. Classification of Separate Legal Entities

Each separate legal entity insured under a policy shall be assigned to the basic classification that describes its entire business within a state. This assignment procedure applies even if the business is conducted at more than one location.

3. Business Not Described by a Manual Classification

If there is no classification that describes the business, the classification that most closely describes the business shall be assigned. Refer to Rule IV F.

4. Assignment of Additional Basic Classification

If a classification requires operations or employees to be separately rated or if an employer operates a secondary business within a state, an additional basic classification shall be assigned only if all the following conditions exist:

- a The secondary business is conducted as a separate undertaking or enterprise. This condition does not apply if the classification wording requires the assignment of an additional classification for specified employees or operations. For example, some classifications direct that certain operations are to be separately rated.
- b Separate payroll records are maintained for each business.
- c Be able to exist as a separate business if the insured's principal business in WI ceases to exist.
- d The assignment of the separate classification is not prohibited by wording of that classification, or any other classification assigned to the policy.

If all of the above conditions do not exist:

- 1) All employees shall be assigned to the classification applicable to the principal business if the classification for the principal business carries a rate which is the same or higher than that for the classification of the secondary business.
- 2) The secondary business shall be assigned to the classification which describes that business if such classification carries a rate higher than that applicable to the principal business.
- 3) The principal business is the business with the greatest amount of payroll, excluding standard exception or general exclusion operations.
- e Policies with more than one classification may involve employees working in connection with several classifications. Payroll assignment for such employees is subject to Rule IV E.

5. Classification Limited to Separate and Distinct Businesses

The assignment of certain classifications is limited by their classification notes to separate and distinct businesses. The notes may describe an operation which frequently is an integral part of a business described by another classification.

Example of D5. above:

Code 4511 – Analytical Laboratories or Assaying – Including Laboratory, Outside Employees, Collectors of Samples & Drivers

Includes laboratory and outside employees. Shall not be assigned to a risk engaged in operations by another classification unless the operations subject to Code 4511 are conducted as a separate and distinct business.

6. Standard Exception and General Exclusion Operations

Standard exception and general exclusion operations shall be separately classified unless specifically included in a classification assigned to the business. Classifications for standard exception and general exclusion operations apply even if the basic classification includes phrases such as “all employees” or “all operations”.

7. Business Described by a Standard Exception Classification

If the principal business is described by a standard exception classification, the operations of all employees not included in the definition of the standard exception classification shall be assigned to the separate basic classification that most closely describes their operations.

Example of D7. above:

The insured is an accountant:

Employees Assignment

Clerical Office Code 8810 – Clerical Office Employees NOC Maintenance, Security, Code 9015 Building or Property Management:

Elevator Operators. All Other Employees
Cafeteria or Restaurant Code 9082 RestaurantNOC

8. Construction or Erection Operations

Each distinct type of construction or erection, or oil and gas field operation at a job or location shall be assigned to the classification that specifically describes such operation provided separate payroll records are maintained for each operation.

Any such operation for which separate payroll records are not maintained shall be assigned to the highest rated classification that applies to the job or location where the operation is performed.

A separate construction, erection, or oil and gas field classification shall not be assigned to any operation that is within the scope of another classification assigned to such a job or location.

a Contracting Classifications – InsuredSubcontractors

- 1) A subcontractor who performs a single type of work on a construction project or job shall be classified on the basis of the classification describing the particular type of work involved.

Example of 8.a.1) above

The subcontractor who performs only excavation work in connection with the construction of a sewer would be classified under Excavation & Drivers, Code 6217, rather than under Sewer Construction – All Operations & Drivers, Code 6306.

- 2) All operations in connection with concrete construction, including making and erecting forms, placing reinforcing steel and stripping forms, when done by subcontractors, shall be assigned to the appropriate concrete construction classification.

b Contracting Classifications – UninsuredSubcontractors

Uninsured subcontractors covered under the principal contractor's policy are classified on the basis of the classifications that would apply if the work were performed by the principal's own employees. Refer to Rule IX D.

c Construction - Job Site Salespersons and Estimators

Construction job site salespersons and estimators are separately rated to Code 8720, a non-construction code. A division of payroll is not permitted between Code 8720 and a construction classification at any single job site. If the construction job site salesperson or estimator also performs construction duties at the same job site or supervises construction workers at the same job site, the employee's payroll at that job site must be assigned to the appropriate construction classification

9. Farm Operations

For assignment of classifications for farm operations, see on the Class Code Lookup on the WCRB web site

10. Mercantile Business

For mercantile businesses, such as stores or dealers, the classification is determined separately for each location.

11. Repair Operations

Risks having shop operations that involve the repair of a product for which there is no repair classification are to be assigned to the classification that applies to the manufacture of the product, unless such repair work is specifically referred to by another classification phraseology, footnote, or definition in this manual.

12. Premium for Leased Employees

Payroll reported to the insurer by the employee leasing company shall be based on the classifications and rates that would have applied if the employees leased to the client company had been direct employees of the client company.

E PAYROLL ASSIGNMENT – MULTIPLE CLASSIFICATIONS – INTERCHANGE OF LABOR

1. Miscellaneous Employees

Miscellaneous employees are those who perform duties conducted in common for separate operations that are subject to more than one basic classification. The payroll of any miscellaneous employees shall be assigned to the governing classification.

Such employees include general superintendents, maintenance or power plant employees, elevator operators, shipping or receiving clerks and yard workers.

Example of E.1. above:

Four-story factory – two floors general job machine shop and two floors plastic goods manufacturing:

Code 3632 – Machine Shop NOC applies to machine shop. Code 4452 – Plastics – Fabricated Products Mfg. NOC. applies to plastic goods manufacturing.

The elevator operators, porters, and cleaners serving all four floors shall be assigned to the governing classification for the location.

2. Interchange of Labor (Effective 10-1-18)

Some employees may perform duties directly related to more than one properly assigned

classification according to Rule IV E. Their payroll may be divided among the properly assigned classifications provided that:

- a. The classifications can be properly assigned to the employer according to the rules of the classification system, and
- b. The employer maintains proper payroll records, which show the actual payroll by classification for that individual employee.
 - 1) Records must reflect actual time spent working within each job classification and an average hourly wage comparable to the wage rates for such employees within the employer's industry.
 - 2) Estimated or percentage allocation of payroll is not permitted.

Note: If payroll records do not show the actual payroll applicable to each classification, the entire payroll of the individual employee must be assigned to the highest rated classification that represents any part of his or her work.

- c. Payroll for holiday, vacation, sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the classification code with the greatest amount of payroll applicable to the individual employee.

If none of the classification codes applicable to the employee has the greatest amount of payroll, the payroll for holiday, vacation, sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the highest rated classification code applicable to the employee.

- d. Some employees qualify for division of payroll between two or more basic classification codes and also engage in operations that are classified by Codes 7380, 8810, 8742, 8748 or 8871. The payroll for these standard exception operations must be allocated to the basic classification code with the largest amount of payroll applicable to that employee.

Exceptions to Rule IV E.2.:

- a. Code 7380 – Drivers, Chauffeurs, Messengers, and Their Helpers NOC – Commercial, Code 8810 – Clerical Office Employees, Code 8871 – Clerical Telecommuter Employees, Code 8742 – Salespersons or Collectors – Outside, and Code 8748 – Automobile Salespersons are not available for division of payroll under this rule. However, when an interchange of labor exists between Code 8810 and Code 8871:
 - Code 8871 will be assigned when the employee spends more than 50% of the time worked telecommuting as described by Rule IVB.2. f.
 - Code 8810 will be assigned when the employee spends 50% or less of the time worked telecommuting as described by Rule IVB.2. f.
- b. The distribution of payroll for the employee may result in no single basic classification code that represents the largest amount of that employee's payroll. In such cases, the

payroll included in the standard exception codes (7389, 8810, 8742, 8748 and 8871) will be assigned to the highest rated classification code that represents any part of the employee's work.

- c. This rule does not apply to miscellaneous employees. Refer to Rule IV E. 1.

F. HOW TO SHOW CLASSIFICATIONS IN ITEM 4. OF THE INFORMATIONPAGE

1. Business Described by a Classification

For a business described by a classification, show the classification wording, with or without notes, show any caption that precedes several related classifications and show the code number. Underlined, capitalized classification wording may be used instead of the entire wording.

2. Business Not Described by Any Classification

For a business not described by any classification, show wording that describes the business. With this wording, show the code number of the classification that most closely describes the business. Such an assignment is controlled by all of the rules applicable to the assigned classification.

Example of F.2. above:

An employer manufactures flags. There is no classification in the manual that describes or mentions flag manufacturing. The classification in the manual that most closely describes flag manufacturing is Code 2501 Cloth, Canvas and Related Products Mfg. NOC which states in its footnote that it includes wearing apparel, draperies or household furnishings manufactured from textile fabrics. Consequently, Code 2501 is applicable and, therefore, the Information Page shall show:
Flag Mfg. – from textiles – 2501

All of the rules pertaining to the assigned classification apply to such a business. For example, if drivers are included in the assigned classification, they shall be included in the wording used to describe the business.

G. CHANGES IN CLASSIFICATIONS OR RATES

1. Changes in classification due to changes in an employer's operations will be applied as of the date the change in operations occurred.
2. Corrections in classifications that result in a decrease in premium, whether determined during the life of the policy or on audit, must be applied retroactively to the inception of the policy. In addition, the experience modification will be recalculated.
3. Corrections in classifications that result in an *increase* in premium, shall be applied as follows:

| If the effective date of change is..... | Then the increase is applied..... |
|--|---|
| During the first 120 days of the policy term | Retroactively to the inception of the policy. |
| After the first 120 days of the policy | Only to a renewal policy, if any |

The effective date of change, for purposes of the time periods noted in the table above, is the date a carrier applies a classification change.

Exceptions to the table above:

- a. If the correction in classification is the result of a misrepresentation or omission by the employer, its agents, employees, officers or directors, then the correction must be applied from the date on which the change would have applied if such misrepresentation omission had not been made.
- b. The above rules do not apply to the following types of operations; therefore, classifications are assigned and applied at any time during the term of the policy or at audit:
 - Construction or erection
 - Oil and gas field operations
 - Employee Leasing Labor contracting
 - Temporary labor services
 - Operations assigned to standard exception classifications General exclusions
- c. The date of a WCRB inspection supersedes the carrier date when determining the application of a change or correction in classification. WCRB will notify the carrier of the effective date of change.

Example of a correction vs a change in classification:

- The employer is classified under code 9084 Bar, Discotheque, Nightclub or Tavern. During the course of the policy period, the employer changes operations and becomes a restaurant and is properly classified under code 9082 Restaurant NOC. This is a change in classification due to a change in operation and the change in classification applies as of the date of the change in operations.
 - The employer is classified under code 8018 Store – Wholesale. During the course of the policy period, it is discovered that the business is a retail operation and should be classified under code 8017 Store Risks – Retail NOC. This is a correction in classification and the correction will apply in accordance with the application rules outlined above.
4. The reallocation of payroll among classifications on the policy is not considered a change or correction in classification(s).

RULE V – PREMIUM BASIS

Item 4. of the Information Page

A. BASIS OF PREMIUM – TOTAL REMUNERATION

Premium shall be computed on the basis of the total remuneration paid or payable by the employer for services of employees or other individuals who could receive worker's compensation benefits pursuant to Chapter 102, Wis. Stats., for work-related injuries as provided for by the policy.

Exceptions:

- Premium for code 0908 Domestic Workers: Residences – Part Time and code 0913 Domestic Workers: Residences – Full Time is computed on a per capita basis.
- Premium for code 7709 Fire Department – Volunteer is based on population.

B. REMUNERATION –PAYROLL

1. Definition

Remuneration means money or substitutes for money. Payroll means remuneration.

2. Inclusions

- a. Current wages or salaries, whether by cash check, electronic transfer, etc.; paid during the current policy period.
- b. Total pay received by employees for commissions and draws against commissions;
- c. Bonuses including stock bonus plans;
- d. Extra pay for overtime work except as provided in Rule V-E;
- e. Pay for holidays, vacations, periods of sickness or unused accrued sick and vacation time;
- f. Payment by an employer of amounts otherwise required by law to be paid by employees to statutory insurance or pension plans, such as the Federal Social Security Act;
- g. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans;
- h. (RESERVED FOR FUTURE USE)
- i. The rental value of an apartment or a house provided for an employee based on comparable accommodations;
- j. The value of lodging, other than an apartment or house, received by employees as part of their pay will be the amount shown on the [Miscellaneous Values Table](#) on the WCRB website;

- k. The value of meals received by employees as part of their pay will be the amount shown on the Miscellaneous Values Table on the WCRB web site;
- l. The value of store certificates, merchandise, credits or any other substitutes for money received by employees as part of their pay (refer to exclusions below for certain fringe benefits [substitutes for money] not considered to be remuneration);
- m. Payments for employee-authorized reductions from gross pay in payroll.

Examples of payments for employee-authorized reductions from gross pay include:

- salary reductions
 - health savings accounts (HSAs)
 - Flexible spending accounts (FSAs)
 - Employee savings plans
 - Retirement plans, and
 - Cafeteria plans, including IRC 125 plans.
 - WI Retirement Plan
- n. Wages paid to employees as salary in conjunction with the Davis-Bacon Act or other prevailing wage laws;
 - o. Annuity plans;
 - p. Expense reimbursements and flat expense allowances paid to employees in payroll if when the employer's verifiable records do not confirm that the employee expense or allowance was incurred as a valid business expense;

Exception:

Exclude from payroll a maximum expense allowance of up to \$75 per day when

- it can be verified that the employee was away from home overnight on business for the employer
- the employer did not maintain verifiable records for the employee's daily incurred business expenses, and
- the daily expense allowance paid to the employee is in addition to, not in lieu of, the wages earned by the employee.

Include the remaining nonverified daily business expenses in excess of \$75 per day in payroll.

- q. Payment for filming of commercials, excluding subsequent residuals, which are earned by the commercial's participant(s) each time the commercial appears in

any type of media;

- r. Adjustments made by the employer to raise employees' wages to federal, state or local minimum wage, whichever is applicable.
- s. Service charges and automatic gratuities received by employees in payroll. Only the amount of the service charge or automatic gratuity received by employees is included in payroll.

Service charges and automatic gratuities are set percentages or fees added to a bill or contract where the customer does not

- determine the amount of the percentage or fee
- determine who receives the percentage or fee, and
- have the ability to reduce the payment amount below the set percentage or fee.

- t. Employee-authorized reductions from an employee's gross pay for purchasing stock options or qualified or nonqualified employee stock purchase plans (ESPP) in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.
- u. Employer contributions to an employee's cashless exercise of stock options in payroll.

Exception:

Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

- v. Value of equity-based compensation plans, other than stock options and stock purchase plans, at the time of vesting in payroll. This applies when vesting is on a scheduled or annual basis, such as:
 - graded vesting
 - scheduled cliff vesting
 - performance goals vesting, and
 - milestone anniversaries vesting.

Equity-based compensation plans, other than stock options and stock purchase plans, include

- stock transfers
- stock warrants
- restricted stock
- restricted stock units
- phantom stock plans, and
- stock appreciation rights

- w. Deferred compensation distribution payments made to current employees from an employer's contributions to previously deferred wages in payroll. This applies to amounts paid during the policy period.

x. Amount by which an employee's salary is reduced from gross pay to fund an

employee-authorized deferred compensation plan in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.

Employee-authorized deferred compensation plans include:

- pension plans
- equity-based compensation plans, and
- other deferral plans.

y. Retroactive wages or salaries paid to a current employee when:

- the payment is within the three-year audit period of the policy, and
- the employee was actively employed by the employer
 - at the time wages or salaries were paid, or
 - during any portion of the current policy period.

