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**RULES**

**TEXAS WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE**

**RULE I - GENERAL**

**A. WORKERS' COMPENSATION**

Workers' Compensation as used in this Manual means workers' compensation or occupational disease and, except when otherwise stated, also refers to employers' liability insurance.

**B. STANDARD POLICY**

Standard Policy means the Workers' Compensation and Employers' Liability Insurance Policy and the Information Page approved for use by the Texas Department of Insurance.

**C. ENDORSEMENT FORMS**

Endorsement forms mean standard prescribed endorsements contained in the Endorsement & Forms Section of this Manual. Standard endorsements must be used in the form prescribed.

**D. APPLICATION OF MANUAL RULES**

The rules in this Manual, except for the Experience Rating Plan rules, apply to policies written on or after the effective date of the respective rules regardless of the anniversary rating date of the risk. The anniversary rating date of the risk governs the date that the Experience Rating Plan rules of the manual apply to that risk. Any change will be issued on a reprinted page and will be designated by an asterisk (\*).

For application of the Experience Rating Plan, refer to the Experience Rating Plan Section of this Manual.

All rules in this manual, including the rules in the \* Experience Rating Plan, are intended to be read in harmony with the language in the workers' compensation policy and the endorsements adopted by the Commissioner of Insurance, and workers' compensation laws as contained in Title 5, Subtitle A, Labor Code and Subchapter D. Chapter 5, Insurance Code. No rule in this manual, including the Experience Rating Plan, should be read to override a provision of the insurance policy or law to the contrary.

**E. COMPENSATION**

Compensation means payment of medical benefits, income benefits, death benefits, or burial benefits.

**F. BENEFIT**

Benefit means a benefit received based on a compensable injury. The term includes a medical benefit, an income benefit, and a death or burial benefit.

**G. COMPENSABLE INJURY**

Compensable injury means an injury that arises out of and in the course and scope of employment for which compensation is payable under the Texas Workers' Compensation Act.

**H. INJURY**

Injury means damage or harm to the physical structure of the body and those diseases or infections naturally resulting from the damage or harm. The term also includes occupational diseases as defined in the Texas Workers' Compensation Act.

**RULE II - EXPLANATION OF COVERAGES AND METHODS OF INSURING****A. PART ONE-WORKERS' COMPENSATION INSURANCE****1. Description of Workers' Compensation Coverage**

Workers' compensation insurance provides coverage for the statutory obligation of an employer to provide benefits for employees as required by the workers' compensation law or occupational disease law of any state or territory of the United States, including the District of Columbia.

**2. Statutory Coverage**

Texas workers' compensation insurance may be provided only by the Standard Policy, or by a certified Texas self-insurance program.

**3. Longshore Coverage**

Longshore and Harbor Workers' Compensation Act insurance may be provided only by attaching the Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06 A) 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.

**2. Employers' Liability For Diseases**

Employers' liability insurance for diseases not covered by a workers' compensation law or an occupational disease law is provided by the Standard Policy.

**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 this exposure.

**4. Employers' Liability Insurance With Workers' Compensation Insurance**

Employers' liability insurance written with workers' compensation insurance is provided by the Standard Policy.

**C. PART THREE-OTHER STATES INSURANCE****1. Description Of Other States Coverage**

a. Employers' liability insurance and, where permitted by law, workers' compensation insurance are 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 workers' compensation insurance does not apply because the insured or carrier is unable to take the necessary action to bring the insured under a workers' compensation law, the carrier will reimburse the insured for all compensation and other benefits required of the insured under such a law.

c. Part Three-Other States Insurance does not provide Longshore and Harbor Workers' Compensation Act coverage. This coverage may be afforded only in accordance with Rule XII.

**2. States Where Not Available**

Other states coverage is not available in states:

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

**3. Restriction On Use**

If the insured has work on the effective date of the policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless the insuring carrier is notified within thirty days.

**4. Premium**

Premium developed for operations covered under Part Three-Other States Insurance shall be based on workers' compensation rules and rates.

**D. VOLUNTARY COMPENSATION INSURANCE**

**1. Description Of Voluntary Compensation Coverage**

Voluntary compensation insurance does not provide workers' compensation coverage and is not available for employments subject to a workers' compensation law. This insurance affords the benefits of a designated compensation law as if the affected employees were subject to that law, even though the law does not require payment of benefits to such employees.

**2. How Provided**

Voluntary Compensation Insurance is provided by attaching the Voluntary Compensation and Employers' Liability Coverage Endorsement (WC 00 03 11) to the Standard Policy. Refer to Rule VIII.

**E. FEDERAL MINE SAFETY & HEALTH ACT**

For policies subject to the Federal Mine Safety & Health Act, disease coverage shall not be subject to experience rating, premium discounts or retrospective rating.

**F. POLICY COVERAGE/DIVIDED COVERAGE \***

The standard policy provides automatic coverage for all employees of the named insured(s) on the policy, unless specifically excluded from coverage by statute or by endorsement. The standard policy also provides automatic coverage for all workplaces listed in items 1 and 4 of the Information Page and all other workplaces in states listed in item 3.A. of the Information Page. This coverage includes employees hired after the effective date of the policy and operations started after the effective date of the policy.

If part of the operations of the named insured(s) are covered by the standard policy of another insurer, each policy shall be restricted by the attachment of the Designated Workplaces Exclusion Endorsement (WC 00 03 02).

**G. WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS \***

**1. Description**

The carrier may waive its right to recover from others (subrogate) by attaching the Texas Waiver of Our Rights to Recover from Others Endorsement (WC 42 03 04) to the Standard Policy.

**2. Premium \***

a. If the carrier agrees to waive its right(s) of recovery against others, the following maximum premium charge may apply: \*

(1) Specific Waiver

Five percent of the premium developed on the payroll used in connection with work performed for the person or organization requiring the waiver.

(2) Blanket Waiver

Two percent of the total Texas premium may be charged.

b. If it can be clearly demonstrated to the Texas Department of Insurance that the hazards presented by a named principal on which the waiver is requested appear unique or unusual, and application of the maximum charge in 2.a. does not produce an adequate premium, a request for a higher premium may be made. Requests shall be submitted to the Department accompanied by evidence setting forth supporting factual data upon which to justify the proposed premium charge. \*

Note: Nothing in this rule shall be construed as obligating the carrier to enforce its right of subrogation in the case of injury or death of an employee of an employer under circumstances where the carrier concludes that the possibility of recovery against a third party does not warrant the expense of enforcing such right and in any such case the carrier may, at its election, refrain from enforcing such right regardless of the absence of a prior agreement for waiver of subrogation.

**\* RULE III - POLICY PREPARATION - INSURED, POLICY PERIOD, STATE OF OPERATIONS AND ESTIMATED POLICY COST**

**Items 1, 2, 3.A. and 4 of the Information Page**

**A. EXPLANATION OF TERMS**

**1. Employer**

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

**2. Insured**

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

**3. Majority Interest**

Majority interest is defined in the Experience Rating Plan Section of this Manual, and usually means:

- a. Majority of voting stock, or
- b. Majority of members or directors if there is no voting stock, or
- c. Majority participation of partners in the profits of a partnership, other than a limited partnership, or
- d. Majority participation of each general partner in the profits of the general partners of a limited partnership.

**4. Risk**

Risk means a single legal entity or two or more legal entities which qualify for combination, regardless of whether insurance is provided by one or more policies, one or more insurance carriers, or a certified Texas self-insurance program.

**B. NAME, ADDRESS AND OTHER WORK PLACES OF INSURED-ITEM 1**

**1. Combination of Legal Entities**

Separate legal entities may be insured under 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 under one policy except as provided in Rule II-F.

**3. Multiple Locations**

All locations and operations of the employer in Texas shall be insured under one policy except as provided in Rule II-F.

**C. POLICY PERIOD-ITEM 2**

**1. Policy Period**

A policy is to be written for a specific one-year term. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy. The Manual rules are based on a policy period of one year.

Exception

A policy may be issued to a risk for a term less than one year to:

- a. Establish a common expiration date with other insurance policies,
- \* b. Establish a different anniversary rating date, or
- c. To meet the requirements of a specific contract or a specific project that will last less than a year.

**2. 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 (WC 00 04 05) 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 unit as if a separate policy had been issued.

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

Coverage for operations conducted in a state is provided by listing the state in Item 3.A. of the Information Page.