3. Exclusions

- a. Tips and other gratuities received by employees except as noted in Rule V-B-2. r. above;

Tips or other gratuities are optional payments added to a bill or contract where the customer

- determines the amount of payment
 - determines that the employees receive the payment for services provided, and
 - has the option to not add a payment to the bill or contract.
- b. Payments by an employer to group insurance or group pension plans for employees, other than payments covered by Rule V-B 2.f. and Rule V-B-2. m.;
- c. Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Section 401(a) and 501(a).
- d. The value of special rewards for individual invention or discovery;
- e. Dismissal or severance payments except for time worked or accrued vacation;
- f. Payments for active military duty;

- g. Employee discounts on goods purchased from the employee's employer;
- h. Expense reimbursements and flat expense allowances paid to employees only when all of these conditions are met:

- The employer's verifiable records confirm that the expenses or allowances are incurred as a valid business expense
- The amount of each employee's expense or allowances is shown separately in the records of the employer
- The amount of the expense or allowance payment approximates the actual expense incurred by the employee in the conduct of their work.
- The expense reimbursements and/or flat expense allowances paid to the employee must be in addition to, not in lieu of, the wages earned by the employee

NOTE: Allowable travel expenses permitted by any contract with a federal, state or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit. The allowable travel expenses must be in addition to the current wage of the employee.

- i. Meal money for late work;
- j. Work uniform allowances;
- k. Sick pay paid to an employee by a third party such as an insured's group insurance carrier that is paying disability income benefits to a disabled employee;
- l. Employer provided perquisites (perks) such as:
 - Use of company-provided automobiles;
 - An airplane flight;
 - An incentive vacation (e.g., contest winner);
 - Discounts on property or services;

- Club memberships;
- Tickets to entertainment events;
- Educational assistance;
- Relocation and moving expenses.

m. Employer contributions to employee benefit plans such as:

- Employee savings plan
- Retirement Plans
- Cafeteria Plans (IRC125)
- Health savings accounts
- Flexible spending accounts

These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.

n. Deferred compensation payments to retired or terminated employees during the current policy period, when

- the employee is not employed at the time of the distribution, and
- records are maintained to separate these payments.

o. Employer contributions to qualified or nonqualified employee stock purchase plans.

p. Employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

Exception:

Include employer contributions to the cashless exercise of stock options in payroll.

q. Employer contributions to deferred compensation plans.

r. Difference between the market price of stock and any discounted price paid by the employee to purchase the stock.

s. Market value of equity-based compensation plans. This applies when accelerated cliff vesting is triggered by

- an Initial Public Offering (IPO) of stock, or
- a change in majority ownership where the owner or owners before the change own less than one-half interest after the change.

t. Retroactive wages or salaries paid to a retired or terminated employee when

- the payment is within the three-year audit period of the policy
- the employee was retired or terminated at the time wages or salaries were paid, and
- the employer maintains records that separate such payments.

4. Implied Employment

For people who work under a contract of hire, express or implied, for which a token

wage is paid, or when pay is in a form other than money, the normal weekly wage rate applying to the same types of work will be used. This rate is subject to a minimum weekly wage. To calculate the minimum week wage, multiply the state minimum hourly wage in effect time 24 hours.

Note: This rule does not apply to:

- Those organizations that are licensed by the State of Wisconsin and described in Wisconsin Administrative Code, Section DWD 272.09. For these organizations only the actual earned payroll, but not less than \$30 per week, will be used as basis of premium.
- Persons who are working to fulfill a moral obligation to perform a charitable deed unless the person is working under a contract of hire.

5. Elective or Appointive Officials

In the case of elective or appointive officials in the service of the State or any Municipality, as defined in Section 102.01(2)(D), Wis. Stat., a minimum individual payroll of \$1,560 per year will apply.

C. ESTIMATED PAYROLLS

1. Estimated Payrolls by Classification

For each classification shown on the Information page, the total estimated annual payroll shall be stated in the column headed "Premium Basis Total Estimated Annual Remuneration."

2. Determination of Estimated Payrolls

Estimated payrolls shown on the Information page shall reflect actual remuneration anticipated by the insured during the policy period. Such estimates shall be subject to substantiation by the carrier through evaluation of records or inspections.

3. Audit of Estimated Payrolls

Upon establishment of actual payrolls, the carrier shall transact the premium audit adjustment within 90 days.

4. Review of Estimated Payrolls

Adequacy of estimated payrolls is subject to review by WCRB.

D. WHOLE DOLLARS –PAYROLLS

All payrolls shall be shown to the nearest dollar. A remainder of \$.50 or more shall be rounded to the next higher dollar.

E. OVERTIME

1. Definition

Overtime means those hours worked for which there is an increase in the rate of pay:

- a. For work in any day or in any week in excess of the number of hours normally worked, or
- b. For hours worked in excess of 8 hours in any day or 40 hours in any week, or
- c. For work on Saturdays, Sundays or holidays.

Note: Forms of incentive pay commonly referred to as “shift differential” or “premium pay” associated with working other than normal day shift hours during the standard workweek are not to be considered overtime.

In the case of guaranteed wage agreements, overtime means only those hours worked in excess of the number specified in such agreement.

2. Exclusion of Overtime Payroll

a. Payroll Records

The extra pay for overtime shall be excluded from the payroll on which premium is computed as indicated in 1) or 2) below, provided the insured’s books and records are maintained to show overtime pay separately by employee and in summary by classification.

- 1) If the records show separately the extra pay earned for overtime, the entire extra pay shall be excluded.
- 2) If the records show the total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime, 1/3 of this total pay shall be excluded. If double time is paid for overtime and the total pay for such overtime is recorded separately, 1/2 of the total pay for double time shall be excluded.

Exception to 2.a. above

Exclusion of overtime pay does not apply to payroll assigned to any classification under the caption “Stevedoring” with a code number followed by the letter “F”.

b. Hours Worked

Extra pay for overtime is deducted only if the employee works in excess of 8 hours per day or 40 hours per week. Only that portion of the overtime remuneration that is in excess of the wages which would have applied if such overtime were compensated at the regular rate of pay shall be deductible.

Some businesses may have overtime wage agreements with employees under which the employee receives an hourly rate of pay for hours worked in excess of 40 hours per week, which is less than the hourly rate of pay for hours worked up to 40 hours per week. As there is no portion of this overtime rate which exceeds the regular rate of pay, no deduction is permitted for any portion of these overtime wages.

c. Guaranteed Wages

In some industries guaranteed wage contracts or agreements exist under which the employee receives a guaranteed wage for work up to a specified number of hours per week, such as 50. The guaranteed wage, for example, is computed on the basis of 40 hours at straight time and 10 hours at 1½ times the basic hourly wage. Under guaranteed wage plans of this general type, the full guaranteed wage shall be included in the premium computation for any hours that an employee works up to the maximum number of hours covered by the guaranteed wage, regardless of how such wage is computed. The overtime rule is applicable in the case of guaranteed wages only to earnings in excess of the guaranteed wages.

d. Premium Pay

It is also the intent of this rule that the basis of premium shall include all premium pay. Premium pay involves higher rates of pay generally because of night work, weekend work, or work under special conditions or at unusual hours and is the normal basic rate of remuneration for such work. There is no element of deductible overtime remuneration in premium pay since such higher rate of pay is the regular pay rather than overtime pay.

However, in situations of this nature, when the employee has worked in excess of the number of hours required by the normal working period, or in any event in excess of 8 hours per day or 40 hours per week, the overtime rule is applicable.

Exception to 2.d. above:

An exception to the basic principle stated above is that this rule applies with respect to higher rates of pay that are paid at the traditional overtime hourly rate of pay for work on Saturdays, Sundays, or holidays, even though the employee has not worked the normal work week, because work on such days had been regarded traditionally as overtime and not as part of the normal work week.

The following examples have been developed to indicate how the foregoing principles shall be applied in specific circumstances and to illustrate the proper application of this rule in accordance with its basic intent.

Examples of E.2. above:

- 1) The hourly rate of pay for a night shift worker is \$15 while the hourly rate for the day shift is \$10.

The increase over the daytime rate of pay is premium pay. It should not be considered overtime and excluded.

- 2) A “swing shift” worker is paid at a premium rate for hours worked during odd hours although the total hours worked is within normal limits. Is there any deductible overtime?

There is no deductible overtime since premium pay is not overtime pay.

- 3) A night shift worker works longer hours than usual and consequently receives an increase in rate of pay above the regular night shift rate for extra hours.

Provided such increase is paid at the traditional overtime rate of pay, the increased rate of pay over the regular night shift rate for the extra hours is deductible.

- 4) For the first 4 hours of overtime the rate is time-and-a-half; thereafter, it is double time. If an employee continues to work after 12 hours total time, the employee is paid for an extra half hour as “supper money”.

The extra remuneration earned for overtime, including the supper money is deductible.

- 5) Work on Saturdays, Sundays and holidays is paid at increased rates of pay. The total hours worked in the week are (a) more than the normal workweek; b) less than the normal workweek.

In each case, provided the employee was paid at the traditional overtime rate of pay, the increased rate of pay is treated as overtime. If the employee was paid only a “shift differential,” the entire remuneration shall be audited as payroll.

- 6) An employee works during the employee’s paid vacation period or on a paid holiday and received straight time pay in addition to the employee’s regular vacation or holiday pay.

No deduction is permissible because, under the basis of premium rule, unworked vacation pay, or holiday pay must always be included in remuneration. In this case, only the actual pay during the worked vacation period, none of which constitutes overtime, is a factor.

- 7) An employee is normally not required to work on a holiday but is paid for the holiday at the regular rate. If the employee does work on the holiday, the employee receives additional pay at the time-and-a-half, the employee’s total pay then being 2 1/2 times regular pay.

One-fifth of the employee's total remuneration (being the "1/2 of the "2 1/2") is deductible. The basis of premium rule includes, as remuneration, any wages paid for unworked holidays. Also, that portion of the time-and-a-half pay that represents straight time contains no element of deductible overtime. The balance of this pay, however, is deductible because ~~if-it~~ falls within the scope of the exception to the basic principle pertaining to work performed on Saturdays, Sundays and holidays.

- 8) The normal working day is 7 hours. The hourly wage is \$10.00 for the first 6 hours and \$20.00 for the 7th hour. If any employee works more than 7 hours, that employee receives \$20.00 per extra hour.

- a) An employee works 7 hours and receives \$80.00.

There is no deductible overtime.

- b) An employee works 8 hours and receives \$100.00.

The deductible overtime is \$10.00, being the increment over the basic hourly wage of \$10.00 which is included in the wage paid for the 8th hour.

- 9) A guaranteed wage agreement provides for a normal work week of 50 hours, the guaranteed wage for which is \$550.00, computed on the basis of an hourly wage of \$10.00 per hour for the first 40 hours and \$15.00 per hour for the remaining 10 hours.

Any work in excess of 50 hours is compensated at \$15.00 per hour.

- a) An employee works 50 hours and receives a guaranteed wage of \$550.00

There is no deductible overtime.

- b) An employee works only 40 hours but still receives a guaranteed wage of \$550.00

There is no deductible overtime.

- c) An employee works 55 hours and receives a total wage of \$625.00.

The deductible overtime is \$25.00, being the \$5.00 increment over the basic hourly wage of \$10.00, which is included in the wage paid for the hours worked in excess of those covered by the guaranteed wage.

- 10) An electric-meter reader is paid an hourly wage but also receives a bonus for reading a certain number of meters above a standard number. If the employee works overtime, the employee receives 1 1/2 times the employee's hourly rate and 1 1/2 times the regular bonus.

The extra half-time and extra portion of the bonus paid for work during the

overtime hours is deductible.

- 11) In alternate weeks, an employee is available for emergency work, receiving an extra day's pay. If called upon for such work, the employee receives in addition time-and-a-half for the hours worked, with a minimum of 4 hours straight time even though the emergency work should take only 1/2 hour.

- a) During one week, the employee performed no emergency work.

No deduction, because the extra pay for standby is part of the employee's regular remuneration.

- b) During another week, 1/2 hour of emergency work was performed.

No deduction, because the 4 hours straight time received as a guaranteed wage.

- c) During yet another week, 3 hours of emergency work was performed.

The excess over 4 hours at straight time is deductible, that is 1/2 hour straight time.

- 12) An employee is paid on a piecework basis.

If the rate of pay per piece is increased after the employee works the normal number of hours, the excess portion above the regular piece rate, earned during the extra hours worked, should be treated as overtime. An increase in the piece rate for increased production within the normal working hours should not be treated as overtime.

- 13) An employee is paid an hourly wage, which is increased if the employee's production in normal work hours exceeds a specified standard.

The increase is not deductible as overtime.

F. WORK STUDY PROGRAM

An educational institution may elect to have students enrolled in work training, work experience, or work study program deemed to be an employee of the educational institution. The policy may be endorsed to add coverage, provided the student is not on the payroll of the employer providing the training or work experience and the student is not otherwise receiving compensation on which an insurance carrier could assess a worker's compensation premium. If this endorsement is provided for a secondary educational institution, code 9428 – Work Study Coverage – Secondary Schools must be added to the policy. If this endorsement is provided for post-secondary educational institution, code 9447 – Work Study Coverage – Post Secondary Schools must be added to the policy. To provide this coverage, the carrier must attach endorsement Wisconsin Work Study Coverage Endorsement, associated premium and losses must be reported under codes 9428 or 9447.

G. PAYROLL LIMITATION

1. When Payroll Limitation Applies

Payroll limitation applies after any deductions of extra pay for overtime. Minimum and maximum payrolls for executive officers are shown on the Miscellaneous Values Table on the WCRB web site.

2. Partial Week

A part of a week shall be treated as a full week in determining average weekly pay.

3. Executive Officer's Payroll

- a The remuneration of an executive officer shall not be included with the payroll of the risk for premium computation purposes, provided:
 - 1) That such officer is elected for the value of the officer's name or because of stock holdings, has no duties and does not come on the premises, except perhaps to attend a directors' meeting, or
 - 2) That such officer ceases to perform any duties and does not come on the premises, except perhaps to attend a directors' meeting.
- b The remuneration of an executive officer shall be included with the payroll of the risk for premium computation purposes, subject to the minimum and maximum limitations shown in Rule IX A.3., provided:
 - 1) That such executive ceases to perform any duties, but, nevertheless, frequently visits the premises of the risk, or
 - 2) That such officer frequently visits the premises of the risk for business conference, directors' meetings or similar duties, although also an officer or employee of another risk in the operations of which an active interest is taken.
- c Under the following conditions, the amount of remuneration of executive officers that shall be included with the payroll of the risk for premium computation purposes, subject to the minimum and maximum limitations shown in rule IX A. 3., shall be as indicated below:
 - 1) Where the officer draws no salary in fact, but a regular salary is credited to the officer on the books, the amount so credited shall be included in the payroll of the risk as that officer's remuneration.
 - 2) Where the officer draws no salary in fact, but a regular salary is credited to the office on the books and subsequently charged back to such officer, the amount so credited shall be included in the payroll of the risk as that officer's remuneration regardless of such charge-off.
 - 3) Where the officer draws no regular salary but draws such various sums as the officer needs or the conditions of the business dictate, the actual amount drawn shall be included in the payroll of the risk as that officer's remuneration.

- 4) Where the officer receives no salary in fact, either drawn or credited, or where the records presented to the auditor fail to disclose the salary, the amount to be included in the payroll of the risk shall be the applicable manual minimum per week.

4. Bonuses

For the purpose of applying this rule, bonuses paid during the policy term shall be considered as earned during the policy term and prorated for the period of employment during the policy term.

For Example

Policy Period – 9/1/17 - 9/1/18

Period of Employment – 52 weeks

Amount of annual bonus declared in December 2016 = \$1,560

Average weekly bonus to be added to the average weekly wage =\$30

5. Period of Employment

For the purpose of applying this rule, “total time employed during the policy period” of any employee shall be construed as the sum of the portions of all contracts of employment of such employee falling within the policy period.

H. WAGES FOR TIME NOT WORKED

1. Some employers pay employees for extra time not worked. No deduction shall be made for such amounts since no overtime work is involved.

Example of H.1. above:

An insured’s employees regularly work seven hours per day, five days a week. However, they are paid for an extra hour each day at the regular rate of pay.

2. The entire amount of wages paid for idle time shall be included as payroll.
3. Wages paid for idle time due to the following causes shall be assigned in their entirety to the classification that applied 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. Time spent traveling to or from the job
 - h. Other causes of similar nature
4. 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 that each employee actually performs during such period. If such work consists exclusively of drafting or other office work, or if such employee is completely idle, that employee's wages shall be assigned to Code 8810.

Code 8810, however, is not available for office time of an executive supervisor who qualifies for Code 5606, since it is normally expected that such an employee will spend a considerable portion of that employee's time in office work.

5. 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 that normally applied to that employee.
6. Wages paid to employees who are not on strike but who are unable to perform their normal duties because of a strike shall be assigned to the classification applicable to the work usually performed. If any such employees perform absolutely no work for their employer and are not present on their employer's premises during such period, such wages shall be assigned to Code 8810 – Clerical Office Employees NOC, provided the facts are clearly disclosed by the employer's records.
7. Wages paid to employees who have been furloughed during the time period where a state-wide emergency order issued by a public official, whether or not the employer is exempted from the emergency order, shall be reported at audit under stat code 0012- Paid Furloughed Workers During A Governmental Emergency Order Impacting Employment. The payroll during the furloughed period is not assigned to a classification code and no premium is calculated. If an employee is requested to perform any duties for their employer during this time period, they are not deemed furloughed while the task is being completed. If the employee is not deemed furloughed, the payroll will be assigned to the classification applicable to the work usually performed. Payroll records must clearly reflect the division of payroll between pre and post emergency declaration.

RULE VI – RATES & PREMIUM DETERMINATION

Item 4. of the Information Page

A. RATES

1. Definition

The rate is the amount of premium for each \$100 of payroll.

Exception

- Premium for code 0908 – Domestic Workers: Residences – Part Time and code 0913 - Domestic Workers: Residences – Full Time is computed on a per capita basis.
- Premium for code 7709 Fire Department – Volunteer is population based.

2. Manual Rate

The manual rate for each classification is shown after its code number on the WCRB web site under [Class Code Look Up](#).

3. (a) Rates

When the applicable manual classification carries no specific rate, the WCRB shall, after investigation, establish the proper rate identified as an (a) rate. The symbol (a) in the rate column on the rate pages means the rate for that classification shall be obtained from the WCRB.

4. Authorized Rate

Authorized rate means the manual rate or any other rate that has been filed by the WCRB and approved by the OCI for use by all insurers. Loss Reimbursement (Deductible) Plans and Schedule Rating Plans are not available in WI.

5. Disease Loading

Not applicable in WI.

6. Show Rates in Item 4. of the Information Page

For each classification shown in Item 4., the manual rate or other authorized rate shall be stated in the column headed “Rate per \$100 of remuneration.”

7. Non-Ratable Elements

Some classifications require a non-ratable element. A separate statistical code number is assigned for each non-ratable element. This statistical code and corresponding rate are applied to the addition to the basic classification when determining premium.

B. PREMIUM DETERMINATION

Premium for each classification shown in the policy is determined by multiplying the basis of premium by the rate.

Example of B above:

Payroll = \$90,000 Rate = \$1.50

Premium = \$1,350 ($\$90,000/100 \times 1.50 = \$1,350$)

C, WHOLE DOLLARS – PREMIUMS

All premiums shall be shown to the nearest dollar. A remainder of \$0.50 or more shall be rounded to the next higher dollar.

D. LOSS CONSTANT

Not applicable in WI.

E EXPENSE CONSTANT

1. Explanation

The expense constant is a premium charge that applies to every policy. It covers expenses such as those for issuing, recording and auditing, which are common to all worker's compensation policies regardless of premium size.

2. Amount of Expense Constant

The expense constant is shown on the Miscellaneous Values Table on the WCRB web site. When more than one state is insured on the same policy, the highest expense constant must be charged even if that state is on an "if any" basis. The expense constant charged at the inception of the policy will not change when a state is added or deleted during the policy term. In the event of policy cancellation, *refer to Rule X*. For long-term policies *refer to Rule III*.

3. Expense Constant Not Subject

The expense constant is not subject to experience rating, premium discounts, Wisconsin Contractor Premium Adjustment Program, nor to retrospective rating adjustment.

4. Minimum Premium

The expense constant is included in the minimum premium for each classification and shall not be added if the minimum premium becomes the final premium for the policy.

5. Information Page

The expense constant shall be shown on the Information Page.

F. MINIMUM PREMIUM

1. Explanation

The minimum premium is the lowest premium required in order to provide insurance under the Standard Policy. The minimum premium shall be stated on the Information page on an estimated basis. It is the lowest total policy premium for a policy not longer than one year. For policies issued for a period over one year, *refer to Rule III*.

2. Location of Minimum Premium in Manual

The minimum premium for each classification is shown after its code number on the WCRB web site under [Class Code Lookup](#).

3. How Determined

The minimum premium for a policy shall be determined as follows:

- a. For a policy with only one classification, apply the minimum premium for that classification.

- b. For a policy with two or more classifications, apply the highest minimum premium for any classification on the policy.

4. Experience Rating

The minimum premium is not subject to an experience rating modification.

5. Adjustment Upon Audit

The minimum premium is subject to final adjustment at final audit. It is determined on the basis of those classifications developing premium as follows:

- a. If one or more classifications develop premium, the minimum premium charged for the policy shall be the minimum premium of the one such classification with the highest minimum premium.
- b. If the circumstances upon which the minimum premium was originally determined have changed during the policy period, the minimum premium shall be changed in the manner indicated and the audit shall be made accordingly.
- c. In the event that the designated minimum premium is greater than 20 percent of the earned payroll, then the minimum premium shall be 20 percent of the earned payroll, but not less than the applicable expense constant. This amount is not subject to pro rata or short rate cancellation.
- d. When more than one state is insured on the same policy, the highest minimum premium shall be charged even if the state is on an "if any" basis.

In the event of mid-term cancellation, this rule only applies if it produces a lower minimum premium that would be produced under Rule X of this manual.

6. Special Minimum Premium Requirements

- a. For increased limits of employer liability on a Standard Policy, *refer to Rule VII.*
- b. For admiralty or federal employments, *refer to Rule XIII.*
- c. For domestic workers, *refer to Rule XIV.*

G. DEPOSIT PREMIUM

1. Amount Payable

Adjustment of premium may be on an annual basis. If the adjustment is not on an annual basis, the policy shall provide for interim adjustment and payment of the full estimated annual premium during the term of the policy on a monthly, quarterly, or semiannual basis or on a basis concurrent with the insured's periodic payroll schedule. This rule does not apply to policies issued pursuant to the Retrospective Rating Plan Manual for Worker's Compensation and Employers Liability Insurance. The amount of the deposit premium shall be established by the carrier.

2. When Credit Allowed

The deposit premium shall be credited in premium computations to the final earned premium

adjustment or to the renewal policy. The deposit premium shall not be credited to any interim premium adjustment.

3. Installment Fees

Effective December 27, 2000, the OCI approved a rule allowing insurance carriers to charge a reasonable fee for installment plans for premium payment on a worker's compensation insurance policy. The rule also requires that any carrier electing to charge a fee, file a copy of their installment fee plan with the WCRB.

Note: For assigned risk policies, refer to the Wisconsin Worker's Compensation Insurance Pool Handbook for the applicable payment program.

H PREMIUM MODIFICATIONS – EXPERIENCE RATING PLAN

If the risk is subject to experience rating, the experience rating modification shall be shown in Item 4 of the Information Page and applied to the premium in accordance with the WI Experience Rating Plan Manual.

1. Publication

- a. The WCRB calculates and publishes modifications for all intrastate rated risks at least forty-five (45) days in advance of the effective date whenever possible.
- b. NCCI calculates modifications for all interstate rated risks.

2. Rules and Procedures – Carrier of Record

- a. The WCRB sends experience rating modifications and copies of rating data to designated representative of the member carrier of record.
- b. Carrier of record will show current modifications upon all experience rated policies. Failure to do so can result in fines as specified in Rule 1.
- c. No carrier may issue a policy subject to modification unless the risk is eligible for rating under the rules of the Experience Rating Plan.

3. Rules and Procedures – Other Than Carrier of Record

- a. The WCRB sends experience rating modifications and copies of rating data to each employer.
- b. Any carrier or agent will be furnished with an available modification for a service fee.
- c. The WCRB will not furnish a notification unless one has been published that applies to the applicable policy term.
- d. Copies of specific ratings or premium and loss exhibits are available for a fee upon request. The person making such request must submit an Information Release Authorization Form (IRAF). Whenever such data is released, the carrier of record will be given written notification.

4. Test Rating of Self-Insurance Experience

- a. The WCRB will make a test rating of the experience of a self-insured risk upon submission by a member carrier. A service fee is charged, but the WCRB will furnish the insured and the submitting carrier with as many copies of the data as may be required.
- b. The test rating modification and related data must be kept confidential for a period not exceeding ninety (90) days from the date of publication and will not be released to anyone other than the insured or the submitting carrier during this time.
- c. After the ninety (90) day period, experience data, etc., will be available as specified in (3) above.

I PREMIUM DETERINATION FOR FEDERAL AND MARITIME INSURANCE

Additional rating procedures are in Rules XII and XIII for insurance for employers subject to the U.S. Longshore and Harbor Workers' Act, the Federal Employers Liability Act and admiralty law.

J SHORT-TERM POLICIES – PRORATING OF MINIMUM PREMIUMS AND EXPENSE CONSTANTS

The full minimum premiums and full expense constants shall be charged for short-term policies, except that prorating of these items shall be permitted where the following conditions exist:

1. Where the short-term policy is issued to replace a binder.
2. Where the short-term policy is issued solely to establish concurrency with other policies of insurance.
3. Where the short-term policy is issued to re-establish coverage with a lapse.
4. Where the amount changes due to a change in policy effective date.

The pro rata portion of the expense constant shall not be less than \$15.

RULE VII – PREMIUM DISCOUNT

Item 4. of the Information Page

A. EXPLANATION

Premium discount recognizes that the relative expense of issuing and servicing larger premium policies is less than for smaller premium policies. Premium discount is a percentage discount that is based on the size of the total standard premium. A policy qualifies for premium discount when the standard premium exceeds the eligibility amount filed with the OCI by the WCRB. Premium discount is applied in accordance with the policy effective date.

B. ELECTION OF SYSTEM OF EXPENSES

A carrier may elect to use the table of premium discount percentages that is most appropriate for its size of expense distributions, subject to the following:

1. Election by Carrier

A carrier must elect either premium discount Table A or Table B and advise the WCRB in writing, at least ten days in advance of the date that such election is to become effective.

2. Election Revocable

Such election shall be revocable after at least one year has elapsed since it became effective and shall not again be made for a period of at least one year after revocations, advising the WCRB in accordance with B.1. above.

3. Change in Premium Discount Percentages

In the event the premium discount percentages are changed, all elections shall terminate as of the effective date of the change and new elections must be made, advising the WCRB within the time frame set by the WCRB.

4. Retrospective Rating Plan Factors and Values

A carrier electing Type A or Type B table of premium discounts shall use corresponding retrospective rating plan factors and values.

5. Premium Discounts Not Applicable to Assigned Risks

Premium discount is not applicable to policies issued through the Wisconsin Worker's Compensation Insurance Pool.

C. DEFINITIONS

1. Standard Premium

Standard Premium is the premium before the application of the premium discount.

It is the state premium determined on the basis of:

- a. Authorized rates
- b. Disease loadings
- c. Non ratable elements
- d. WI Contractor Premium Adjustment Program
- e. Premium for increase limits of liability

- f. Experience rating modification
- g. Minimum premiums
- h. Waiver of subrogation
- i. Apprenticeship Program credit
- j. Work Study Program

Note: Statistical calls for ratemaking data contain a different definition of “Standard Premium”

2. Total Standard Premium

Total standard premium means the total premium for all states covered by the policy.

3. Insured

Insured means a single entity or two more legal entities eligible for combination under the Experience Rating Plan Manual.

D. RETROSPECTIVE RATING

Any standard premium under a retrospective rating plan, as contained in the Retrospective Rating Plan Manual for Worker’s Compensation and Employers Liability Insurance (Retrospective Rating Plan Manual) issued by the NCCI, Inc is not subject to premium discount.

E. DETERMINATION OF PREMIUM DISCOUNT

If a policy develops total standard premium in excess of \$10,000, the standard premium is subject to premium discounts as follows:

1. Without Retrospective Rating

a. Single State Policy

If a policy provides coverage only in Wisconsin, the premium discount shall be determined by applying the discount percentages found in the table below to the total standard premium in excess of \$10,000.

b. Multiple State Policy

Premium discount applies on an interstate basis. It shall be determined by applying the discount percentages in effect to each state’s portion of the first \$10,000, next \$190,000, next \$1,550,000 and the amount over \$1,750,000 of the total standard premium. Each state’s portion of the foregoing divisions of total standard premium shall be computed by multiplying the total standard premium in each of the above divisions by the ratio of the state standard premium to the total standard premium.

2. With Retrospective Rating

The portion of standard premium subject to a retrospective rating plan is not subject to premium discount.

Total the premium of all entities to determine the amount subject to the Retrospective Rating Plan. The remainder of that standard premium is subject to premium discount, which shall be computed as follows:

- a. Determine the discount as if none of the premium is subject to retrospective rating.

- b. Determine the discount on the basis of only that premium which is subject to retrospective rating.
- c. The difference between a. and b. is the premium discount.

The total premium discount shall be distributed by state in proportion to the standard premium which is subject to premium discount.

3. Other Methods

Any other method of determining premium discount may be used as long as the result does not differ by more than 0.1% of the standard premium from the premium from the premium discount produced by the methods outlined in this rule.

[Click here to view the Discount Tables](#)

F. COMBINATION OF POLICIES

1. Combination Permitted

Two or more policies may not be issued to the same insured in WI unless permission for divided coverage is granted by the Wisconsin Department of Workforce Development pursuant to Section 102.31, Wisconsin Statutes.

For the purpose of calculating premium discount for two or more policies for combinable entities, as defined in the WI Experience Rating Plan Manual, and are issued by one or more carriers under the same management, the total premium for those policies must be combined. This applies unless the insured instructs the carrier otherwise.

2. Combination Procedure

If such separate policies have difference expiration dates, the combination for the purposes of 1. above is subject to the following:

- a. The WCRB or other licensed rating organization shall determine the effective date for the application of premium discount.
- b. All policies in effect before the established effective date must be canceled and rewritten as of the established effective date.
- c. All policies written to be effective after the established effective date of the combination of policies must be written to expire on the same date as the other policies in the combination.

G. WAIVER OF RIGHT TO RECOVER FROM OTHERS

An additional charge for such waiver will be applied. The carrier may elect one of the following options:

- 1. Charge 2% of total premium for a blanket waiver, subject to experience rating; or \$50 per signed contract per policy year for a specific waiver, not subject to experience rating. Premium not to be less than \$50.

OR

2. Charge 2% of total premium for a blanket waiver or 5% of the total premium applicable for each person or organization requesting a specific waiver, subject to experience rating. Premium not to be less than \$50.

The carrier must file the election with the WCRB. The above elections are effective for at least one year and must be applied uniformly to all worker's compensation policies issued by the carrier. Any change to the above election must be filed with the WCRB prior to implementation. If a carrier does not file an election with the WCRB, option 1 must be applied. Premium for option 1 specific waivers will be reported under statistical code 9115; premium for option 1 blanket waivers and for option 2 will be reported under statistical code 0930.

Option 1 blanket waivers are not available in the Wisconsin Worker's Compensation Insurance Pool. **Option 2** is not available in the Wisconsin Worker's Compensation Insurance Pool.

H. WRAP-UP CONSTRUCTION PROJECTS

A wrap-up project is a large construction project wherein the owner selects a carrier, and this carrier issues a separate worker's compensation policy to each contractor and subcontractor scheduled to work in the project for work which will be done on the project, and where the owner pays for each such policy. The policy shall provide coverage for the duration of the entire wrap-up construction project.