E. CALCULATION OF TOTAL ESTIMATED POLICY COST\*\*-ITEM 4

1. ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
2. + ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
3. + ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
4. + AIRCRAFT PASSENGER SEAT SURCHARGE, IF APPLICABLE
5. + PREMIUM CHARGE FOR WAIVER OF SUBROGATION, IF APPLICABLE
6. + PREMIUM FOR INCREASED LIMITS FOR EMPLOYERS' LIABILITY, IF APPLICABLE
7. ± PREMIUM INCENTIVE FOR SMALL EMPLOYERS, IF APPLICABLE
8. = ESTIMATED PREMIUM SUBJECT TO EXPERIENCE MODIFIER (1+2+3+4+5+6±7)
9. x EXPERIENCE MODIFIER (OR NEGOTIATED MODIFIER), IF APPLICABLE
10. = ESTIMATED MODIFIED PREMIUM (8x9)
11. x SCHEDULE RATING PLAN FACTOR, IF APPLICABLE
12. = ESTIMATED MODIFIED/SCHEDULE RATING PREMIUM (10x11)
13. x NETWORK CREDIT FACTOR, if applicable \*
14. = ESTIMATED MODIFIED/SCHEDULE RATING/NETWORK PREMIUM \*
15. - DEDUCTIBLE CREDIT, IF APPLICABLE Based on Estimated Modified/Schedule Rating Premium \*
16. + MINIMUM PREMIUM FOR L. & H.W., ADMIRALTY OR F.E.L.A. OPERATIONS, IF APPLICABLE \*
17. = ESTIMATED STANDARD PREMIUM (14-15+16) \*
18. - PREMIUM DISCOUNT, IF APPLICABLE Based on Estimated Standard Premium \*
19. + EXPENSE CONSTANT \*
20. + TERRORISM PREMIUM (TOTAL PAYROLL/100 x TERRORISM RATE), IF APPLICABLE \*
21. = TOTAL ESTIMATED POLICY COST Excluding premium adjustments for retrospective rating plan and/or reimbursements for deductibles, if applicable (17-18+19+20) \*

\*\* All workers' compensation policies are subject to a final payroll audit that reflects the actual payroll and the actual premium developed on the policy in comparison to the estimated payrolls and the estimated premium and estimated policy cost calculated at the time the policy is issued.

**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 each classification reflects the exposure common to those employers. Subject to certain exceptions described later in this rule, it is the business of the employer within Texas that is classified and not the separate occupations or duties of individual employees within the business.

Changes in classifications of current or expired policies require the approval of the Texas Department of Insurance. The approval will be contingent upon receipt of reliable information from the insurance carrier, the insured, or agent of record. A written description of the insured's operations must accompany all requests for changes in classification.  
 \* (Refer to Procedures Section of the Appendix)

Schedule rating plans, negotiated modifiers and selective placement of an insured with an insurance company within a company group may be factors used to compensate an employer having employees working under more than one classification.

**B. EXPLANATION OF CLASSIFICATIONS**

**1. Basic Classifications**

All classifications in the Manual are basic classifications other than the standard exception classifications. Basic classifications describe the business of an employer, such as:

<u>Business</u>	<u>Classification</u>
Manufacture of a product	Furniture Mfg.
A Process	Engraving
Construction or Erection	Carpentry
A General Type or Character of Business	Hardware Store
A Service	Beauty Parlor

Classifications are listed alphabetically in the Classification Section of this Manual. Notes following a classification are part of that classification and provide specific instructions regarding the assignment and use of that particular code. Assignment of classifications should be based on this rule and the entries and footnotes appearing in the Classification Section.

This Manual also includes a numerical listing of classification codes for reference purposes only.

**2. Standard Exception Classifications**

Some occupations are common to so many businesses that special classifications have been established for them. These special classifications are called standard exception classifications. Employees within the definition of a standard exception classification are not included in a basic classification unless the basic classification specifically includes those employees. (Refer to Rule IV-C. 3.a. and d.) The standard exception classifications are defined below:

**a. Clerical Office Employees - Code 8810 -** employees engaged exclusively in bookkeeping, in record keeping, in correspondence, or in other office work where books and other records are kept or correspondence is conducted. This classification applies only to employees who work in areas physically separated from other operations by structural partitions and in which work of clerical office employees as defined in this rule is performed exclusively. 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. Code 8810 is not eligible for division of payroll.  
 \*

**b. Drafting Employees - Code 8810 -** employees engaged exclusively in drafting and confined to office work. Code 8810 is not eligible for division of payroll. 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.  
 \*

**c. Drivers, Chauffeurs and Their Helpers - Code 7380 -** employees engaged in such duties on or in connection with a vehicle. This classification also includes garage employees. Code 7380 is not eligible for division of payroll.  
 \*

**d. Salespersons, Collectors or Messengers - Outside - Code 8742 -** employees engaged in such duties away from the employer's premises. Code 8742 is not eligible for division of payroll. This classification shall not apply to employees who deliver  
 \*

merchandise. Employees who deliver merchandise shall be assigned to the classification applicable to drivers for that risk even though they also collect or sell. If they walk or use public transportation, they shall be assigned to the governing classification. \*

- e. **Executive Officers NOC** - Code 8809 - Executive Officers performing clerical or outside salespersons duties only - not superintendents, foremen or workers. This classification applies only to executive officers such as the president, vice president, secretary, treasurer or any other officer appointed in accordance with the charter or by-laws of the corporation or a professional association. \*

Executive officers performing duties other than as clerical or outside salespersons shall be classified in the same manner as other employees. The payroll limitation for executive officers shall apply whether classified as code 8809 or as any other classification. (Refer to *Miscellaneous Values, Rule V-F*). \*

This classification is not eligible for division of payroll, except for executive officers performing part-time duties as members of an aircraft flying crew (Refer to *Rule IX-A.5*); or for executive officers of a cotton gin (Refer to *Classification Section*). \*

**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:
  - (1) Commissaries and restaurants for the insured's employees. Such operations shall be assigned to a separate classification if conducted in connection with construction, erection, lumbering or mining operations;
  - (2) 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;

- (3) Hospitals or medical facilities operated by the insured for its employees;
- (4) Maintenance or repair of the insured's buildings or equipment by the insured's employees;
- (5) Printing or lithographing by the insured on its own products;
- (6) Aircraft travel by employees, other than members of the flying crew, including employees whose payroll is assigned to the standard exception classifications.

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

- (1) Such operation constitutes a separate and distinct business of the insured as provided in Rule IV-D below, or
- (2) It is specifically excluded by the classification wording, or
- (3) The principal business is described by a standard exception classification. (Refer to *Rule IV-D.7*.)

**4. General Exclusions**

Some operations in a business are so unusual that they are excluded from basic classifications. They are classified separately unless specifically included in the basic classification wording. These operations are called general exclusions and are:

- a. Aircraft operation - all operations of the flying crew. The payroll of any employees who, as part of their duties operate an aircraft as member of the flying crew, but who are normally engaged in other duties, shall be assigned to the classification describing their normal operations except for days on which they fly. For each such day, their payroll computed on the basis of 300 days a year shall be assigned to the appropriate aircraft operation classification.
- b. New construction or alterations by the insured's employees of the employer's premises.
- c. Stevedoring, including tallying and checking incidental to stevedoring.

- d. Sawmill operations - sawing logs into lumber by equipment such as circular carriage or band carriage saws, including operations incidental to the sawmill.

**5. Governing Classification**

The governing classification at a specific job or location is the classification, other than a standard exception classification, that produces the greatest amount of payroll.

**C. CLASSIFICATION WORDING**

**1. Captions**

Captions which precede related classifications are a part of the classification wording.

**2. Notes**

Notes following a classification are part of that classification and control its use.

Example of C-1 and 2 above

STORE: Grocery - retail  
No handling of fresh meats.

In this example, "STORE" 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 job or location unless specifically directed by classification wording.

Exceptions

- (1) Employees performing duties applicable to a Standard Exception Classification (Rule IV-B.2.), or General Exclusions (Rule IV-B.4.).
- (2) Any separate and distinct business shall be separately classified when conditions of Rule IV-D.4. exist.

Examples

- (1) Code 9186 - Circus - Traveling - All Employees

All of the employees of such a risk shall be assigned to this classification.

- (2) Code 8385 - Bus Company - Garage Employees

Code 7382 - Bus Company - All Other Employees & Drivers

All employees, other than garage employees, shall be assigned to Code 7382 in such a risk.

- (3) Code 5538 - Greenhouse Erection - All Operations

All work in the erection of greenhouses shall be assigned to Code 5538.