Appropriate classifications are assigned to each separate legal entity based on the operations performed.

Separate policies must be issued to each eligible entity involved in the project. Each entity must obtain a Divided Coverage Order from the Department of Workforce Development. The expiration date of the wrap-up policy must coincide with the expiration date of the contractor and subcontractor's standard policy.

For purposes of determining premium discount for wrap-up policies that are issued to two or more legal entities, the following conditions shall be met:

1. All policies shall be issued by one carrier.
2. The policies are limited to providing the insurance on the large construction project. To limit the insurance to a specific project, attach the standard Designated Workplace Exclusion Endorsement
3. Combinable entities are limited to the following:
 - a. General contractor, including any owner or principal acting as a general contractor.
 - b. Subcontractors performing work under contracts let on an ex-insurance basis.

Note: The contract between the owner or principal and the general contractor **must be** written on an ex-insurance basis.

4. With respect to the work to be done by the combined entities, the estimated total standard premium shall be \$250,000 or more, and the estimated total project cost shall be \$25,000,000 or more.

Refer to Rule VII E. for premium discount determination for policies where a portion of the premium is written on a retrospective rating basis. Any discounted premium is allocated to all entities proportionate to their share of the standard premium.

RULE VIII – LIMITS OF LIABILITY

Item 3.B. of the Information Page

A STANDARD LIMITS OF LIABILITY

1. Standard limits of liability apply to Employers Liability Insurance:

- a. With Worker's Compensation Insurance
- b. For employees subject to Voluntary Compensation Insurance
- c. For operations subject to USL&HW Act
- d. For damages under admiralty law or FELA

Note: All references to FELA in this rule or other rules in this manual do not apply to assigned risk policies because FELA is not available coverage in the residual market.

2. Bodily Injury by Accident

Bodily Injury by Accident (each accident limit) applies to all bodily injury resulting from a single accident.

3. Bodily Injury by Disease

Bodily Injury by Disease is represented by two limits:

- a. Each Employee Limit
Each Employee Limit is the maximum amount of damages that an insurer will pay for a single employee during the policy year. It applies as a separate limit to bodily injury by disease to any one employee.
- b. Policy Limit
Policy Limit is an aggregate limit that applies to all bodily injury occurring from disease during the term of the policy, regardless of the number of employees who are injured by disease. An aggregate limit is the maximum amount of damages that an insurer will pay during the policy year.

| Table for Standard Limits | | |
|---------------------------|--|------------------------|
| | Employers Liability, Voluntary Compensation, USL&HW and Extensions | Admiralty Law and FELA |
| Bodily Injury by Accident | \$100,000 – each accident | \$100,000 |
| Bodily Injury by Disease | \$100,000 – each employee | Not applicable |
| Bodily Injury by Disease | \$500,000 – policy limit | \$100,000 |

B INCREASED LIMITS OF LIABILITY

1. Increased Limits of Liability are available under Part Two – Employers Liability. Accordingly,
44
the standard limits may be increased.
2. Any additional premium for increased limits must be calculated before the application of:
 - a. Expense constants
 - b. Experience rating modification
 - c. Premium discount
 - d. Retrospective rating adjustment
3. Employers Liability (E/L) Increased Limits Factor is a factor that is applied to the manual premium if the employer chooses to increase its standard limits under Part Two –Employers Liability.

If the limits of liability under Part Two are increased:

- a. The limits of liability shall be the same for all states specified in Item 3A of the Information Page of the policy.
- b. The additional premium for increased limits shall be determined by multiplying the total premium by the percentage in the Table for Increased Limits.
- c. The additional premium shall not be less than the minimum premium shown in the Table for Increase Limits.

| TABLE FOR INCREASED LIMITS | | |
|-----------------------------------|------------|--------------------------------------|
| Limits of Liability (000 Omitted) | Percentage | Minimum Premium for Increased Limits |
| \$500/500/500 | 0.8% | \$ 75.00 |
| 1,000/1,000/1,000 | 1.1% | 120.00 |
| 2,000/2,000/2,000 | 1.4% | 140.00 |
| 3,000/3,000/3,000 | 1.6% | 160.00 |
| 4,000/4,000/4,000 | 1.8% | 180.00 |
| 5,000/5,000/5,000 | 2.0% | 200.00 |
| 6,000/6,000/6,000 | 2.2% | 210.00 |
| 7,000/7,000/7,000 | 2.4% | 220.00 |
| 8,000/8,000/8,000 | 2.6% | 230.00 |
| 9,000/9,000/9,000 | 2.8% | 240.00 |
| 10,000/10,000/10,000 | 3.0 | 250.00 |

4. The minimum premium applicable to increased limits is in addition to the regular policy minimum premium and subject to the premium developed under this policy. The full annual minimum premium applies even though coverage for increased limits may have been added during the policy term. If no classification develops premium, or the final premium is below the minimum policy premium the charge for increased limits still applies.

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A EXECUTIVE OFFICER

1. Definition

Executive officers of a corporation or association are the president, vice president, secretary, treasurer, clerk or any other officer appointed in accordance with the charter or bylaws of such entity.

2. Law and Status

Executive officers of a corporation or an association are covered under ch. 102.076, Wis. Stats., and have the same status as employees under the policy. Not more than two officers of a corporation having not more than ten stockholders may elect not to be subject to this chapter. Once this election is made, it may not be reversed during the period of the policy Use the Partners, Officer and Others Exclusion Endorsement

3. Premium Determination

Premium for executive officers shall be based on their total payroll, subject to the following limitations and the requirements of Rule V F.

- a. The minimum individual payroll for an executive officer is shown on the Miscellaneous Values Table on the WCRB website.
- b. The maximum individual payroll for an executive officer is shown on the Miscellaneous Values Table on the WCRB website.
- c. The payroll limitations in a. and b. apply to the average weekly payroll of each executive officer for the number of weeks the officer was employed during the policy period. Bonuses paid during the policy term shall be earned during the policy term and prorated for the period of employment during the policy term.
- d. Payroll is subject to minimum and maximum limitations and *included* when:
 - 1) The executive officer does not perform any duties but frequently visits the premises.
 - 2) The executive officer frequently visits the premises of the risk for business conferences, directors' meetings or similar duties, even if the officer is an employee or officer of another risk in the operations of which he/she take an active interest.
 - 3) The officer receives no salary; however, a regular salary is credited to him or her on the books. In this instance, the amount credited must be included in payroll.
 - 4) The officer receives no salary, either drawn or credited, or the audit records fail to disclose the salary. In this instance, the amount to be included in the payroll is the applicable minimum shown on the Miscellaneous Values Table on the WCRB web site.

e. Payroll is *excluded* when:

- 1) The executive officer is elected for the value of his/her name or because of stock holdings, has no duties and does not visit the premises, except perhaps to attend directors' meetings.
- 2) The executive officer ceases to perform any duties and does not visit the premises, except perhaps to attend directors' meetings.

4. Executive Officers Performing Flight Duties

Payroll of an executive officer who is a pilot or member of the flying crew of an aircraft used in the insured's business shall be assigned as follows:

- a. For each week during which the executive officer did not perform flight duties, assign the executive officer's payroll to the classification that applies to the principal operations in which the executive officer is engaged.
- b. For each week during which the executive officer performed flight duties, assign the officer's payroll for that week to Code 7421 – Aircraft Operation – Flying Crew. If an executive officer's non-flying duties in such a week are subject to a higher rated classification, that higher rate classification shall be assigned in that week.

Note: The above rules apply on the basis of the pilot's logbook, which is required under federal regulations, or on the basis of verifiable records.

- c. If Code 7421 – Aircraft Operation – Flying Crew applies and verifiable records are not maintained to indicate those weeks during which flying is performed by executive officers, their payroll shall be assigned to the highest rated classification which applies to any of their operations

5. Spouses of Individuals, Co-Partners or Corporate Officers

If a spouse or child(ren) of an individual proprietor, or a member of a co-partnership, or of an officer of a corporation is employed by such entity to perform work in connection with the operations of the employer covered by the policy, the actual payroll of such person(s), as indicated by the insured's records, shall be included in the basis of premium.

6. Elected or Appointed Officers of a City or Town

In the case of elected or appointed officials in the service of the State or of any Municipality, as defined in Ch 102.01(2)(D), Wis. Stats., a minimum payroll of \$1,560 per year will apply.

B. SOLE PROPRIETORS OR PARTNERS

1. Law and Status

Sole proprietors and partners are generally considered to be employers and therefore not covered under the Worker's Compensation Act. However, any sole proprietor, or partner engaged in a vocation, profession or business on a substantially full-time basis may elect to be covered under the Act. This election may be withdrawn upon 30 days' prior written notice to the insurance carrier and the WCRB. Attach the Sole Proprietors, Partners, Officers and Others Coverage Endorsement.

2. Premium Determination

Premium for each partner or sole proprietor treated as an employee is based on the payroll amount shown on the WI rate pages. Payroll of partners or sole proprietors must be assigned to the classifications and rates under the rules that apply to employees.

The payroll for sole proprietors or partners is shown on the Miscellaneous Values Table on the WCRB web site.

C. MEMBERS OF LIMITED LIABILITY COMPANIES

Members of limited liability companies are subject to the same rules as partners.

D. UNINSURED SUBCONTRACTORS

1. Uninsured Subcontractors

For subcontractors not providing satisfactory evidence of worker's compensation coverage or not meeting the independent contractor conditions found in Ch 102.07(8), Wis. Stats., additional premium may be charged on the contractor's policy for the uninsured subcontractor. The following documents may be used to provide satisfactory evidence:

- a. Certificate of insurance for the subcontractor's worker's compensation policy.
- b. Copy of the subcontractor's worker's compensation policy.

2. Premium for Uninsured Subcontractors

The contractor shall furnish satisfactory evidence that the subcontractor had worker's compensation insurance in force covering the work performed for the contractor. For each such subcontractor for which such evidence is not furnished, additional premium shall be charged on the policy which insured the contractor as follows:

- a. The contractor shall provide a complete payroll record of each uninsured subcontractor. Premium on such payroll no matter the method of payment, whether by cash, check, electronic transfer, etc., shall be based on the classification which would have applied if the subcontractor had been the employee of the contractor.
- b. If the contractor does not supply the payroll records of its subcontractors, the full contract price of the work performed during the policy period shall be established as the payroll of the subcontractor's. The additional premium shall be charged on that amount as payroll.

Exception to 2.b. above:

If investigation on a specific job discloses that a definite amount of the contract price represents payroll, such amount shall be the payroll for the additional premium computation. In contracts for:

- 1) mobile equipment with operators (such as but not limited to earth movers, graders, bulldozers, or log skidders), the payroll shall not be less than 33 1/3% of the contract price
- 2) labor and material, the payroll shall not be less than 50% of the contract price

- 3) labor only, the payroll shall be established as not less than 90% of the price
- c. If vehicles with drivers, chauffeurs or helpers are engaged under contract and the owner of such vehicles has not furnished evidence that the worker's compensation obligation has been insured, the total payroll of such drivers, chauffeurs or helpers shall be included as payroll and shall be assigned to the classification applicable in that risk to drivers. If that payroll cannot be obtained, 33 1/3% of the total contract price for the vehicles shall be considered as payroll of the drivers, chauffeurs or helpers. If the owner of a vehicle under contract also is a driver and is entitled to worker's compensation benefits and has not furnished that such worker's compensation obligation has been insured, 33 1/3% of the contract price for that vehicle shall be included as payroll of the insured employer that contracted for the vehicle.

When the contract price does not include the cost of fuel, maintenance, or other services provided to the owner or owner-operator of a vehicle under contract, the value of such goods and services shall be added to the contract price before determining the 33 1/3 amount.

- d. If an experience modification has been established for the contractor, such experience modification shall be applied to the premium developed for the independent contractor.

E EMPLOYEE LEASING COMPANIES (ELC) AND EMPLOYEE LEASING ARRANGEMENTS

1. Definitions

- a. "Employee Leasing Company" (ELC), for the purpose of this Manual, means an entity who contracts to provide the non-temporary, ongoing employee workforce of a client under a written contract, regardless of whether the entity uses the term professional employee organization, PEO, staff leasing company, registered staff leasing company, employee leasing company or any other similar name.
- b. "Client" means an entity that obtains all or part of its non-temporary, ongoing employee workforce through a contract with an ELC.
- c. "Small client" means a client that has an unmodified annual premium assignable to its business, including the business of all entities or organizations that are under common ownership with the client, that is equal to or less than the threshold below which employers are not experience rated under the standards and criteria under ss 626.11 and 626.12, without regard to whether the client has a divided workforce.
- d. "Master policy" means a single worker's compensation policy issued to an ELC in the name of the ELC and which covers the non-experience rated clients of the ELC. A master policy does not cover the direct hired employees of an ELC. A separate worker's compensation policy shall be issued to cover the non-leased (direct hired employees) of the ELC.
- e. "Multiple Coordinated Policy" (MCP), for the purposes of this Manual, means separate policies issued to the ELC and each client by an insurer or insurers. A separate policy

filing and a separate unit statistical filing must be provided for each policy. The policy will name both the ELC and the client under Item 1 of the policy. If the ELC is named first, Item 1 must be issued as “ABC Leasing Company L/C/F XYZ Machine Shop”. (LCF means Labor Contractor For). If the client is named first, Item 1 number must be issued as “XYZ Machine Shop client of ABC Leasing Company”.

- f. “Divided-workforce” means consent to the issuance of two (2) policies, as provided under Wisconsin Law, to an entity that obtains part of its workforce through a contract with an ELC, one (1) policy covers the client’s leased workforce, and one (1) policy covers the client’s non-leased workforce. An insurer may issue a policy for a divided workforce only when a portion of the client’s workforce is leased, and the client notified the Department of Workforce Development (DWD).

“Divided workforce” does not include a workforce with respect to a client that has elected to provide insurance coverage for leased employees under Ch 102.315(2m), Wis Stats. Pursuant to this statute, a client may elect to provide workers compensation insurance coverage for the leased employees. The election must be provided in an employee leasing agreement, and the leased employees must be insured in the voluntary market and not under a policy obtained through the Wisconsin Worker’s Compensation Insurance Pool. The proper endorsement(s) must be attached to the policy. If a client that makes an election under this statute fails to provide the required coverage, or allows the coverage to lapse, the employee leasing company is liable under section 102.03 as set forth in section 102.315(2), stats.

2. Coverage

- a. Coverage must be provided by a worker’s compensation insurance policy form approved for use in Wisconsin.
- b. The experience reported in conjunction with the MCP must be used to calculate the experience modification of each client. The loss experience developed by the client remains with the client in the event the relationship with the ELC is terminated.
- c. An ELC may not seek or receive reimbursement from a client for any payments made as a result of a claim.
- d. A separate worker’s compensation insurance policy as described in s. 102.28(2) shall be obtained for each client of an ELC as defined in paragraph 1.a. under an MCP. The policy shall name both parties; the client as a named insured and the ELC as a named insured. The policy shall indicate which named insured is the ELC and which named insured is the client and shall provide the address of each. The insurer shall determine and list either the client or the ELC, but not both as the first named insured on the policy. The policy shall cover all employees and leased employees of the client except as permitted in paragraph 1.f.
- e. An insurer may issue a master policy to an ELC covering all non-experience rated clients. A master policy shall comply with Basic Manual rules covering divided- workforce, cancellation, non-renewal that are consistent with the MCP provisions in this Manual and under Wisconsin Law.

f. *The notification requirements of a client that employs a divided-workforce are:*

- 1) Submission of a notification to DWD of a divided-workforce by the client on a form available from DWD. A copy of the notification form shall be provided to the Wisconsin Compensation Rating Bureau.
 - 2) The notification shall describe the ELC, the effective date of the leasing agreement, the non-leased employees, and such other information as DWD prescribes.
 - 3) The notification shall include a copy of the information page or declaration page of the worker's compensation insurance policy or a binder evidencing placement of coverage in the voluntary market that covers the client's non-leased employees.
 - 4) In the notification, the client shall agree to assume full responsibility to immediately make all payments required under Wisconsin Law and as DWD may require, pending a final determination as to liability between the insurers under a divided- workforce plan, if a dispute should arise as to which insurance company is responsible for a particular injury or illness sustained during the time a divided- workforce plan is in effect. Nothing in this paragraph shall preclude a client from insuring its responsibility under this section with an insurance carrier.
 - 5) A divided-workforce plan may be terminated by the client by notice to DWD on a form available from DWD. Termination is not effective until 10 days after the client's request for termination is received by DWD.
 - 6) Termination of a divided-workforce plan is effective on the cancellation effective date of the voluntary market worker's compensation insurance policy that covers the client's non-leased employees.
 - 7) A client may submit a copy of the information page or declaration page or a binder evidencing placement of coverage of a Wisconsin Worker's Compensation Insurance Pool (WWCIP) policy that covers the client's non-leased employees but only if the client also submits a copy of the information page or declaration page of a WWCIP policy that covers the client's leased employees. Regardless of whether a termination notice under this paragraph has been given to DWD, termination of a divided-workforce plan is effective on the cancellation effective date of the WWCIP policy that covered the client's leased employees.
 - 8) A separate worker's compensation policy shall be issued to cover the non- leased employees (direct hired employees) of the ELC.
 - 9) An insurer is not prohibited from limiting policy coverage solely to the client's leased employees.
- g. A client that has both leased employees and non-leased employees is not eligible to insure its non-leased employees through the WWCIP unless the leased employees are also insured through the WWCIP.

- h. An insurer who provides a worker's compensation insurance policy shall file the policy with the WCRB. Notice of cancellation, termination, or non-renewal of a worker's compensation insurance policy issued pursuant to this rule shall be given to both the insured client and the insured ELC.
- i. A sole proprietor, a partner or a member of a limited liability company is not eligible for worker's compensation benefits unless the policy is endorsed naming the sole proprietor, partner or member that has elected coverage under s. 102.075, Wis. Stats. A separate inclusion endorsement, WC 00 03 10, must be submitted for each client.
- j. A corporate officer is a covered employee for worker's compensation benefits unless an officer of a qualified corporation elects by an endorsement on the policy not to be covered under the policy at any time during the period of the policy described in s. 102.076, Wis. Stats. A separate exclusion endorsement, WC 00 03 08, must be submitted for each client.
- k. An insurer is not prohibited from:
 - 1) Collecting premium or other charges due from clients by means of list billing through an ELC.
 - 2) Requiring an ELC to maintain a letter of credit or other form of security to ensure payment of a premium.
 - 3) Issuing policies with a common renewal date to all, or a class of all, clients of an ELC.
 - 4) Grouping together the clients of an ELC for the purpose of offering dividend eligibility to that group and paying dividends in compliance with s. 631.51. Wis. Stats.
 - 5) Applying a discount to the premium charged clients of an ELC as permitted by the WCRB.
 - 6) Applying a retrospective rating option premium to a client through an ELC. No insurer or ELC may impose on, allocate to, or collect from, a client a penalty under a retrospective rating option premium arrangement. The insurer is not prohibited from requiring an ELC to pay a penalty under a retrospective rating option with respect to its clients.¹
- l. **Issuance of master policy to an ELC with small clients.** An insurer is authorized to issue a master policy in the voluntary market to an ELC covering small clients upon the following conditions:
 - 1) Each client of the ELC covered under the master policy has an unmodified annual premium assignable to its business equal to or less than the current threshold below which employers are not experienced rated for worker's compensation insurance, including all commonly owned or controlled entities or organizations, without regard to divided-workforce. When the unmodified annual premium assignable to the business of the client, including both leased and non-leased employees, exceeds the current

¹Policies issued to the ELC as the first named insured for the ELC's Wisconsin clients, or policies issued with the client at the first named insured, are not restricted from being combinable and subject to application of a retrospective rating option premium.

threshold below which employers are not experience rated for worker's compensation insurance, the ELC shall notify the insurer and obtain coverage through the MCP. The rules found in the Wisconsin Experience Rating Plan Manual are applicable under such circumstances.

- 2) Each covered client shall include all entities or organizations under common control or ownership of the client.
- 3) A master policy under this paragraph may be issued to an ELC regardless of whether the ELC provides all or only part of a client's workforce.
- 4) Within 30 days of the effective date of the contract between the ELC and the client, the ELC shall report the following to DWD:
 - the identity of each covered client, including all commonly owned or controlled entities of the client.
 - the number of employees initially covered by the master policy issued under this paragraph.
 - the estimated annual unmodified premium assignable to the client's business without regard to divided workforce.
 - the effective date of the contract between the client and the ELC.

The client shall provide the amount of its estimated annual unmodified premium assignable to its business without regard to divided workforce to the ELC.

- 5) An insurer, or if authorized by the insurer, the ELC, shall file proof of coverage of a client covered under the master policy issued under this paragraph with DWD within 30 days of the inception of such coverage. Filing of the proof of coverage by the insurer, or if authorized by the insurer, the ELC, binds coverage. Notice of coverage to the client by the insurer, or if authorized by the insurer, the ELC, binds coverage. Nothing in this section requires an ELC or its employees to obtain a license or approval as an appointed agent or otherwise from the Office of the Commissioner of Insurance.
- 6) An insurer is authorized to issue a master policy to an ELC, notwithstanding the fact that the ELC has a client or clients covered by the WWCIP provided the client or clients covered by the WWCIP are not covered by the master policy issued to the ELC.

3. Cancellation and Non-Renewal when the Employee Leasing Company is the First Named Insured on the MCP or a Master Policy

- a. Voluntary Cancellation or Termination. Voluntary mid-term cancellation of the policy shall be agreed upon by both the client and the ELC, and shall be confirmed either by the ELC promptly giving written confirmation to the client or by written agreement by the client. An insurer may require any appropriate proof of voluntary cancellation.
- b. Cancellation, Termination, or Non-Renewal. An insurer may cancel, terminate or non-renew a worker's compensation insurance policy only as follows:

- 1) Involuntary cancellation, termination, or non-renewal by an insurer shall be executed only as described in s. 102.31(2)(a), Wis.Stats.
 - 2) The insurer shall give the notice required under s. 102.31(2)(a), Wis. Stats., to the insured ELC.
 - 3) The insurer shall give a 30 day notice of the termination or a 60 day notice of non-renewal to the insured client. The insurer is not required to state in this notice the facts on which the insurer's decision is based, unless the reason is due to termination of the employee leasing agreement as described in section 3.c.3.below.
 - 4) A cancellation, termination, or non-renewal is not effective unless the notice is given to the client as required by this paragraph.
- c. Termination of the employee leasing contract. The insurer may terminate the client's worker's compensation policy under a MCP or terminate the client's coverage by endorsement under a Master Policy, mid-term, if all of the following apply:
- 1) The ELC terminates its employee leasing contract with the client in its entirety.
 - 2) Notice of the policy/coverage termination is given to DWD and the WCRB. The notice can be provided by:
 - The Wisconsin Notice of Termination – to be used with the MCP.
 - The Wisconsin Employee Leasing Company Client Termination Endorsement – Master Policy – Form WC 48 03 16.
 - 3) 30 day notice of the policy/coverage termination is given to the insured client identifying that the basis for the termination is that the contract with the ELC has been terminated in its entirety.
 - 4) Policy/coverage termination is not effective until the later of 30 days after notice has been given of the termination to DWD and the WCRB, or 30 day notice has been given to the insured client.
- d. An insurer shall obligate only the ELC to pay premium due for a client's workers compensation policy during the period that the ELC is the first named insured or covered under a master policy. An insurer may not recover unpaid premium due during such policy period for a client's workers compensation coverage from the client.

4. Cancellation and Non-Renewal if the client is the First Named Insured on the MCP.

- a. Voluntary termination. Voluntary mid-term cancellation of the policy shall be agreed upon by both the client and the ELC and shall be confirmed either by the ELC promptly giving written confirmation to the client or by written agreement with the client. An insurer may require any appropriate proof of voluntary cancellation.
- b. Cancellation, Termination, or Non-Renewal. An insurer may cancel, terminate or non-renew a worker's compensation insurance policy only as follows:
 - 1) Involuntary cancellation, termination, or non-renewal of a worker's compensation insurance policy by an insurer shall be executed only as described in s. 102.31(2)(a), Wis. Stats.

- 2) The insurer shall give a 30 day notice of the termination or a 60 day notice of non-renewal as required under s. 102.31(2)(a), Wis. Stats. to both the insured client and the insured ELC.
 - 3) The insurer may terminate client coverage mid-term, including continued client coverage on any grounds permitted under s. 102.31(2)(a), Wis, Stats. and Ins 21.01, Wis. Adm. Code
- c. Termination of the employee leasing contract. If the employee leasing relationship is terminated mid-term, the ELC shall be deleted from the policy by endorsement to the policy. Client coverage shall continue as to all employees unless the client's coverage is terminated mid-term as permitted under s. 102.31(2)(a), Wis. Stats.

F. TEMPORARY HELPAGEAGENCY

“Temporary help agency” means an employer who places its employee with another employer who controls the employee’s work activities and compensates the first employer for the employee’s services, regardless of the duration of the services. Temporary help agencies are not subject to Rule IX.E.

RULE X – CANCELLATION

A WHO MAY CANCEL

The Cancellation Condition of the State Policy permits cancellation by the insured or by the insurance carrier. WI regulates such cancellations. Cancellations are not effective until 30 days after receipt by the WCRB. Cancellation notice must be given to the WCRB in a medium approved by the State of Wisconsin, Department of Workforce Development.

Insureds may cancel for any reason, however, may be subject to a short-rate penalty outlined below. An insurance carrier may cancel the policy mid-term for the following reasons:

1. Non-Payment of Premium
2. Out of Business/Sold
3. Corporate Officer's Non-Election
4. Coverage Placed Elsewhere
5. Policy Rewritten
6. Insured's Request
7. No WI Employees/Operations
8. Misrepresentation/Fraud
9. Substantial Change in Risk
10. Failure to Comply with Terms and Conditions of the Policy
11. Participation in Wrap-up Complete
12. Underwriting Reasons (May only be used for new business to the carrier and not in effect for more than 60days)
13. Non-Renewal (Requires a 60 day notice to both the WCRB and the insured)

B PREMIUM DETERMINATION – CANCELLATION BY THE INSURANCE CARRIER

Premium for the canceled policy shall be computed as follows:

1. **Rates and Payroll**
Apply authorized rates to the payroll developed during the period the policy was in effect.
2. **Experience Rating**
Apply any experience rating modification in accordance with the rules of the Experience Rating Plan Manual.
3. **Expense Constant**
Add the pro rata portion of the expense constant but not less than \$15.
4. **Minimum Premium**
The total premium for the canceled policy shall not be less than the pro rata portion of the minimum premium.

C PREMIUM DETERMINATION – CANCELLATION BY THE INSURED WHEN RETIRING FROM BUSINESS

Compute the premium as provided in B. above if a policy is canceled by the insured when:

1. All the work covered by the policy has been completed, or

2. All interest in any business covered by the policy has been sold, or
3. The insured has retired from all business covered by the policy.

Note: For the purpose of this rule, a material change in the ownership of a corporation which results in the elimination of experience under the rules of the Experience Rating Plan Manual does not constitute retiring from the business insured by the policy.

D. PREMIUM DETERMINATION –OTHER

Compute the premium as provided in B. above if a policy is canceled by the insured when:

1. An insurance carrier ceases writing worker's compensation insurance in WI, or
2. An insurance carrier has been placed into liquidation, rehabilitation, or under a cease and desist order issued by the WI OCI or any other insurance regulatory authority, or
3. The insured has been removed from the Wisconsin Worker's Compensation Insurance Pool.
4. A carrier may elect to use the pro-rata premium calculation method for all cancellations by advising the WCRB in writing, at least ten days in advance of the date that such election is to become effective. Such election shall be revocable after at least one year has elapsed since it became effective and shall not again be made for a period of at least one year after revocation.

[Click here to view the Pro Rata Cancellation Table](#)

E. PREMIUM DETERMINATION - CANCELLATION BY THE INSURED, EXCEPT WHEN RETIRING FROM BUSINESS

The premium for the canceled policy shall be based on the Short Rate Cancellation Table in this rule and computed as follows:

1. **Actual Payroll**
Determine the payroll developed during the period the policy was in effect.
2. **Extended Payroll and Number of Days**
 - a. **Extended Payroll**
Extend such payroll pro rata based on the number of days for which the policy was written divided by the number of days the policy remained in force to produce the full policy payroll.

Example

A policy written for 365 days that remained in effect for 185 produced a payroll of

\$55,500. Payroll extended for the original policy term- $\$55,500 \times 365 / 185 = \$109,500$.

b. Extended Number of Days

The extended number of days shall be determined by dividing the number of days the policy was in force by the number of days for which the policy was written and multiplying the quotient by 365 days. (When the policy was written for a one-year period, the extended number of days will equal the number of days the policy remained in force.)

3. Rates

Apply authorized rates to the payroll in 2.a. above.

4. Short Rate Percentage

Based on the extended number of days calculated in 2.b., apply the short rate percentage shown in the Short Rate Cancellation Table in this rule to the premium computed on the basis of the extended payroll in order to determine the short rate portion of the premium.

5. Experience Rating

Apply any experience rating modification in accordance with the rules of the WI [Experience Rating Plan Manual](#).

6. Premium Discount

Apply any premium discount based on the final earned total standard premium.

7. Expense Constant

Add the short rate portion of the expense constant but not less than \$15.

8. Minimum Premium

The total earned premium for the canceled policy shall not be less than the annual minimum premium applicable to the policy.

9. Example of a Short Rate Cancellation

a. Policy originally written for less than a one-year period

A policy originally written for 250 days and in effect for 185 days develops actual payroll of \$300,000, with a manual rate of \$5.00, an experience modification of .90, and an expense constant of \$220.

1) Payroll extended to full policy term = $\$300,000 \times 250/185 = \$405,405$ 2)

2) Full policy term premium $(\$405,405/100) \times \$5.00 = \$20,270$

3) Extended number of days = $185/250 \times 365 = 270$

4) Short rate percentage for 270 days = 80% (Refer to short rate cancellation table.)

5) Short rate premium - $\$20,270 \times 80\% = \$16,216$

6) Short rate modified premium = $\$16,216 \times .90 = \$14,594$

- 7) Less premium discount (first \$10,000 @ 0%, next \$190,000@ 9.1%) = \$13,268
- 8) Short rate portion of expense constant = $\$220 \times 80\% = \176
- 9) Total premium for canceled policy = \$13,444
- 10) Minimum premium = \$900. Not applicable to this policy.

b. Policy originally written for a one-year period

A policy originally written for 365 days and in effect for 185 days develops actual payroll of \$55,500, with a manual rate of \$8.00, a minimum premium of \$900, an experience modification of .95, and an expense constant of 220.

- 1) Payroll extended to full policy term = $\$55,500 \times 365/185 = \$109,500$
- 2) Full policy term premium before experience modification = $\$109,500/100 \times \$8.00 = \$8,760$
- 3) for a 365 day policy, extended# of days = # Number of days policy in effect = 185
- 4) Short rate percentage for 185 days = 61%
- 5) Short rate premium = $\$8,760 \times 61\% = \$5,344$
- 6) Short rate modified premium - $\$5,344 \times .95 = \$5,077$
- 7) Short rate portion of expense constant = $\$220 \times 61\% = \134
- 8) Total premium for canceled policy = $\$5,077 + 134 = \$5,211$
- 9) Minimum premium = \$900. Not applicable to this policy.

c. Policy originally written for a one year policy using a short rate factor

A policy originally written for 365 days and in effect for 185 days develops actual payroll of \$55,500, with a manual rate of \$8.00, a minimum premium of \$900, an experience modification of .95, and an expense constant of \$220.