- (4) Code 6219 - Jetty or Breakwater Construction - All Operations to Completion

All work for the construction of a jetty from beginning to end of the project shall be assigned to Code 6219.

*These examples are subject to exceptions (1) and (2) above.*

- b. **Clerical:** Clerical office employees and drafting employees as defined in Rule IV-B.2.a. and b.

- c. **Drivers:** Drivers, chauffeurs and their helpers as defined in Rule IV-B.2.c.

- d. **Includes or &:** If a classification contains "Includes" or "&", the operations or employees which 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

\*

\*

\*

Code 4034 – Burial Vault Mfg – Concrete – Including Installation & Drivers

\*

This classification also applies to installation and drivers.

- e. **No or Not:** A classification which includes a restrictive phrase beginning with "no" or "not" shall not apply to any risk which conducts any operation described in the restrictive phrase.



Exceptions

- (1) For mercantile businesses, such as dealers or stores, this rule applies to each location. (*Refer to Rule IV-D.9.*)
- (2) For construction, erection, mining or oil & gas field operations, this rule applies to each job or location. (*Refer to Rule IV-D.8.*)

Example

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

This classification shall not be assigned to a steel merchant which also deals in junk. That risk shall be assigned to Code 8265 - Junk Dealers.

- f. **NOC** (Not Otherwise Classified): A classification designated "NOC" shall apply only if no other classification more specifically describes the insured business.
- g. **Or:** Or also means and.

Example

Code 2583 - Cleaning or dyeing

Cleaning or dyeing also means cleaning and dyeing.

- h. **Salespersons:** Salespersons, collectors and messengers as defined in Rule IV-B.2.d.
- i. **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

Code 3632 - Machine Shop - NOC - foundry operations to be separately rated.

In a risk which operates a machine shop, any foundry operations are to be separately classified.

## D. ASSIGNMENT OF CLASSIFICATIONS

## 1. Object of Classification Procedure

The object of the classification procedure is to assign the one basic classification which best describes the business of the employer within

Texas. 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 which is classified, not the separate occupations or duties of individual employees within a business. Additional classifications shall be assigned as follows.

## 2. Classification of Separate Legal Entities

Each separate legal entity insured under a policy shall be assigned to the basic classification which describes its entire business within Texas. This assignment procedure applies even if the business is conducted at more than one location. (Exception: *Refer to Rule IV-D.8., 9., 10.*)

## 3. Business Not Described by a Manual Classification

If there is no classification which describes the business, the classification which most closely describes the business shall be assigned. (*Refer to Rule IV-F.2.*)

## 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 Texas, an additional basic classification shall be assigned only if 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. Each business is physically separated by structural partitions and is conducted without interchange of labor.
- d. The assignment of the separate classification is not prohibited by wording of that classification or any other classification assigned to the policy.

Policies with more than one classification may involve employees working in connection with the several classifications. Payroll assignment for such employees is subject to Rule IV-E.

#### 5. Classifications Limited To Separate Businesses

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

##### Example

Code 4511 - Analytical Chemist

Includes laboratory and outside employees. Shall not be assigned to a risk engaged in operations described 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 which most closely describes those employees' operations.

Example: Insured is a bank:

<u>Employees</u>	<u>Assignment</u>
Clerical Office	Code 8810 - Clerical Office Employees
Maintenance, Security, Elevator Operators	Code 9015 - Buildings NOC - operation by owner or lessee - & Drivers

Cafeteria or Restaurant Code 9079 - Restaurant NOC

#### 8. Construction, Erection, Mining, or Oil and Gas Field Operations

Each distinct type of construction, erection, mining, or oil and gas field operation at a job or location shall be assigned to the classification which 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 which applies to the job or location where the operation is performed.

A separate classification shall not be assigned to any operation which is within the scope of another classification assigned to such a job or location.

#### 9. Mercantile Business

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

#### 10. Farm Operations

For assignment of classifications for farm operations, refer to Classifications Section under "Farm".

#### 11. Employee Leasing and Temporary Labor Contractors

Classifications shall be assigned according to the code which applies to the client's business.

### E. PAYROLL ASSIGNMENT - MULTIPLE CLASSIFICATIONS

#### 1. Miscellaneous Employees

Miscellaneous employees are those who perform duties conducted in common for separate operations which 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: 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 Mfg. applies to plastic goods manufacturing.

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

## 2. Interchange of Labor

Some employees, who are not miscellaneous employees, may perform duties directly related to more than one classification. An example is an employee who from time to time interchanges between operations subject to more than one classification. When there is such an interchange of labor, the entire payroll of employees who interchange shall be assigned to the highest rated classification representing any part of their work.

### Exceptions

The payroll of an individual employee, other than miscellaneous employees, may be divided between more than one classification when the employer is engaged in construction, erection, oil and gas field work, or stevedoring work (*Refer to Rule IV-D.8.*). Also, employees performing part-time duties as a member of an aircraft flying crew may be subject to division of payroll between code 7421 and other classifications.

Trucking operations, when conducted as a separate and distinct business from the employer's principal business may also be eligible for division of a single employee's payroll. (Refer to Trucking Exception in the Classification Section.)

In order to qualify for these exceptions, the employer must maintain accurate payroll records reflecting the type of work performed by each employee. An estimated or percentage allocation of payroll is not permitted. In the absence of daily

records, use the highest rated classification authorized for the insured.

## F. HOW TO SHOW CLASSIFICATIONS IN ITEM 4 OF THE INFORMATION PAGE

### 1. Business Described by a Specific Classification

For a business *described* by a classification, show the classification wording, with or without notes, show any caption which precedes several related classifications and show the code number.

### 2. Business Not Described by a Specific Classification

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

### Example

An employer manufactures textile lamp shades. There is no classification in this Manual which describes or mentions lamp shade manufacturing. The classification in this Manual which most closely describes lamp shade manufacturing is Code 2501 - Furnishing Goods Mfg. Code 2501's footnote states 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:

Lamp Shade 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.

**RULE V - PREMIUM BASIS****Item 4 of the Information Page****A. BASIS OF PREMIUM - TOTAL REMUNERATION**

Except as provided in this rule, premium shall be computed on the basis of the total remuneration paid or payable by the insured for services of employees covered by the policy.

Exception

Some classifications have a different premium basis. For example, premium for the domestic worker classification may be computed on a per capita or payroll basis. (*Refer to Rule XV.*)

**B. REMUNERATION-PAYROLL****1. Definition**

Remuneration means money or substitutes for money.

**2. Inclusions**

Remuneration includes:

- a. Commissions;
- b. Bonuses;
- c. Extra pay for overtime work except as provided in Rule V-E.;
- d. Pay for holidays, vacations or periods of sickness;
- e. 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;
- f. Payment to employees on any basis other than time worked, such as piece work, profit sharing or incentive plans;
- g. Payment or allowance for hand tools or power tools used by hand provided by employees and used in their work or operations for the insured;
- h. The rental value of an apartment or a house provided for an employee based on comparable accommodations;
- i. The value of lodging, other than an apartment or house, received by employees as part of their pay, to the extent shown in the insured's records;

- j. The value of meals received by employees as part of their pay to the extent shown in the insured's records;
- k. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay;
- l. Employee contributions made in the form of an employee authorized salary reduction, which are diverted by an employee for payment, by the employer, into a savings plan. Could be referred to as Salary Reduction Plans, Cafeteria Plans or Flexible Benefit Plans;
- m. Allocated business expenses such as housing, automobile, clothing, tools, moving, etc.;
- n. Automobile mileage allowances in excess of IRS guidelines;
- o. Per diem allowances in excess of IRS guidelines.

**3. Exclusions**

Remuneration excludes:

- a. Tips and other gratuities received by employees;
- b. Payments by an employer to group insurance or group pension plans for employees, other than payments covered by Rule V-B.2.e.;
- c. The value of special rewards for individual invention or discovery;
- d. Dismissal or severance payments except for time worked or accrued vacation;
- e. Reimbursements for business expenses such as automobile, meals, lodging, etc.;
- \* f. Safety awards received by employees as a supplement to the employees' wages in accordance with the employer's written adopted accident prevention plan provided to the insurance company at policy inception or at the time of adoption of the accident prevention plan if during the policy period.
- \* g. Employees wages diverted into a third-party pension trust or plan for the exclusive and irrevocable benefit of the employee (Davis-Bacon Act Wages).

**4. Payroll**

Payroll means remuneration.

**5. Vehicles Under Contract**

The labor portion of payroll for drivers, chauffeurs, or helpers providing vehicles with drivers under contract shall be included as payroll of the insured employer. If the labor portion of pay cannot be determined, 1/3 of the total contract price paid by the insured employer for the services shall be considered payroll.

**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 record or inspections.

**D. WHOLE DOLLARS-PAYROLLS**

All payrolls shall be shown to the nearest dollar. A remainder of \$.50 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.

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**

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

- a. If the records show separately the extra pay earned for overtime, the entire extra pay shall be excluded.

Example

If an employee worked overtime and was paid time and one-half, the half-time would be the extra portion, and that is the time that shall be excluded.

40 hrs. @ \$10.00 hr.	\$400.00
5 hrs. @ \$15.00 overtime	+ 75.00
Total Week Wage	\$475.00
Total Exclusion from WC premium	(\$25.00)
Total Wage for WC premium calculation (45 hrs. @ \$10.00)	\$450.00

- b. If the records show the total pay earned for overtime (regular pay plus overtime pay) in one combined amount, 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.

**F. MISCELLANEOUS VALUES -- PAYROLL LIMITATION**

- 1. The payroll for employees listed in 4. and 5. below is subject to a limitation. The payroll on which premium is based shall exclude that part of the employee's average weekly wage which is in excess of the applicable weekly limitation, provided:

- a. Books and records are maintained to show separately the total payroll earned by each employee whose average weekly wage for the total time employed during the policy period exceeds the weekly payroll limitation, and

b. Separate records are maintained in summary by classification for such employees.

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

3. The basis of premium for the following employees is a fixed amount determined by the following formulas:

a. Code 7382 - Taxicab Co. and Limousine Co.

In the absence of verifiable payroll records for employee operated vehicles, use the Texas Average Weekly Wage x 1.50 x 52, rounded to the nearest \$100.

For leased or rented vehicles, use the Texas Average Weekly Wage x 1.00 x 52, rounded to the nearest \$100.

b. Partners and Sole Proprietors

**For purposes of this rule, "partners" includes general partners and limited partners.**

Use the Texas Average Weekly Wage x 1.25 x 52, rounded to the nearest \$100.

Note: The Texas Average Weekly Wage is the same as the average annual weekly wage established by the Texas Workers' Compensation Commission effective September 1 of each year for benefits.

4. A Maximum Remuneration of \$1,200 per week is applicable to the following employees:

a. Executive Officers

b. Athletic Team: Non-contact sports - Code 9178

c. Athletic Team: Contact sports - Code 9179

d. Carnival - Traveling - Code 9186

e. Motion Picture Production - Code 4360

5. A Minimum Remuneration of \$150 per week is applicable to Executive Officers.

\*

**RULE VI - RATES AND 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

The premium for some classifications may not be based upon payroll. For example, the rate for the domestic worker classification may be the amount of premium for each domestic worker, that is, a per capita charge. (Refer to Rule XV.)

**2. "a" Rates**

A classification with the symbol "a" means the rate for that classification shall be calculated by the carrier. Any factor to increase the filed rate for Longshore and Harbor Workers' Compensation Act and/or Oil, Gas or Other Mineral Operations On or Over Water are "a" rates.

**3. Filed Rate**

Filed rate shall mean the rate filed by the insurance carrier in accordance with the Texas Department of Insurance requirements unless or until such rate has been disapproved. The effective date of the policy, and not the anniversary rating date, determines the filed rates to be used in calculating premium.

**4. Disease Loading**

A supplemental disease loading may be applied to the rate for a classification code.

**5. Show Rates in Item 4 of the Information Page**

For each classification shown in Item 4, the rate shall be stated in the column headed "Rate per \$100 of remuneration."

**B. PREMIUM DETERMINATION**

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

Example

Payroll	=	\$90,000
Rate per \$100 of Payroll	=	1.50
	$\frac{\$90000}{100} \times 1.50 =$	\$ 1,350
Premium	=	\$ 1,350

**C. WHOLE DOLLARS-PREMIUMS**

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

**D. EXPENSE CONSTANT**

**1. Explanation**

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

**2. Amount of Expense Constant**

The expense constant is filed with this department. The filed expense constant applies to a policy issued for a period of less than one year in the same manner as it applies to a policy written for one year. In the event of policy cancellation, refer to Rule X. For long-term policies, refer to Rule III.

**3. Premium Discount, Experience Rating and Retrospective Rating**

The expense constant is not subject to adjustment by premium discount, experience \* rating modification or retrospective rating. The \* expense constant is not used to determine premium discount, experience rating modification, retrospective rating or premium incentives for small employers.

**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.

E. 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. It is the lowest total policy premium for a one-year policy period. The minimum premium shall be prorated on policies issued for a period less than one year. For policies issued for a period over one year, refer to Rule III.

Minimum premiums for each classification are filed by the insurance carriers with this department.

2. \$250 Limitation

Minimum premiums are subject to a "maximum" minimum of \$250.

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.

Example If Class Code 8810  
 If Rate = \$0.64  
 If Minimum Premium = \$172  
 If Expense Constant = \$140

	Example 1	Example 2
Payroll/100	\$10,000/100	\$1,000/100
x Rate	x \$0.64	x \$0.64
	= \$64	= \$6
x Exp. Modification	x 1.10	x 1.10
	= \$70	= \$7
+ Expns. Constant	+ \$140	\$140
=	\$210	\$147
Policy Premium	\$210	\$172

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 and shall be determined upon audit only on the basis of those classifications developing premium. If the final earned premium is less than the minimum premium determined upon audit, that minimum premium shall be charged. For cancelled policies, refer to Rule X. If no payroll is developed, use the minimum premium of Code 8810. If a policy is written on an "if any" basis, no premium will be charged for the Terrorism Risk Insurance Act of 2002, unless the policy develops premium during the policy term or at audit.

\*

F. DEPOSIT PREMIUM

1. Amount Payable

The amount of the deposit premium shall be established by the carrier. Adjustment of premium may be made on an annual basis or the policy may provide for interim adjustment and payment of premium on a monthly, quarterly or semi-annual basis.

2. When Credit Allowed

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

G. PREMIUM MODIFICATIONS-EXPERIENCE RATING PLAN

If the risk is subject to experience rating, both the experience rating modifier calculated by the insuring company and the negotiated experience modifier, if applicable, shall be shown in Item 4 of the Information Page. The Information Page shall reflect the premium modified by the negotiated modifier, if applicable. "Test modifiers" cannot be applied to the policy in determining premium and cannot be negotiated.

H. PREMIUM DETERMINATION FOR FEDERAL AND MARITIME INSURANCE

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



## I. SCHEDULE RATING

Schedule rating is an optional rating plan that carriers may file which allows the carrier to deviate from their filed rates based on the individual characteristics of a risk. The schedule rating criteria and debits/credits are not standard between carriers.

All schedule ratings used in calculating premium must be supported by documentation maintained by the insurance company.

Premium for the Terrorism Risk Insurance Act of 2002 is not subject to schedule rating.

## J. TERRORISM PREMIUM

The premium for the Terrorism Risk Insurance Act of 2002 is based on the policy's total payroll as defined in Rule V-B. To determine this premium, the total Texas payroll for the risk is divided by \$100 and then multiplied by the Terrorism rate filed with TDI by the insurance company. The calculation is expressed as (Payroll/100 x Terrorism Rate = Premium). This premium is then added to the Estimated Standard Premium, pursuant to Rule III-E. The terrorism premium is not subject to any modifications including, but not limited to, experience rating, schedule rating, retrospective rating, premium discount or premium incentive for small employers.

Premium developed under this Act is not included in standard premium.

Policies issued on an "if any" basis will not be charged a terrorism rate unless the policy develops premium during the policy term or at audit.

Premium for this Act does not apply to Code 0913 – Domestic Workers – Residences Per Capita Basis.

## \* K. CERTIFIED WORKERS' COMPENSATION HEALTH CARE NETWORK

### 1. Participation In Network

A certified workers' compensation health care network is authorized in Chapter 1305 of the Texas Insurance Code and in Title 28, Chapter 10 of the Texas Administrative Code. An insurance carrier can either establish its own network for certification or can contract with a network that has been certified. The Texas Department of Insurance (TDI) anticipates that certified workers' compensation health care networks will help reduce the cost of workers' compensation claims in Texas and that the cost savings, both anticipated and actual, should be passed on to policyholders participating in the networks in the form of a premium credit.