- 1) Actual premium = $\$55,500/100 \times \$8 = \$4,440$
- 2) Short rate factor for 185 = $1.2035 - 1.00 = .2035$
- 3) Short rate charge = (1) x (2) = $\$4,440 \times .2035 = 904$
- 4) Short rate manual premium – (1) + (3) = $\$4,440 + 904 = \$5,344$
- 5) Short rate modified premium = $\$5,344 \times .95 = \$5,077$
- 6) Short rate portion of expense constant – pro rata portion of expense constant + short rate factor applied to pro rata portion of expense constant– $(\$220/365 \times 185)$
 $+ [(\$220/365 \times 185) \times .2035] = \$134.$

7) Total premium for canceled policy = $\$5,077 + \$134 = \$5,211$

8) Minimum premium = \$900. Not applicable to this policy.

ASSIGNED RISK EXCEPTION: Compute the premium as provided in B. above when an assigned risk policy is being canceled because the insured has replaced coverage through the voluntary market.

F. SHORT RATE CANCELLATION TABLE FOR TERM OF ONE YEAR

[Click here to view the Short Rate Cancellation Table](#)

RULE XI – THREE YEAR FIXED RATE POLICY OPTION

A. ELIGIBILITY

If the estimated premium is not over \$900 per year, a policy may be issued for a period of three years at a fixed rate, provided the risk is not eligible for the Experience Rating Plan on the effective date of the policy.

If a policy is issued for a period of three years but is not a Three Year Fixed-Rate Policy, *refer to Rule III-C-3.*

B. DESIGNATION ON THE INFORMATION PAGE

A policy issued under this rule shall be known as a Three Year Fixed-Rate Policy and shall be so designated on the Information Page.

C. RATES

The rates in force on the effective date of a Three Year Fixed-Rate Policy apply to such policy without change until its termination.

Exception

A single rate revision which requires an increase of 10% or more on outstanding policies shall apply to Three Year Fixed-Rate Policies.

D. MINIMUM PREMIUM

The minimum premium shall be the minimum premium for a one year policy, as determined by Rule VI-F., multiplied by 3, less

1. Two expense constants if the deposit premium is paid in advance, or
2. One expense constant if the deposit premium is paid in installments.

E. DEPOSIT PREMIUM

1. How Payable

The deposit premium may be paid in advance or in three equal annual installments.

2. Advance Payment

If paid in advance, the deposit premium shall be determined by applying the rates to the three-year estimated payroll or other premium basis plus one expense constant.

3. Installment Payments

If paid in three equal annual installments, the deposit premium shall be determined by applying the rates to the three-year estimated payroll or other premium basis plus two expense constants.

4. Minimum Premium

The deposit premium shall not be less than the minimum premium.

F. EARNED PREMIUM

1. Determination

The determination of the final earned premium may be deferred until termination of the policy.

2. Expense Constants

Expense constants shall be charged in accordance with Rule VI-D and VI-E, regardless of the amount of earned premium.

G. EXPERIENCE RATING PLAN

1. Operations Not Eligible

None of the operations insurance by a Three Year Fixed-Rate Policy shall be eligible for experience rating during the period such a policy is in force.

2. Policies Not Subject

A Three Year Fixed-Rated Policy shall not be subject to any experience rating modification nor combined with other policies under the Experience Rating Plan.

3. Experience Not Used

None of the experience under a Three Year Fixed-Rate Policy shall be used in experience rating.

H. CANCELLATION – PREMIUM DETERMINATION

1. By Carrier or Insured When Retiring From Business

If a Three Year Fixed-Rate Policy is canceled by the insurance carrier or by the insured when retiring from business insured by the policy:

- a. Apply the rates to the payroll or other premium basis developed during the period the policy was in effect,
- b. Add the pro rate portion of the expense constants required by Rule XI-E.
- c. The earned premium shall not be less than the pro rata portion of the minimum premium required by Rule XI-D.

2. By Insured When Not Retiring From Business

Unless the carrier has elected the pro-rata cancellation method in accordance with Rule X.D., add \$15 to the premium determined in 1. above if such a policy is canceled by the insured, except when retiring from business insured by the policy.

RULE XII – U.S. LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT

A GENERAL EXPLANATION

The U.S. Longshore and Harbor Workers’ Compensation Act (USL&HW Act) is a federal law which provides for payment of compensation and other benefits to employees such as longshoremen, harbor workers, ship repairmen, shipbuilders, shipbreakers and other employees engaged in loading, unloading, repairing or building a vessel. It applies to such employees while working on navigable waters of the United States and also while working on any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other area adjoining such navigable waters customarily used for loading, unloading, repairing or building a vessel. It does not cover masters or members of the crew of a vessel. For complete details see U.S. Code (1946), Title 33, Sections 901-49, amended by Public Law 92-576.

B WORKER’S COMPENSATION INSURANCE – PARTONE

The standard policy is used to insure the statutory obligation of an employer to furnish benefits required by the USL&HW Act. Attach the Standard Longshore and Harbor Workers’ Compensation Act Coverage endorsement to provide such insurance. Do not designate the USL&HW Act in Item 3. A. of the Information Page.

C EMPLOYERS LIABILITY INSURANCE – PART TWO

For operations subject to the USL&HW Act, the standard limits of liability under Part Two are:

| | |
|---------------------------|---------------------------|
| Bodily Injury by Accident | \$100,000 – each accident |
| Bodily Injury by Disease | \$100,000 – each employee |
| Bodily Injury by Disease | \$500,000 – policy limit |

D CLASSIFICATIONS AND RATES

1. Classifications

Classifications for insurance under the USL&HW Act are listed in the [Class Code Lookup](#) on the WCRB web site.

2. Rates for Federal “F” Classifications and Admiralty/FELA Classifications That Include USL&HW Act Benefits

The manual rates for classification code numbers followed by the letter “F” as reported in the annual rate revision Circular Letter, and those Admiralty/FELA classifications applicable to Program II- USL&HW Act benefits include premium for operations subject to the USL&HW Act.

3. Rates for Non-Federal “Non-F” Classifications and Admiralty/FELA Classifications That Do Not Include USL&HW Act Benefits

a. Admiralty/FELA Classifications

The manual rates for admiralty/FELA classifications under Program I and Program II – State Act benefits do not include premium for operations subject to the USL&HW Act. If operations under such classification involve some employees subject to the USL&HW Act,

assign the classifications and rates for Program II – USL&HW Act benefits applicable to such operations. Such classifications shall apply only to payroll of employees engaged in operations subject to the USL&HW Act.

b. All Other Classifications

Except as otherwise provided in 2. And 3.a. above, the manual rates for classification code numbers not followed by the letter “F” do not include premium for operations subject to the USL&HW Act. If operations other than admiralty/FELA classifications involve some employees subject to the USL&HW Act, the manual rates and minimum premiums for such classifications shall be increased by the U.S. Longshore and Harbor Worker’s Compensation Coverage Percentage shown on the Miscellaneous Values Table on the WCRB web site. Such percentages do not apply to expense constants. Such increased rate shall apply only to payroll of employees engaged in operations to the USL&HW Act.

E EXTENTIONS OF THE USL&HW ACT

1. Defense Base Act

The Defense Base Act extends the provisions of the USL&HW Act to employers and their employees on overseas military bases and on other overseas locations under public works contracts being performed by contractors with agencies of the United States Government. Employees who are not United States citizens may be exempted from coverage upon approval of a waiver by the Secretary of Labor. For complete details, See Defense Base Act, U.S. Code (1946) Title 42, Sections 1651-54, Public Law 208, 77th Congress.

To provide such insurance, attach the Standard Defense Base Act Coverage Endorsement.

2. Outer Continental Shelf Lands Act

The Outer Continental Shelf Lands Act extends the provisions of the USL&HW Act to employers and their employees exploring for natural resources on the Outer Continental Shelf of the United States. That area is generally described as all submerged lands lying seaward and outside of the area of lands beneath navigable waters of the United States and subject to its jurisdiction. For complete details, see U.S. Code (1946) Title 33, Sections 901- 49 as extended by the Act of August 7, 1953 (Public Law 212, 83rd Congress).

3. Civilian Employees of Non appropriated Fund Instrumentalities Act

The Non appropriated Fund Instrumentalities Act extends the provisions of the USL&HW Act to civilian employees of non-appropriated fund instrumentalities such as post exchanges and service clubs of the Armed Forces. For complete details, see U.S. code (1970) Title 5, Section 8171 (Public Law 85-538, 85th Congress).

To provide such insurance attach the Standard Non appropriated Fund Instrumentalities Act Coverage Endorsement.

4. Premium Determination

For insurance under extensions of the USL&HW Act, determine premium as provided in Rule XII-D.

RULE XIII – THE ADMIRALTY LAW AND THE FEDERAL EMPLOYERS LIABILITY ACT

A GENERAL EXPLANATION

1. Admiralty Law (Jones Act or Merchant Marine Act of 1920)

Masters and members of the crews of vessels are subject to admiralty law and not covered under the state worker's compensation laws or USL&HW Act. If injured, masters and members of the crews of vessels have the right to sue their employers for damages in the admiralty courts where the proceeding is in the nature of an employers liability suit. They also have the right to transportation, wages, maintenance, and cure. Every person employed on board a vessel is considered to be a seaman if connected with the operation or welfare of the vessel while in navigable waters. Navigable waters are usually defined as those that form a continuous highway for interstate or international commerce.

2. Federal Employers Liability (FELA)

The Federal Employers Liability Act applies to employees of interstate railroads. There are two programs to provide insurance under FELA: Program I and Program II.

3. The Migrant and Seasonal Agricultural Worker Protection Act

This is not applicable in WI.

B. DESCRIPTION OF COVERAGE PROGRAMS

The Standard Policy may be used to provide insurance liability under one or more state worker's compensation laws and also for liability under admiralty law or FELA. There are two programs to furnish such insurance.

1. Program I

Provides, under Part One – Worker's Compensation Insurance, statutory liability under the worker's compensation law of any state designated in Item 3.A. of the Information Page and, under Part Two – Employers Liability Insurance, employers liability for damages under admiralty law or FELA, subject to a standard limit of \$100,000.

2. Program II

Provides the same coverage as Program I, but with the addition of Voluntary Compensation. Under Program II, the insurance carrier will offer a settlement of a claim strictly in accord with the statutory benefits provided in the worker's compensation law designated in the voluntary compensation endorsement attached to the policy as if the claim were subject to such law, instead of subject to the laws of negligence. If the offer of settlement is rejected, employers liability then applies to such claim or suit, with the same standard limit as for Program I.

C. COVERAGE

1. Admiralty Law Endorsements

To provide Program I for admiralty law, attach the Standard Maritime Coverage Endorsement). To provide Program II for admiralty law, also attach the Standard Voluntary Compensation Maritime Coverage Endorsement.

2. Admiralty Law Coverage Option

The Maritime Coverage Endorsement excludes liability to provide transportations, wages,

maintenance, and cure. This endorsement may optionally include a provision to insure such liability for an additional premium based on a 10% increase to the rates for Admiralty law classifications. The additional premium is not reportable or used in ratemaking.

3 FELA Endorsements

To provide Program I for employments subject to FELA, attach the Standard Federal Employers Liability Act Coverage Endorsement (WC 00 01 04 A). To provide Program II, also attach the Standard Voluntary Compensation and Employers Liability Coverage Endorsement

4 USL&HW Act

When insurance is provided for liability under admiralty law or FELA, insurance for liability under the USL&HW Act also may be necessary. To provide such insurance, attach the Standard Longshore and Harbor Workers' Compensation Act Coverage Endorsement

D. LIMITS OF LIABILITY

1. Standard Limit

The standard limit of liability under Part Two – Employers Insurance for admiralty or FELA insurance under Program I or II is \$100,000.

a. Accident Limit

The limit of liability applies to all bodily injury arising out of any one accident.

b. Disease Limit

The limit of liability also applies as a separate aggregate limit for all bodily injury by disease. The aggregate limit applies separately to bodily injury by disease arising out of work in each state shown in Item 3.A. of the Information Page.

c. Show Limits on Endorsement

These limits of liability must be stated in the Maritime Coverage Endorsement and/or the Federal Employers Liability Act Coverage Endorsement.

2 Increased Limits

Increased limits of liability under Part Two – Employers Liability Insurance are available. The additional premium for increased limits shall be determined by applying the factor in the Table 2 for Increased Limits to the total premium for admiralty or FELA classifications before application of:

- a. Expense constant
- b. Experience rating modification
- c. Premium discount or retrospective rating adjustment

[Click here to view Increased Limits Tables](#)

3 Minimum Premium

The separate minimum premium shown in the Table for Increased Limits applies to a policy that includes classifications for operations subject to admiralty law or the FELA. Such minimum premium is the lowest premium for insuring admiralty or FELA operations, and it shall apply in addition to the minimum premium or premium for other operations on such a

policy. It is not subject to an experience rating modification.

E CLASSIFICATIONS AND RATES

ADMIRALTY

| CLASSIFICATIONS | PROGRAM I | PROGRAM II | |
|---|-----------|------------|---------|
| | | State Act | USL Act |
| Boat Livery – boats under 15 tons. This classification includes the laying up or putting into commission of boats. Boats 15 tons or over to be separately rated under the appropriate vessels classification. | 7038 | 7090 | 7050 |
| Diving – Marine | 7394 | 7395 | 7398 |
| Dredging – all types | 7333 | 7335 | 7337 |
| Ferries – This classification includes dock employees. | 7016 | 7024 | 7047 |
| Fishing Vessels – NOC – This classification includes packing, curing, or shipping fish and repair of nets or boats. | 7016 | 7024 | 7047 |
| Oyster Boats – This classification includes planting, harvesting and operation of boats. | 7016 | 7024 | 7047 |
| Salvage Operations – Marine | 7394 | 7395 | 7398 |
| Supply Boats | 7016 | 7024 | 7047 |
| Tugboats | 7016 | 7024 | 7047 |
| Vessels – NOC | 7016 | 7024 | 7047 |
| Vessels – sail | 7038 | 7090 | 7050 |
| Wrecking – Marine -This classification includes salvage operations | 7394 | 7395 | 7398 |
| Yachts – private – sail or power | 7038 | 7090 | 7050 |

FEDERAL EMPLOYERS LIABILITY ACT

| CLASSIFICATIONS | PROGRAM I | PROGRAM II | |
|--|-----------|------------|---------|
| | | State Act | USL Act |
| Railroad Construction – all operations including clerical, salespersons, and drivers | 6702 | 6704 | 6703 |
| Railroad Operation – all employees including drivers. This classification contemplates the normal operations of railroad including normal maintenance and repair. All extraordinary repair work including such work as rebuilding bridges, grade crossing elimination, laying or relaying track, and all new construction operations shall be classified as Code 6702, 6703 or 6704. | 7151 | 7153 | 7152 |
| Clerical Office Employees – NOC | 8814 | 8805 | 8815 |
| Salespersons, Collectors, or Messengers – Outside | 8737 | 8734 | 8738 |

F. WATERS NOT UNDER ADMIRALTY JURISDICTION

1. Coverage

An insured may conduct operations on waters not subject to admiralty jurisdiction. Insurance for such operations shall be provided by the Standard Policy and Endorsement Forms and is subject to the rules that apply to statutory worker's compensation insurance.

2. Premium Determination

The admiralty classifications and rates for Program II apply to operations described in 1. above.

3. Admiralty Law or USL&HW Act

If there is a potential liability under admiralty law, follow the previous rules for insurance under admiralty law. If there is a potential liability under the USL&HW Act, refer to Rule XII.

RULE XIV – DOMESTIC WORKERS – RESIDENCES

A. EXPLANATION

Domestic workers can be defined as either full-time or part-time depending on the number of hours worked.

1. Domestic Workers - Full-Time applies to full-time domestic workers employed inside or outside a private residence who are employed directly by the resident owner, the estate of the owner, or family of the resident. Refer to Code 8835 for companions or personal assistants who also provide physical and personal assistance in the activities of daily living and/or nursing care.