The amount of the premium reduction, if applicable, is shown on the Information Page of the policy and is determined by applying the network credit factor to the estimated modified/schedule rating premium (Refer to Rule III E). The Texas Health Care Network Endorsement (WC 42 04 08) must be attached to the policy if the policyholder elects to participate in a certified workers' compensation health care network.

Each insurance carrier is required to advise TDI whether it is offering a certified workers' compensation health care network(s) to policyholders. Each carrier must provide the following information:

- a. The percentage premium credit, if applicable; or
- b. A statement indicating that the insurance carrier is not participating in certified workers' compensation health care networks.

The premium reduction may be prorated based on when during the policy period the election to participate or the election to terminate participation in the workers' compensation health care network is made. The premium reduction may be forfeited if the carrier determines that the policyholder failed to provide to employees the information required in 2. a. and/or 2.b. below. Before a policyholder's premium reduction can be forfeited by the insurance carrier, a letter giving 30 days notice of possible premium reduction forfeiture must be sent by the insurance carrier to the policyholder explaining why the premium credit is being forfeited. If the policyholder corrects the reason for the potential forfeiture of the premium credit within the 30 days, the premium reduction will not be forfeited.

Minimum premium policies are not eligible for this premium reduction.

### 2. Required Policyholder Information

The following information must be provided by the insurance carrier to policyholders in accordance with Section 1305.005(d) and 1305.451 of the Texas Insurance Code and the Workers' Compensation Health Care Networks rule contained in Title 28, Chapter 10 of the Texas Administrative Code:

- a. Employee notice of network requirements;
- b. Employee acknowledgement form; and

- c. Description of service area(s) as required under Title 28, § 10.22 of the Texas Administrative Code.



**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.

**B. DEFINITIONS**

**1. Standard Premium**

Standard premium means, for purposes of this rule, the Texas premium determined on the basis of the rates, any experience rating modification, schedule rating, deductible credit, and minimum premiums. The Expense Constant and premium for the Terrorism Risk Insurance Act of 2002 shall be excluded from determination of the standard premium.

\*

**2. Total Standard Premium**

Total standard premium means the total premium for all states covered by the policy, excluding premium based on the disease rate applicable to risks in states where coverage is provided under the Federal Mine Safety and Health Act.

**C. RETROSPECTIVE RATING**

Any standard premium under a retrospective rating plan is not subject to premium discount.

**D. DETERMINATION OF PREMIUM DISCOUNT**

If a policy develops total standard premium in excess of \$5,000, the standard premium is subject to premium discount as follows:

**1. Without Retrospective Rating**

**a. Single State Policy**

If a policy provides coverage only in Texas, the premium discount for Texas shall be determined by applying the discount percentages, found in the Premium Discount Table or as filed by the carrier, to the total standard premium.

**b. Multiple State Policy**

Premium discount is applied on an interstate basis. It shall be determined by applying the discount percentages, found in the Premium Discount Table or as filed by the carrier, to each state's portion of the first \$5,000, next \$95,000, next \$400,000 and the amount of \$500,000 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. The remainder of that standard premium is subject to premium discount 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.

**3. Other Methods**

Any other method may be used to determine the premium discount provided that the discount so determined does not differ from the discount produced by the method outlined above by more than 0.1% of the standard premium. The Premium Discount Table appears at the end of this rule.

**E. COMBINATION OF POLICIES**

Two or more policies issued to the same insured, by one or more insurance carriers under the same management, may be combined for the purpose of computing the premium discount for that insured.

**1. Insured**

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

**2. Combination Procedure**

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

- a. The insurance carrier(s) shall determine the effective date for the application of premium discount; \*
- b. All such policies in force prior to such effective dates shall be cancelled and rewritten as of the effective date;
- c. All policies effective after the effective date of the combination shall be written to expire concurrently with other policies in the combination. \*

group's total standard premium. Total premium for all members that are still part of the group at the common expiration of the policies shall be combined to determine the premium discount percentage applicable to each individual group member's premium. The premium discount will be distributed in accordance with the group's plan of operation submitted to and approved by the Texas Department of Insurance. The premium discount for an individual member cannot be less than what it would have been had the member not been part of the group.

The insurance carrier and group administrator may \* agree that the final premium discount percentage will be determined based on the premium reported as of the common expiration of the group's policies. If the insurance carrier and group administrator do not agree to this early determination of the discount percentage, the final premium discount percentage will not be determined until all policies subject to the group are audited.

**F. GROUP PURCHASE PROGRAM** \*

Premium discount for two or more policies issued to a certified group purchase program is based on the \*

PREMIUM DISCOUNT TABLE

Standard Premium		Discount %		Standard Premium		Discount %		Standard Premium		Discount %				
\$ 0	–	5,029	0.0	%	\$ 9,439	–	9,655	4.0	%	\$ 93,334	–	102,857	8.0	%
5,030	–	5,090	0.1		9,656	–	9,882	4.1		102,858	–	107,234	8.1	
5,091	–	5,153	0.2		9,883	–	10,120	4.2		107,235	–	111,999	8.2	
5,154	–	5,217	0.3		10,121	–	10,370	4.3		112,000	–	117,209	8.3	
5,218	–	5,283	0.4		10,371	–	10,632	4.4		117,210	–	122,926	8.4	
5,284	–	5,350	0.5		10,633	–	10,909	4.5		122,927	–	129,230	8.5	
5,351	–	5,419	0.6		10,910	–	11,200	4.6		129,231	–	136,216	8.6	
5,420	–	5,490	0.7		11,201	–	11,506	4.7		136,217	–	143,999	8.7	
5,491	–	5,562	0.8		11,507	–	11,830	4.8		144,000	–	152,727	8.8	
5,563	–	5,637	0.9		11,831	–	12,173	4.9		152,728	–	162,580	8.9	
5,638	–	5,714	1.0		12,174	–	12,537	5.0		162,581	–	173,793	9.0	
5,715	–	5,793	1.1		12,538	–	12,923	5.1		173,794	–	186,666	9.1	
5,794	–	5,874	1.2		12,924	–	13,333	5.2		186,667	–	201,599	9.2	
5,875	–	5,957	1.3		13,334	–	13,770	5.3		201,600	–	219,130	9.3	
5,958	–	6,043	1.4		13,771	–	14,237	5.4		219,131	–	239,999	9.4	
6,044	–	6,131	1.5		14,238	–	14,736	5.5		240,000	–	265,263	9.5	
6,132	–	6,222	1.6		14,737	–	15,272	5.6		265,264	–	296,470	9.6	
6,223	–	6,315	1.7		15,273	–	15,849	5.7		296,471	–	336,000	9.7	
6,316	–	6,412	1.8		15,850	–	16,470	5.8		336,001	–	387,692	9.8	
6,413	–	6,511	1.9		16,471	–	17,142	5.9		387,693	–	458,181	9.9	
6,512	–	6,614	2.0		17,143	–	17,872	6.0		458,182	–	528,421	10.0	
6,615	–	6,719	2.1		17,873	–	18,666	6.1		528,422	–	590,588	10.1	
6,720	–	6,829	2.2		18,667	–	19,534	6.2		590,589	–	669,333	10.2	
6,830	–	6,942	2.3		19,535	–	20,487	6.3		669,334	–	772,307	10.3	
6,943	–	7,058	2.4		20,488	–	21,538	6.4		772,308	–	912,727	10.4	
7,059	–	7,179	2.5		21,539	–	22,702	6.5		912,728	–	1,115,555	10.5	
7,180	–	7,304	2.6		22,703	–	23,999	6.6		1,115,556	–	1,434,285	10.6	
7,305	–	7,433	2.7		24,000	–	25,454	6.7		1,434,286	–	2,007,999	10.7	
7,434	–	7,567	2.8		25,455	–	27,096	6.8		2,008,000	–	3,346,666	10.8	
7,568	–	7,706	2.9		27,097	–	28,965	6.9		3,346,667	–	10,039,999	10.9	
7,707	–	7,850	3.0		28,966	–	31,111	7.0		10,040,000	–	and Over	11.0	
7,851	–	7,999	3.1		31,112	–	33,599	7.1						
8,000	–	8,155	3.2		33,600	–	36,521	7.2						
8,156	–	8,316	3.3		36,522	–	39,999	7.3						
8,317	–	8,484	3.4		40,000	–	44,210	7.4						
8,485	–	8,659	3.5		44,211	–	49,411	7.5						
8,660	–	8,842	3.6		49,412	–	56,000	7.6						
8,843	–	9,032	3.7		56,001	–	64,615	7.7						
9,033	–	9,230	3.8		64,616	–	76,363	7.8						
9,231	–	9,438	3.9		76,364	–	93,333	7.9						

Above Table Based on the Following Discounts:

First	\$	5,000	0.0%
Next	\$	95,000	8.4%
Next	\$	400,000	10.5%
Over	\$	500,000	11.0%

**RULE VIII - LIMITS OF LIABILITY**  
**Item 3.b. of the Information Page**

A. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY POLICY

**1. Part One-Workers' Compensation**

There is no limit of liability in the standard policy for Part One-Workers' Compensation. The policy provides all benefits required by any workers' compensation law of a state listed in Item 3.A. of the Information Page.

**2. Part Two-Employers' Liability**

a. Standard Limits

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

b. Increased Limits

The limits under Part Two may be increased, subject to the following:

- (1) The limits of liability shall be the same for all states specified in Item 3.A. of the Information Page.
- (2) The additional premium for increased limits may be determined by multiplying the total premium by a percentage up to the maximum percentage shown in the following Table for Increased Limits. For this purpose, total premium shall be computed before application of deductible credit, experience rating modification, premium discount, expense constants, or retrospective rating adjustment.

Table for Increased Limits

Limits of Liability	Maximum Percentage
(000 omitted)	
100/100/1,000	.50%
100/100/2,500	.75%
100/100/5,000	1.00%
100/100/10,000	1.25%
500/500/500	1.00%
500/500/1,000	1.25%
500/500/2,500	1.50%
500/500/5,000	1.75%
500/500/10,000	2.00%
1,000/1,000/1,000	2.00%
1,000/1,000/2,500	2.25%
1,000/1,000/5,000	2.50%
1,000/1,000/10,000	2.75%
2,500/2,500/2,500	3.00%
2,500/2,500/5,000	3.25%
2,500/2,500/10,000	3.50%
5,000/5,000/5,000	4.00%
5,000/5,000/10,000	4.25%
10,000/10,000/10,000	5.00%
12,500/12,500/12,500	5.25%
15,000/15,000/15,000	5.75%
17,500/17,500/17,500	6.00%
20,000/20,000/20,000	6.15%

If an increased limit is selected which does not correspond to a limit in the above table, the maximum percentage shall be that for the next higher limit in the table.

It is not permissible to provide different limits of liability for accidents and for disease on the same policy.

- (3) The premium for increased limits shall be subject to experience rating modification, deductible credit, and premium discount or retrospective rating adjustment .

- (4) Percentages for limits greater than shown above are to be filed by the carrier with the Department in accordance with the law.

c. Accident Limit

The limit of liability under Part Two for Bodily Injury by Accident applies to all bodily injury arising out of any one accident.

## d. Disease Limits

The limit of liability under Part Two for Bodily Injury by Disease--each employee--applies as a separate limit to bodily injury by disease to any one employee and the limit of liability for Bodily Injury by Disease-policy limit--applies as an aggregate limit for all bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease.

## e. Show Limits on the Information Page

The limits of liability under Part Two must be stated in Item 3.B. of the Information Page.

## B. VOLUNTARY COMPENSATION INSURANCE

## 1. Standard Limits

The standard limits of liability under Part Two-Employers' Liability Insurance for employees subject to voluntary compensation insurance 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

The limit of liability for Bodily Injury by Accident applies to all bodily injury arising out of any one accident.

The limit of liability for Bodily Injury by Disease--each employee--applies as a separate limit to bodily injury by disease to any one employee and the limit of liability for Bodily Injury by Disease--policy limit--applies as an aggregate limit for all bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease.

## 2. Increased Limits

The standard limits under Part Two-Employers' Liability Insurance for employees subject to voluntary compensation insurance may be increased. The premium for the increased limits shall be determined on the basis of the factors in Rule VIII-B-3.

## 3. Premium Determination

Premium shall be determined on the basis of workers' compensation rules, classifications and rates for the state workers' compensation law designated in the schedule in the Voluntary Compensation and Employers' Liability Coverage Endorsement (WC 00 03 11).

## 4. Payroll Records

When voluntary compensation insurance is provided for a group of employees, separate payroll records shall be maintained by the insured for the designated group of employees.



**RULE IX - SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM****A. EXECUTIVE OFFICERS****1. Definition**

Executive officers are the President, Vice President, Secretary, Treasurer or any other officer appointed in accordance with the charter or by-laws of a corporation or a professional association.

**2. Executive Officers with at least 25% Equity Ownership of the Name Insured**

a. A corporate executive officer(s) of the named insured is covered and entitled to benefits under a workers' compensation policy as an employee, unless the corporate executive officer is specifically excluded from coverage. Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) shall be attached to the policy naming any corporate executive officer(s) to be excluded from coverage.

b. A corporate executive officer(s) of the named insured with at least 25% equity ownership in the named insured may be excluded from coverage by attaching the Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) to the policy, naming any corporate executive officer(s) to be excluded from coverage.

c. When working under a building or construction contract with a governmental entity, a corporate executive officer(s) of the named insured with an equity ownership of at least 25% in the named insured may be excluded from coverage by attaching the Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) to the policy, naming the corporate executive officer(s) to be excluded from coverage.

**3. Executive Officers with Less Than 25% Equity Ownership of the Named Insured**

a. A corporate executive officer(s) of the named insured is covered and entitled to benefits under a workers' compensation policy as an employee, unless the corporate executive officer is specifically excluded

from coverage. Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) shall be attached to the policy naming any corporate executive officer(s) to be excluded from coverage, except as provided in (b) below.

b. A corporate executive officer(s) of the named insured with less than 25% equity ownership in the named insured may be excluded from coverage at the insurer's option.

**4. Premium Determination**

Premium for corporate executive officers shall be \* based on their total payroll, subject to the minimum and maximum payroll amounts shown in Rule V-F, regardless of the classification \* applicable to the corporate executive officers covered by the policy. These payroll limitations apply to the weekly payroll of each corporate \* executive officer for the number of weeks the officer was employed during the policy period.

**5. Assignment of Payroll**

Payroll shall be assigned to Code 8809 for \* executive officers performing clerical or outside salesperson duties only. Code 8809 is not eligible for division of payroll, except for executive officers performing part-time duties as members of an aircraft flying crew (*Refer to Rule IX-A.6.*); or for executive officers of a cotton gin (*Refer to Classification Section*).

\*

Payroll for executive officers performing duties \* other than as clerical or outside salespersons shall be assigned to classifications in the same manner as other employees.

**6. 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 day during which the executive officer did not perform flight duties, assign the officer's payroll as provided in Rule IX-A.4.

- b. For each day the executive officer performed flight duties, the payroll computed on the basis of 300 days a year shall be assigned to Code 7421-Aircraft Operation-flying crew. If an executive officer's nonflying duties on such a day are subject to a higher rated classification, that higher rated classification shall be assigned on that day.

Rules 5a. and b. apply on the basis of the pilot's log book required under Federal regulations or other verifiable records.

If Code 7421-Aircraft Operation-flying crew-applies and verifiable records are not maintained to indicate those days 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.

## B. PARTNERS AND SOLE PROPRIETORS

- \* **For purposes of this rule and the endorsements to implement this rule, "partners" includes general partners and limited partners.**

### 1. Law and Status

Partners and sole proprietors are automatically covered under the policy unless specifically excluded by attaching the Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) to the policy, naming the person(s) to be excluded from the policy. If the spouse of a partner or sole proprietor is active in the operation of the named insured, then coverage for the spouse is treated in the same manner as the partner or sole proprietor.

### 2. Coverage

For clarification purposes, the Sole Proprietors, Partners, Officers and Others Coverage Endorsement (WC 42 03 10) may be attached to the policy naming each partner, sole proprietor and spouses thereof covered under the policy. In addition, each partner, sole proprietor and spouses thereof covered may be specifically named in Item 4 of the Information Page.

Each partner or sole proprietor and spouse(s) thereof to be excluded from coverage under the policy shall be excluded by attaching the Partners, Officers and Others Exclusion Endorsement (WC 42 03 08) to the policy, naming the person(s) excluded from the policy.

### 3. Premium Determination

Premium for each partner or sole proprietor and spouses treated as an employee is based on the formula shown in Rule V-F.

### 4. Assignment of Payroll

Payroll of partners or sole proprietors and spouses shall be assigned to classifications in accordance with Rule IV.

## C. REAL ESTATE SALESPERSONS

Where an insured has elected to cover in its insurance policy real estate salespersons who are compensated solely by commissions, there shall be attached to the policy the Sole Proprietors, Partners, Officers and Others Coverage Endorsement (WC 42 03 10). The name of each salesperson to be covered shall be stated in the endorsement or in Item 4 of the Information Page.