“Full-time” applies to any domestic worker who is employed more than 20 hours per workweek. Au pairs or domestic workers who are compensated by room and board are considered to be full-time.

Not applicable to outside domestic workers at any location where commercial farm operations are conducted; refer to the appropriate farming classification. Domestic workers employed by a business, other than a business described by Code 0917, are classified to Code 0908 or Code 0913.

Use code 9013 – Domestic Workers – Residences – Full-time.

2. Domestic Workers – Part-Time applies to part-time domestic workers employed inside or outside a private residence who are employed directly by the resident owner, the estate of the owner, or family of the resident. Refer to Code 8835 for companions or personal assistants who also provide physical and personal assistance in the activities of daily living and/or nursing care.

“Part-time” applied to any domestic worker who is employed 20 hours or less per work week. Au pairs or domestic workers who are compensated by room and board are considered to be full-time; refer to Code 9013.

Not applicable to outside domestic workers at any location where commercial farm operations are conducted; refer to the appropriate farming classification. Domestic workers employed by a business, other than a business described by Code 0917, are classified to Code 0908 or Code 0913.

Use Code 0908 – Domestic Workers – Residences – Part-Time.

These codes include cooks, housekeepers, laundry workers, maids, butlers, companions, nannies, private chauffeurs, and gardeners.

Exception:

If commercial farm operations are conducted, Codes 0908 and 0913 do not apply to any operations at the farm location. Any outside domestic workers at a commercial farm location are assigned to the appropriate farm classification.

B. OTHER CLASSIFICATIONS – MAINTENANCE, REPAIR, OR CONSTRUCTION OPERATIONS

1. Codes 0908 and 0913 include ordinary repair or maintenance of the insured's premises or equipment by domestic workers.
2. Building maintenance or repair by employees hired for only that purpose must be assigned to Code 9015 – Buildings – Operation by Owner or Lessee.
3. Extraordinary repairs, alterations, new construction, erection, or demolition of structures must be assigned to construction or erection classifications.

C. COVERAGE

There is no statutory requirement for an employer to provide worker's compensation insurance coverage for domestic workers. Coverage for domestic workers may be provided by the Standard Policy.

D. RATES AND PREMIUM

1. Rates

The rates for Codes 0913 and 0908 are per capita premium charges. A per capita classification is one that uses number of workers rather than payroll to measure exposure.

2. Records Required

The insured must maintain a record of the names, duties and period of service of each domestic worker.

3. Full-Time Domestic Workers

Estimated premium for Code 0913 shall be computed on the estimated number of such domestic workers during the policy period. If additional domestic workers under Code 0913 are employed during the policy period or if some domestic workers are no longer employed and are not replaced, the per capita premium charges shall be prorated. Each pro rata charge shall be based on the period of employment but shall not be less than 25% of the per capita charge.

4. Occasional Domestic Workers

Premium for Code 0908 shall be computed on the estimated aggregate time of all occasional domestic workers who are to be employed during the policy period. Regardless of concurrent employment, a single per capita charge applies to any domestic worker who is employed 20 hours or less per work week.

E. MINIMUM PREMIUM

For domestics only, a policy with two or more classifications, whether per capita rated or payroll rated, apply the highest minimum premium for any classification on the policy.

RULE XV – FINAL EARNED PREMIUM DETERMINATION

A. DETERMINATION

1. Final earned premium is the total premium earned during the policy period. It is calculated using actual payrolls multiplied by the rate for each classification. Final earned premium includes the application of premium elements applicable to the employer.
2. Final earned premium for the policy must be determined on actual payroll as determined by the carrier at audit, instead of on estimated payroll or other premium basis.
3. Determination of final earned premium is governed by the approved rules, classifications, and rates subject to modification by applicable rating plans.
4. The carrier has the right to calculate final earned premium based on an examination and audit of all records related to the policy.
5. Audited information must coincide with the effective and expiration dates of the policy. Reasonable deviations from this standard that do not affect the earned premium are permitted to coordinate the audit with the first of the nearest month.

B. AUDIT NONCOMPLIANCE CHARGE

If an insurance carrier elects to participate in the ANC Program, the following rules apply:

1. If the employer does not comply with Part Five – Premium, Section G (Audit) of the policy, the employer will be considered noncompliant with the policy terms and conditions. When this occurs, the carrier must apply an Audit Noncompliance Charge (ANC) of one time estimated premium.
2. On a multistate policy, the ANC applies only to the exposure in the states where an employer is noncompliant with an audit and where this ANC rule is approved for use.
3. The ANC is a premium charge and is applied in accordance with the applicable state premium algorithm. The ANC is not part of standard premium.
4. The application of the ANC is subject to the following conditions:
 - a. Carrier must comply with all applicable state laws and/or regulations related to audits of workers compensation insurance policies.
 - b. The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.
 - c. The carrier must make two attempts to obtain the audit information and/or complete the audit. At each attempt, the carrier must notify the employer regarding the specific required records and the amount of the ANC to be applied if the employer continues to refuse to comply with the audit.

- d. The carrier must adequately document the audit file regarding the above attempts to obtain the required audit information.
 - e. When a carrier applies an ANC to the policy, and cancellation for audit noncompliance is permissible under state law, the carrier may cancel the policy and must issue a cancellation notice in accordance with applicable state laws and/or regulations.
5. This ANC rule applies to mail/e-mail, telephone, computer (remote access), and physical audits unless otherwise provided by state law.
 6. The ANC may be applied to guaranteed cost policies as well as retrospectively rated policies.
 7. The scenarios list below may occur and are treated as follows:

| If an ANC is applied and the employer.... | Then the carrier.... |
|---|--|
| Pays the ANC and later allows the audit. | Performs the final audit and determines the final policy premium based on the results of the audit, and Refunds the ANC to the employer or applies the ANC amount to any outstanding balance on the policy. |
| Does not pay the ANC but later allows the audit. | Performs the final audit and determines the final policy premium based on the results of the audit. |
| Pay the ANC but does not later allow the audit. Does not pay the ANC and does not later allow the audit. | Does not change the previous reported: Unit statistical data Noncompliance transactions |

8. Reinstatements of cancelled policies must be in accordance with all applicable state laws and/or regulations.
9. The ANC must be reported, including applicable corrections, in accordance with the WI Statistical Plan Manual.

C. AUDIT RIGHTS OF CARRIER

The insurance carrier has the right to compute earned premium based on an examination of original payroll records and books of account of the insured, in accordance with Part Five – Premium of the Standard Policy.

APPENDIX

STATE SPECIAL RATING PLANS AND PROGRAMS

ATHLETIC TEAMS – VOLUNTARY COMPENSATION – CODE 9178 OR 9179

Voluntary compensation coverage for participation in industrial sponsored athletic activities will be rated as follows:

- Develop estimated average annual earnings for each participant by multiplying the estimated average number of hours that each participant will play and practice annually by the State Minimum Hourly Wage.
- Apply the appropriate manual rate for either Code 9178 (applicable to participants engaged in a non-contact sport) or Code 9179 (applicable to participants engaged in a contact sport), modified by the following percentages:

Schedule of Sports

| Team Sport | Percentage of Code 9178 Rate |
|--|-------------------------------------|
| Archery | 25% |
| Baseball | 150 |
| Basketball | 150 |
| Bicycle racing | 100 |
| Bowling | 25 |
| Curling | 25 |
| Dart ball | 25 |
| Golf | 25 |
| Gymnastics | 100 |
| Handball | 50 |
| Horseshoe pitching | 25 |
| Ice skating | 50 |
| Jump rope | 25 |
| Pocket billiards (pool) | 25 |
| Polo | 150 |
| Racquetball or paddleball | 75 |
| Rifle shooting including trap or skeet | 50 |
| Roller skating | 50 |
| Rowing | 50 |
| Soccer | 100 |
| Softball | 100 |
| Squash | 75 |
| Swimming or diving | 100 |
| Tennis | 50 |
| Track | 50 |
| Volleyball | 50 |
| Weight lifting | 100 |

| Team Sport | Percentage of Code 9179 Rate |
|----------------------------|-------------------------------------|
| Boxing | 300% |
| Football | 300 |
| Hockey | 300 |
| Judo, karate, martial arts | 300 |
| Rugby | 300 |
| Wrestling | 300 |

- Payrolls, premiums and losses developed under this special rating rule will be used for all purposes including experience and retrospective rating.
- Deviations from the rates developed under this rule are not permitted without the specific approval of the Rating Committee of the WCRB.

WISCONSIN CONTRACTORS PREMIUM ADJUSTMENT PROGRAM

Wisconsin Contractor's Premium Adjustment Program (WCPAP)

The Wisconsin Contractor's Premium Adjustment Program provides a premium credit for a qualifying policy.

General Eligibility Requirements and Program Rules:

- Must contain one or more contracting classifications to apply for and qualify for WCPAP.
- Must have at least 50% of payroll or premium allocated to contracting classification(s).
- Credit will be determined based on total 3rd quarter (July-September) gross wages paid and hours worked of the calendar year preceding the policy inception date as reported to taxing authorities. Overtime premium is not included.
- In the absence of specific records for salaried employees, it will be assumed that each employee worked forty (40) hours per week.
- May be combined with other policies with common ownership and contracting classifications to calculate a single credit for all policies. An application must be submitted for each policy, and 50% of the payroll or premium must remain allocated to contracting classes.
- Premium credit will be whole number credits between 1% and 10%.
- May not be cancelled and rewritten to take advantage of the provisions of this Program.
- The Rating effective date rule applies and is defined as the effective month and day of the policy.
- The policy credit factor shall not reduce the policy premium below the applicable minimum premium.

Carrier responsibilities

- Verify the base wages paid and regular hours worked used in the promulgation of the policy credit factor. If discrepancies are found, a completed WCPAP Carrier Audit Form shall be forwarded to the employer with instructions to review, sign and return within 30 days. The carrier will defer its audit for no more than thirty (30) days, giving the insured an opportunity to comply. The carrier will forward the signed WCPAP Carrier Audit form to the WCRB for processing. The WCRB will recalculate and release a revised credit. The revision to the credit may deem the insured ineligible for a credit.
- If the carrier has not received a revised Carrier Audit Form from the employer or policy credit worksheet from the WCRB within thirty days; then a written request to withdraw the policy credit must be sent to the WCRB. Once the policy credit is withdrawn the carrier may complete the audit to exclude the policy credit.
- If no contracting codes apply at audit, the credit is withdrawn.
- The credit, authorized by the WCRB, shall appear in Item 4 of the Information Page of the policy under code 9046.

“Contracting Classifications” are those classifications subject to the following code numbers:

| | | | | | | | | | | |
|------|------|------|------|------|------|------|------|------|------|------|
| 0042 | 5022 | 5146 | 5215 | 5437 | 5480 | 5610 | 6204 | 6235 | 6400 | 9554 |
| 2799 | 5037 | 5160 | 5221 | 5443 | 5491 | 5645 | 6206 | 6237 | 7538 | |
| 3365 | 5040 | 5183 | 5222 | 5445 | 5507 | 5703 | 6213 | 6251 | 7605 | |
| 3719 | 5057 | 5184 | 5223 | 5462 | 5535 | 5705 | 6216 | 6252 | 7855 | |
| 3724 | 5059 | 5188 | 5348 | 5474 | 5537 | 6003 | 6217 | 6306 | 8227 | |
| 3726 | 5086 | 5190 | 5402 | 5478 | 5551 | 6005 | 6229 | 6319 | 9529 | |
| 5020 | 5102 | 5213 | 5403 | 5479 | 5606 | 6045 | 6233 | 6325 | 9534 | |

WISCONSIN APPRENTICESHIP CREDIT PROGRAM

DEFINITIONS

Apprentice means any person who enters into an apprentice contract with the department and with a sponsor or with an apprenticeship committee acting as the agent of a sponsor.

Apprentice Contract means any contract or agreement of service, express or implied, between an apprentice, the department, and a sponsor or an apprenticeship committee acting as the agent of a sponsor whereby an apprentice is to receive directly from or through the apprentice's employer, in consideration for the apprentice's services in whole or in part, instruction in any trade, craft or business.

Apprenticeship Program means a program approved by the department providing for the employment and training of apprentices in a trade, craft, or business that includes a plan containing all of the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices as required under this subchapter, including the apprentice contract requirements under Wis Stats 106.01.

WORK-BASED LEARNING PROGRAM PREMIUM CREDIT

1. Employers who participate in the work-based learning program through the Wisconsin Bureau of Apprenticeship Standards (WBAS) may receive a credit of 2%, subject to a maximum credit not to exceed \$2,500.
2. This program is optional and available in both the voluntary and the residual markets. If a carrier is offering the credit program, the credit must be applied to all policyholders enrolled in the WI Apprenticeship Program. Carriers opting not to participate in the program must file the election with the WCRB.
3. To receive a credit, the employer must:
 - a. Notify the carrier of their eligibility and request application of the credit.
 - b. Provide their carrier with a copy of the fully executed *apprentice contract* for each work-based learning program student.
 - c. Meet all provisions required in the *apprentice contract* and *apprenticeship program*.
 - d. Provide documentation of participation in the program for at least 6 months per policy year.
4. The credit does not apply to minimum premium policies.
5. The credit:
 - a. Is applied to the employer's policy pro rata as of the date the carrier received the copy of the executed contract. The credit is not applied retroactively to expired policies. The credit factor is applied to total modified premium, after the application of any experience rating modification, and before the application of any premium discount and the expense constant.

- b. Must not reduce the premium below the approved minimum premium.
- c. Is verified by the carrier at audit, and the policy premium is adjusted accordingly. There must be compliance with each contract counting towards the credit during the portion of the contract that falls within the policy period. If there is noncompliance with, or early termination prior to six months participation in the program, the credit will be removed. If the credit is eliminated or removed, the employer must reimburse the carrier. The employer's failure to reimburse results in ineligibility for future program credits.
- d. Is reported using the appropriate statistical code 9777.
- e. Is effective with policy effective date 10-1-18 or later.

The Apprenticeship Credit Program will be analyzed in conjunction with the annual rate revision. Any off-set corrections to the class rates will be included in the rate filing.

EXCESS INSURANCE

DEFINITION – SCOPE

1. **Specific Excess Insurance** is written to provide excess coverage per accident or occupational disease case over an employer's specified retention of liability under the Wisconsin Compensation Act.
2. **Aggregate Excess Insurance** is written to provide coverage over an employer's specified aggregate retention of liability for benefits under the Wisconsin Compensation Act.
3. **Combined Specific and Aggregate Insurance** is written to provide both specific per accident or disease case excess coverage as well as coverage over a specified aggregate amount.

AVAILABILITY REPORTING REQUIREMENTS

1. Coverage is available only to employers who have been granted permission to self-insure under Section 102.28(2)(b), Wis. Stats., by the Department of Workforce Development.
2. If the Department of Workforce Development requires the procurement of excess insurance, as defined above, as a condition of its permission under Section 102.28(2)(b), Wis. Stats., then it shall be obtained from an insurer authorized and licensed to write such insurance by the Wisconsin Commissioner of Insurance.
3. If the employer is not required to obtain excess coverage but does so voluntarily, it may be purchased from any insurer subject to the following reporting requirements.
 - a. The employer shall report the existence of such insurance to the Department of Workforce Development. If the insurer is not authorized in Wisconsin, the placing of such coverage shall not, by itself, be grounds for revocation of the self-insured exemption.
 - b. If the insurance is procured from an insurer not authorized in Wisconsin, the purchase shall also be reported to the Commissioner of Insurance, and the applicable unauthorized insurance tax shall be paid.

POLICY FORMS AND ENDORSEMENTS

1. The WCRB has filed a Specific Excess Worker's Compensation Policy, an Aggregate Excess Worker's Compensation Policy, and a Combination Specific and Aggregate Excess Worker's Compensation Policy with the Commissioner of Insurance. These forms have been approved for use by all licensed insurers who are members of the WCRB. Member insurers may use their own excess forms provided they provide substantially the same coverage as the forms that have been filed and approved.
2. Endorsements filed by the WCRB for use with the Standard Worker's Compensation and Employers Liability Policy may also be used with any excess policies.
3. Excess policy forms that differ substantially from the filed forms, and endorsements that have not been filed by the WCRB may not be used in Wisconsin without the express approval of the Rating Committee of the WCRB and the Wisconsin Commissioner of Insurance.