## D. VOLUNTEER PERSONNEL--POLITICAL SUBDIVISIONS & EMERGENCY SERVICE ORGANIZATIONS

### 1. Definition

"Emergency service organization" means any organization established to provide for the general public: (A) fire prevention and suppression; (B) hazardous materials response operations; or (C) emergency medical services.

"Normal functions" means any response to, participation in, or departure from an incident scene; training; meetings; performance of equipment maintenance; or organizational functions.

"Political Subdivision" means a county, municipality, special district, a school district, a junior college district, housing authority, community center for mental health and mental retardation services established under Subchapter A, Chapter 534, Health and Safety Code, or any other legally constituted political subdivision of the state.

"Volunteer members" means individuals who are carried on the membership list of the organization as active participants and who receive no remuneration for their services.

**2. Law and Status**

A political subdivision may cover volunteer firefighters, police officers, emergency medical personnel, and other volunteers that are specifically named who shall be entitled to full medical benefits and the minimum compensation payments provided under the law.

An emergency service organization which is not a political subdivision or which is separate from any political subdivision may elect to obtain workers' compensation coverage for its named volunteer members who participate in the normal functions of the organization. Named volunteer members are entitled to full medical benefits and the minimum compensation payments provided under the law.

**3. Coverage**

In order to provide coverage for volunteer personnel, the Texas Volunteer Workers Coverage Endorsement (WC 42 03 03), must be attached to the policy and those volunteers/volunteer members or classifications of volunteers to be covered must be designated in the endorsement or in Item 4 of the Information Page.

**4. Premium Determination**

Volunteer personnel covered by the policy shall be classified and rated in accordance with the appropriate classifications shown in the Classifications Section, subject only to specific exceptions granted by the Texas Department of Insurance. Remuneration to be used for premium determination of each volunteer/volunteer member covered shall be the hourly wage rate for a beginning full time employee engaged in similar activities, subject to a maximum of \$5,200 annually.

**E. EMPLOYEE LEASING ARRANGEMENTS**

The purposes of this rule are to curtail abuses to the workers' compensation insurance rating system of the State of Texas perpetrated by employee leasing arrangements; to prevent employee provider firms from assisting employers in evading proper premium and other charges for workers' compensation insurance through employee leasing arrangements; to ensure that incurred experience is used in ratings; and to ensure that premium is paid commensurate

with exposure and anticipated claims experience. This rule provides a method to calculate more accurately the proper workers' compensation premium attributable to leased workers. This is done by requiring the use of the client company's modifier for the first two (2) years and by attributing experience for leased workers to the employee provider firm. After two (2) years, the time necessary for experience to be reflected in an experience modifier, the employee provider firm can use its own experience modifier.

This rule does not purport to make any determination that an employee provider firm is or is not the employer of a leased worker for any purpose whatsoever; nor does the Texas Department of Insurance in passing this rule make any such determination. This rule is of no significance with regard to the employer/employee relationship under Texas law or with regard to determinations about the payment of benefits to injured workers. The purpose of the rule is limited strictly as stated above.

**1. Definitions**

"Affiliate" of a specific entity means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with the entity specified.

"Client Company" means an entity that obtains one or more leased workers from an employee provider firm.

"Department" means the Texas Department of Insurance.

"Employee Leasing Arrangement" means an arrangement under lease, contract or other agreement made orally or in writing whereby an employee provider firm provides one or more leased workers to a client company and, for purposes of workers' compensation insurance, claims the leased workers are employees or co-employees of it and the client company, or claims to be the employer or co-employer with the client company of the leased workers.

"Employee Provider Firm" means an entity or any affiliate whose principal business is providing workers, as distinct from providing non-personnel services, to another entity to perform activities in furtherance of the business, trade or profession of the other entity at the business

premises of or at locations designated by the other entity. This term includes professional employee organization services.

\*

"Employee Provider Form EP-1" or "Employee Provider Form EP-1A" means the form by that name.

"Employee Provider/Client Company Endorsement" means Employee Provider/Client Company Endorsement WC 42 04 06A. Refer to the Endorsements and Forms Section.

"Entity" means a natural person or business organization of any kind, whether incorporated or not, including without limitation a firm, partnership, association, joint venture, sole proprietorship, corporation, or fiduciary (e.g., trustee, receiver, executor or administrator).

\*

"Leased Worker" means a worker provided to another entity by an employee provider firm who is or was considered to be an employee or co-employee of the other entity for any purpose.

"Worker" means any natural person in the "course and scope of employment," as that term is defined under Texas Labor Code § 401.011 (12), of a business entity.

## 2. Coverage

An employee provider firm that wishes to secure a workers' compensation insurance policy shall purchase a standard workers' compensation insurance policy and, if requested by an insurance company licensed to write workers' compensation insurance in Texas, submit an Employee Provider Form EP-1 (or in the case of an employee provider firm that wishes to continue workers' compensation insurance coverage, an Employee Provider Form EP-1A) and a separate Employee Provider/Client Company Endorsement for each client company with which it has an employee leasing arrangement.

\*

## 3. Classifications, Premium Calculation and Experience Rating

a. Premiums and other charges shall be calculated based on the payroll, rate for each applicable classification and

experience modifier of the client company as shown on its Employee Provider/Client Company Endorsement, if applicable, according to the following methods:

(1) The experience modifier most recently issued to the client company before it entered into any employee leasing arrangement shall be used to calculate premium for leased workers of the client company until the client company has obtained leased workers from the same employee provider firm for two (2) years from the date of the employee provider firm's experience rating date following the date on which the client company contracted with the employee provider firm. At the end of this period, premium for leased workers of a client company will be calculated based on the experience modifier of the employee provider firm.

(2) If a client company does not have an experience modifier when it contracts with an employee provider firm, then premium for the leased workers of the client company will be calculated using no experience modifier for the period described in subparagraph (1) above.

b. If an employee leasing arrangement exists and the client company has not obtained leased workers from the same employee provider firm for two years from the date of the employee provider firm's experience rating date following the date on which the client company contracted with the employee provider firm, then premium for leased workers of the client company shall be calculated according to the methods set forth in Subsection 3.a. above regardless of the anniversary rating date of the policy.

c. When the employee leasing arrangement with a client company ends, and the client company either (1) obtains a new workers' compensation insurance policy in its own name, or (2) adds its former leased workers to an existing policy, then premium for that client company will be calculated as follows:

(1) If the client company obtained leased workers from the same employee provider firm for the period described in Paragraph 3.a. above, the lower of its

experience modification before entering into the employee leasing arrangement or the experience modification of the employee provider firm at the time the leasing arrangement terminated shall be used.

- (2) Otherwise, the higher of its current experience modification (if any) or the last known experience modification of the client company before it entered into any employee leasing arrangement shall be used.

**4. Eligibility**

In addition to meeting the requirements of any other state and federal laws and regulations, if applicable, the employee provider firm shall provide to the insurer before coverage is bound the information required in Employee Provider Form EP-1 if requested. \*

**5. Employee Provider/Client Company Endorsement**

If requested by the insurer, the employee provider firm shall provide to the insurer an Employee Provider/Client Company Endorsement for each client company with which the employee provider firm has an employee leasing arrangement. \*

**6. Policy Cancellation or Nonrenewal**

- a. Grounds for Cancellation or Nonrenewal

In addition to any other statutory, regulatory or contractual grounds for cancellation or nonrenewal that may exist, any violation of this rule including without limitation, any false or misleading statement, misrepresentation, concealment or omission of a material fact by a client company or by an employee provider firm of any information required to be provided under this rule, is grounds for cancellation or nonrenewal upon thirty (30) days notice.

- b. Notice of Cancellation or Nonrenewal

Notice of cancellation or nonrenewal shall be sent by certified mail to the employee provider firm and the Texas Workers' Compensation Commission (TWCC) no later than the thirtieth (30th) day before the date on which the cancellation or

nonrenewal becomes effective. The employee provider firm shall provide notice of cancellation to each client company by certified mail within three (3) days of receipt of such notice.

**7. Audit**

The Insurer may conduct periodic audits at any time after the effective date of the policy for any purpose. The insurer shall have the same rights of audit with respect to each client company that has engaged in any employee leasing arrangement. The insurer may make adjustments in premium calculations as a result of such audits.