CLASSIFICATIONS, RATES, AND MINIMUM PREMIUM

1. Excess risks may be classified in any way provided that the classifications assigned do not significantly depart from the recognized principles of worker's compensation classification practices.
2. Rates for excess insurance shall be commensurate with the exposure under the policy, and in no event shall the excess policy premium be less than \$5,000 annually.
3. The minimum employer's retention under any excess policy shall be \$50,000 per accident or occupational disease case, or an aggregate retention of \$500,000.
4. Rates and premiums developed under this Program are deemed to have been filed with and approved by OCI.

RULES GOVERNING THE INSURING OF RISKS AS REQUIRED BY SECTION 619.01(c), WIS STATS. (Originally Chapter 327, Laws of 1931)

A. GENERAL ADMINISTRATION OF POOL

1. AUTHORITY

- a. The Wisconsin Worker's Compensation Insurance Pool (WWCIP) shall be administered by the President of the WCRB under the direction of the Governing Board. The OCI, in consultation with the President of the WCRB, shall select all servicing carriers for the WWCIP, with due regard to service facilities, financial stability, and dedicated staff. Not more than one insurer in a group under that same management or ownership; may service the WWCIP.
- b. If there is a need for additional servicing carriers for the WWCIP, or if there is a vacancy created by the resignation, insolvency, or removal by the OCI of an existing servicing carrier, the OCI shall appoint the new or replacement carrier(s) from the members of the WCRB that have applied to the President of the WCRB for consideration, provided they meet the following eligibility requirements:
 - 1) The insurance carrier shall be actively writing and servicing worker's compensation insurance in WI and have the staff and facilities to meet the standards of performance for servicing carriers.
 - 2) The insurance carrier shall be financially stable as measured by the standards of the National Association of Insurance Commissioners (NAIC) and the OCI.
 - 3) The insurance carrier shall maintain the necessary staff and facilities to provide Pool risks with the same customer level of service provided by the carrier to the voluntary market.
 - 4) The carrier shall execute a Servicing Carrier Agreement approved by the OCI.

If, at any time, a servicing carrier ceases to meet any of the above criteria, as determined by the Servicing Carrier self-audit, the servicing carrier audit programs, a review by the WCRB, or by review of the OCI, the OCI may, after giving the carrier a minimum of ninety (90) days and a maximum of one hundred twenty (120) days to correct any deficiencies, direct the President of the WCRB, in writing, to terminate the Servicing Carrier Agreement at the end of the calendar year by giving the proper notice as required by the Servicing Carrier Agreement. Such notice to terminate shall specify the uncorrected deficiencies that caused the notice to be given. The servicing carrier may, within ten (10) days after receipt of the notice of termination, request in writing a review of the termination by the OCI, and the OCI shall review the termination within thirty (30) days after receipt of the request for review. If the servicing carrier is aggrieved by the determination on review by the OCI, the insurance carrier may, within ten (10) days after receipt of notice that the determination, request a hearing pursuant to Sec. 626.31, Wis. Stats.

In the event that termination of a Servicing Carrier Agreement results in an unequal number of stock and mutual servicing carriers, another eligible insurer of the same class may be appointed by the Commissioner after consultation with the permanent staff of the WCRB, as soon as possible, to assure continuing equal representation.

2. MEETINGS

The President of the WCRB shall call a meeting of the Governing Board whenever it is deemed necessary or whenever it is requested by two or more members of the committee.

3. ACTION – CONCURRENCE – APPROVAL

All actions of the Governing Board, if required, need the approval of the OCI.

4. APPEALS

Any company, whether or not a member of the Governing Board, or any insured employer may appeal a decision of the WWCIP to the Governing Board. Notice of such appeal shall be served upon the President of the Bureau, and a meeting of the Governing Board shall be convened to act upon the appeal within 30 days or as soon as possible thereafter. Any pending action on appeal shall not operate to postpone the effective date of insurance on any risk under this Plan.

5. ADDITIONAL PROCEDURE

The Governing Board is empowered to adopt additional rules and procedures needed to effectively carry out the provisions of this Plan.

B. APPLICATION BY EMPLOYER

Any risk that, in good faith, is entitled to worker's compensation insurance may obtain coverage by making application to the WCRB on the prescribed form.

C. EXTENSION OF COVERAGE

1. NEW BUSINESS

- a. Upon receipt of a properly completed and signed application and an adequate deposit premium, based on the proper classifications and rates in effect at the time, a servicing carrier shall be designated to provide coverage to the risk effective as of 12:01 a.m. on the day following receipt of the premium by the WCRB. The deposit premium shall be submitted by electronic transfer of funds, certified or agency check, money order or bank draft made payable to the WCRB.
- b. The designated servicing carrier shall be furnished with a copy of the application, the latest experience rating (if applicable), and the deposit premium with the notice of designation (binder). Any additional information requested by the servicing carrier will also be provided within a reasonable time.
- c. When the servicing carrier receives the notice of designation (binder), it shall issue a policy on the basis of the classifications and rates applicable to be effective as shown in the notice of designation and shall provide all necessary service to the risk.

2. RENEWAL BUSINESS

- a. Any risk insured under the WWCIP has a right to have the policy renewed by the designated servicing carrier at the rates, etc., effective at the time of renewal – unless the risk obtains insurance from a member insurer on a voluntary basis or requests that the policy not be renewed. Servicing carriers may also issue non-renewal notice:

- 1) for failure to provide client information on an employee leasing company

- 2) for failure to provide premium audit information when requested
- 3) for failure to provide ownership information
- 4) upon approval of the WI Governing Board

It is not necessary for the risk to submit a new application for renewal coverage.

D. RATES, RATING PLANS, EXPENSE CONSTANT, AND MINIMUM PREMIUM

1. The rates and rating plans, including the expense constant and minimum premium, currently approved and effective shall apply to all risks written under the WWCIP.
2. Retrospective rating plans are available only by mutual agreement between the insured and the servicing carrier and approved by the Governing Board, or by direction from the OCI.
3. Deviations from the current approved and effective rates are not permitted. Special rates reflecting unusual conditions or hazards are not permitted without the specific approval of the OCI.

E. RISKS NOT ENTITLED TO INSURANCE

1. Any insured employer who does not pay premium when due on a current policy, or who owes a servicing carrier premium for a prior policy shall not be entitled to insurance.
2. If, in the opinion of the servicing carrier, the WCRB, and the Governing Board, physical or moral conditions exist in a risk that make that risk uninsurable, it shall not be entitled to insurance. In such cases, the WCRB shall furnish recommendations for improving conditions to the Wisconsin Department of Workforce Development which, if complied with, would entitle the risk to insurance. No risk may be denied coverage under this subparagraph unless and until the Department concurs with the reasons for denial.

F. EXTENSION OF VOLUNTARY COVERAGE – TAKE-OUT PROVISIONS

Any member company, including a designated servicing carrier, may write a risk insured through the WWCIP on a voluntary basis at any time. When this occurs, the WWCIP policy shall be cancelled on a pro rata basis

G ADMINISTRATION OF WWCIP FUND

1. GENERAL PROVISIONS

All premiums remitted to the WCRB by designated servicing carriers in accordance with these rules shall be known as the Wisconsin Worker's Compensation Insurance Fund and shall be held by the WCRB as trustee for claimants of risks insured under the WWCIP. These funds shall be maintained by the WCRB in a separate account and shall not be commingled with any other WCRB funds. Disbursements from the Wisconsin Worker's Compensation Insurance Fund may be made only when authorized by the Governing Committee of the WCRB.

2. PROCEDURES

a. PREMIUM COLLECTION

The WCRB shall collect initial premiums for WWCIP and forward it to the designated servicing carriers with the notices of designation (binder). The carrier shall collect any

additional premiums as they become due and pay all losses arising out of the insuring of the Pool risks.

b. **PREMIUM ALLOCATION**

The written and collected premiums received by servicing carriers shall be allocated as follows:

- 1) The carrier shall retain a servicing carrier fee as proposed and accepted in the bidding process as its compensation for servicing the risk, including the payment of premium tax.
- 2) Commissions, based on standard premium, shall then be deducted and paid to the agent as follows:
 - 4% for the first \$10,000 in premium, and
 - 1% for all premium over \$10,000
- 3) Uncollectible premiums, transfers of debt, and other “charge-offs” approved by the WCRB or Governing Board are also deducted.
- 4) The premium remaining after disbursement of the servicing carrier fee is to be used to pay losses as they arise.

c. **PERIODIC REPORTS – SERVICING CARRIERS**

Each servicing carrier shall report to the WCRB at intervals specified by the Governing Board the allocation of premiums written as outlined. If the losses paid by the carrier, during the time covered by the periodic reports, exceed the premium remaining after the servicing carrier fee of the collected premium, the WCRB shall reimburse the carrier for this amount from the Wisconsin Worker’s Compensation Insurance Fund in a timely manner. If the premium remaining after the servicing carrier fee of the collected premiums exceed the paid losses during the time covered by the periodic report, such amount shall be forwarded to the WCRB with the periodic report and shall be promptly deposited in the Wisconsin Worker’s Compensation Insurance Fund.

3. WISCONSIN WORKER’S COMPENSATION INSURANCE FUND – ANNUAL EVALUATION AND ADJUSTMENT

a. **DEFINITIONS**

- 1) *The value of the Wisconsin Worker’s Compensation Insurance Fund (fund value)* means the total of (1) cash on hand and in the bank; (2) holdings of bonds as specified in the Portfolio Investment Guidelines approved by the Governing Board; and (3) previously declared but unlevied assessments upon member companies less previously declared but undistributed disbursements to member companies, minus a proper reserve for unearned premiums.
- 2) *Member company* means all insurers who are members of the WCRB.
- 3) *Member company share* means the net direct worker’s compensation insurance premium written in Wisconsin by the company during the preceding calendar year related to the total net direct worker’s compensation insurance premiums written in

Wisconsin by all companies during the preceding calendar year.

- 4) *Net direct worker's compensation insurance premiums written* means gross direct worker's compensation premiums less return premiums, return premiums due to cancellation, and premium on policies not taken – without including reinsurance assumed and without deducting reinsurance ceded.
- 5) *Target fund value* means a fund value equal to the actuarial best estimate of the total outstanding losses (reported plus Incurred But Not Reported) of all servicing carriers.
- 6) *Minimum fund value* means a fund value equal to 90% of the Target Fund Value.
- 7) *Maximum fund value* means a fund value equal to 110% of the Target Fund Value.

b. MEMBER COMPANY ACCOUNTS

The WCRB shall establish and maintain a separate account for each member company so that the member company's share in the Wisconsin Worker's Compensation Insurance Fund can be annually recorded. The WCRB shall furnish a statement of such account to each member company as of the end of each calendar year.

c. ANNUAL EVALUATION AND ADJUSTMENT – ALTERNATIVES

At the end of each calendar year, the WCRB shall calculate the fund value and relate it to the estimated values of all claims outstanding against the servicing carriers as reported in the annual reports and further adjusted by a factor determined by an independent actuarial review of losses to reflect anticipated changes in outstanding losses prior to payment. Based on the results of this calculation, the WCRB shall act in accordance with the following alternative that applies:

- 1) If the calculation shows that the fund value is between the minimum fund value and the maximum fund value, an assessment or disbursement (adjustment) shall be declared in an aggregate amount sufficient to bring the fund to the target fund value, but such amount shall not be collected from or paid to member companies. The adjustment shall be actuarially allocated to each of the ten most recent accident years. Any adjustments allocated to accident years older than the ten most recent years shall be aggregated together in an "all prior" category. The adjustment for each accident year shall be allocated to members based on a member company's share for the calendar year corresponding to the accident year. The all prior category shall be allocated to members based on a member company's share for the tenth prior year. The sum of each member company's allocated accident year adjustments shall be recorded in each member company's account.
- 2) If the calculation shows the fund value is less than the minimum fund value or greater than the maximum fund value, an assessment or disbursement (adjustment) shall be declared in an aggregate amount sufficient to bring the fund value to the target fund value and shall be collected from or paid to member companies. The adjustment shall be actuarially allocated to each of the most recent ten accident years. Any adjustments allocated to accident years older than the most recent ten years shall be aggregated together in an "all prior" category. The adjustment for each accident year shall be allocated to the members based on a member company's share for the calendar year corresponding to the accident year. The all prior category shall be allocated to the

members based on a member company's share for the tenth prior year. The actual collection or payment provided for in this subsection shall take into account any declared adjustments not collected or paid for prior years as shown in each member company's account.

- 3) If the WCRB has not collected or paid a declared assessment or during a continuous five-year period, the WCRB shall collect or distribute the aggregated amount shown in each member company's account notwithstanding any other alternatives set forth in these rules.
- 4) In the event any member company discontinues business or withdraws from the state, a final collection or distribution shall be made of the aggregated amount shown as collectible or payable in the member company's account as of the end of the calendar year in which the discontinuance or withdrawal occurs. Following such final collection or disbursement, the member company's account shall be closed, and the company and its market share of premiums in any prior year shall be excluded from the participation in and the calculation of any future adjustments to the Wisconsin Worker's Compensation Insurance Fund under this rule.

d. **OTHER PROVISIONS**

- 1) All WCRB employees and Board members who are entrusted with the handling of the monies of the Wisconsin Worker's Compensation Insurance Fund shall be adequately bonded.
- 2) The President shall keep of the funds of the Wisconsin Worker's Compensation Insurance Fund a cash balance of a size to be determined by the Governing Board, and the remainder shall be invested in bonds as specified in the Portfolio Investment Guidelines approved by the Governing Board.
- 3) In the event of the insolvency of any servicing carrier, the insolvent servicing carrier will give immediate notice of declaration of insolvency to the President of the WCRB and the OCI. Upon receipt of notice of insolvency, the President of the WCRB will reassign all insureds assigned to the insolvent carrier to other servicing carrier(s) without requirement for additional premiums, except as would normally be due. All claims of the insureds assigned to the insolvent carrier shall be reassigned to the same servicing carrier(s) regardless of the date of occurrence of the claim. Selection of the new servicing carrier shall be made pursuant to the standard assignment procedures for new WWCIP business.

H. CHANGE OF RULES

These rules may be amended at any time by the Governing Board subject to the review of the OCI.

DISPUTE RESOLUTION AND APPEALS PROCESS

Any company or employer who believes that the rules or classifications of the worker's compensation system have not been properly applied can request our assistance in resolving their dispute.

A. HOW DOES DISPUTE RESOLUTION WORK?

- The first step is for the employer to work with their insurance carrier to resolve the dispute.
- If these efforts are unsuccessful, the employer should send a written request to the WCRB providing the details of all issues in dispute. WCRB will research each area of concern and provide a written explanation regarding the correct application of the rule or classification in dispute.
- For disputes not resolved, the employer ~~had~~ has the right to a formal appeal.

B. HOW IS A FORMAL HEARING REQUESTED?

Upon notification to the WCRB, the aggrieved party will be furnished with a "Request For Appeal" form and a schedule of future meetings. The Hearing will be requested before with the Rating Committee or the Governing Board. This form needs to be completed and returned to the WCRB not less than twelve days prior to the next scheduled meeting.

C. WHAT HAPPENS AT THE HEARING AND WHO ATTENDS?

- The Hearing is attended by committee representatives, WCRB legal counsel, WCRB staff, the aggrieved party, and other interested parties.
- The petitioner will be asked to verbally reiterate the dispute.
- The attendees will question the petitioner as necessary and will offer explanation of any point requiring clarification by the petitioner of worker's compensation procedures.
- The Committee will then go into executive session.
- The petitioner will be advised of the Committee's decision, in writing, within 30 days.
- The petitioner will be informed of their right to appeal the decision to the OCI.