**8. Notification**

If an insured under a workers' compensation insurance policy enters into an employee leasing arrangement during its policy period, it shall notify its insurer within ten (10) days and comply with all provisions of this rule within ninety (90) days. Premium for such insured shall be calculated for the remaining policy period in accordance with this rule effective as of the date of the inception of the employee leasing arrangement.

**9. Severability**

If any provision of this rule, Employee Provider Form EP-1, Employee Provider Form EP-1A or Employee Provider/Client Company Endorsement or their application to any entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of this rule, Employee Provider Form EP-1, Employee Provider Form EP-1A or Employee Provider/Client Company Endorsement that can be given effect without the invalid provision or application, and to this end the provisions of this rule, Employee Provider Form EP-1, Employee Provider Form EP-1A or Employee Provider/Client Company Endorsement are declared to be severable.

**10. Conflicts With Other Rules**

The terms of this rule shall control over conflicting terms of any other rule in the ***Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance.***

**F. TREATMENT OF DISEASE COVERAGE**

**1. Coverage**

The rates include coverage for the disease obligation of the employer under the Texas

Workers' Compensation Act (Coverage A) and as otherwise imposed by law (Coverage B).

**2. Special Supplementary Disease Rates for Foundry Hazards:**

The payroll of all employees exposed to foundry hazards of any risk, however classified, except those classified as 3081, 3082 and 3085 must be specifically stated. A supplementary disease rate for Codes 0065 "Incidental Foundries-steel," 0066 "Incidental Foundries-non-ferrous metals" or 0067 "Incidental Foundries-iron," whichever is appropriate, may be charged on this payroll in addition to the rate.

The supplementary disease rate for foundry hazards of any risk, however classified, shall not apply to the payroll of employees engaged in pattern-making, provided that such pattern-

making employees work in rooms or departments which are in separate buildings or on separate floors or separated from any department creating dust by solid partitions that effectively exclude dust. Any openings in such partitions shall be kept closed at all times except while being used for entrance or egress.

**3. Special Supplementary Disease Rate for Abrasive or Sand Blasting Hazards:**

The payroll of all employees exposed to an abrasive or sand blasting hazard in any risk, however classified, must be specifically stated. A supplementary disease rate for Code 0059 "Abrasive or Sand Blasting" may be charged on the entire payroll of all employees exposed to abrasive or sand blasting regardless of whether they are engaged in these operations upon a full time basis or only intermittently.

**RULE X - CANCELLATION****A. WHO MAY CANCEL**

The Cancellation Condition of the Standard Policy permits cancellation by the insured or by the insurance carrier. In the event the insurance carrier cancels a policy for its own convenience, the insured under that cancelled policy shall have the right to receive pro rata cancellation on any other policy still in effect and issued by that carrier.

**B. PREMIUM DETERMINATION-CANCELLATION**

Premium for the cancelled policy shall be computed as follows:

**1. Rates and Payroll**

Apply applicable 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. \*

**3. Expense Constant**

Add the pro rata portion of the Expense Constant but not less than \$15.00. (Refer to Rule VI-D.) \*

**4. Minimum Premium**

The total premium for the cancelled policy shall not be less than the pro rata portion of the minimum premium. (Refer to Rule VI-E.) \*

**C. PREMIUM DETERMINATION-CANCELLATION-DEDUCTIBLE PROGRAM-AGGREGATE DEDUCTIBLE AMOUNT ADJUSTMENT**

The aggregate deductible amount for the cancelled policy for which an insured has selected, either an aggregate deductible or a per accident/aggregate deductible shall be adjusted as follows:

**1. Cancellation by the Insurance Carrier**

The aggregate deductible amount shall be reduced, pro rata, based on the time the policy was in force.

**2. Cancellation by the Insured**

The aggregate deductible amount shall not be reduced.

**\* RULE XII - LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT**

**A. GENERAL EXPLANATION**

- \* The Longshore and Harbor Workers' Compensation Act (L. & H.W. Act) is a Federal law which provides for payment of compensation and other benefits to employees such as longshore and 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 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.

**B. WORKERS' COMPENSATION INSURANCE-PART ONE**

- \* The standard policy is used to insure the statutory obligation of an employer to furnish benefits required by the L. & H.W. Act. Attach the Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06 A) to provide such insurance. Do not designate the L. & H.W. Act in Item 3.A. of the Information Page.

**C. EMPLOYERS' LIABILITY INSURANCE-PART TWO**

- \* For operations subject to the L. & H.W. Act, the standard limits of liability under Part Two apply. For policy increased limits, *refer to Rule VIII.*

**D. CLASSIFICATIONS AND RATES**

**1. Classifications**

- \* Classifications for insurance under the L. & H.W. Act are listed in the Classification Section.

**2. Rates for Federal "F" Classifications**

- \* The rates for federal classification code numbers contemplate exposure subject to the L. & H.W. Act.

**3. Rates for Nonfederal "Non-F" Classifications**

- \* The rates for nonfederal classification code numbers do not contemplate exposure subject to the L. & H.W. Act. If operations under such

- \* classifications involve some employees subject to L. & H.W. Act, the rates and minimum premiums for such classifications may be increased by a Longshore and Harbor Workers' Compensation coverage percentage. Such increase does not apply to expense constants. Such increased rate shall apply only to payroll of employees engaged in operations subject to the L. & H.W. Act. The increase factors for L. & H.W. are "a" rates.

**4. Minimum Premium**

- \* A minimum premium of up to \$100 may be applied for coverage under the L. & H.W. Act. This minimum premium may be charged in addition to the minimum premium or premium for other operations on such a policy even if no payroll subject to this Act develops upon audit.

**\* E. EXTENSIONS OF THE L. & H.W. ACT**

**1. Defense Base Act**

- \* The Defense Base Act extends the provisions of the L. & H.W. 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.

- \* To provide such insurance, attach the Defense Base Act Coverage Endorsement (WC 00 01 01 A).

**2. Outer Continental Shelf Lands Act**

- \* The Outer Continental Shelf Lands Act extends the provisions of the L. & H.W. 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.

- \* To provide such insurance, attach the Outer Continental Shelf Lands Act Coverage Endorsement (WC 00 01 09 A).



**3. Civilian Employees of Nonappropriated Fund Instrumentalities Act**

The Nonappropriated Fund Instrumentalities Act extends the provisions of the L. & H.W. Act to civilian employees of nonappropriated fund instrumentalities such as post exchanges and service clubs of the Armed Forces. For complete details, see U.S. Code. \*

To provide such insurance attach the Nonappropriated Fund Instrumentalities Act Coverage Endorsement (WC 00 01 08 A). \*

**4. Premium Determination**

For insurance under extensions of the L. & H.W. 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**

\* Masters and members of crews of vessels are not covered under Texas workers' compensation laws nor under the L. & H.W. Act. They are subject to admiralty law and, if injured, 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. Such seamen are subject to a federal law, the Merchant Marine Act of 1920, known as the Jones Act (U.S. Code) which applies the provisions of the Federal Employers' Liability Act to seamen. Every person employed on board a vessel is deemed to be a seaman if connected with the operations or welfare of the vessel while in navigable waters. Usually, navigable waters are defined as those which form a continuous highway for interstate or international commerce.

**2. Federal Employers' Liability Act (F.E.L.A.)**

The Federal Employers' Liability Act applies to employees of interstate railroads. Such employees are not subject to Texas workers' compensation laws. This federal law imposes liability for damages on the railroad if the injured railroad employee can show any negligence on the part of the railroad. For complete details, see U.S. Code.

**B. DESCRIPTION OF COVERAGE PROGRAMS**

The Standard Policy may be used to provide insurance for liability under one or more state workers' compensation laws and also for liability under admiralty law or F.E.L.A. There are two programs to furnish such insurance:

**1. Program I**

Provides, under Part One-Workers' Compensation Insurance, statutory liability under the workers' 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 F.E.L.A., subject to a standard limit of \$25,000.

**2. Program II**

Provides the same coverage as Program I, but with the addition of Voluntary Compensation. Under Program II, the carrier will offer a settlement of a claim strictly in accord with the statutory benefits provided in the workers' 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 Maritime Coverage Endorsement (WC 00 02 01 A). To provide Program II for admiralty law, also attach the Voluntary Compensation Maritime Coverage Endorsement (WC 00 02 03).

**2. Admiralty Law Coverage Option**

The Maritime Coverage Endorsement excludes liability to provide transportation, wages, maintenance and cure. To provide such coverage, the rates for Maritime classifications shall be increased up to 10%.

**3. F.E.L.A. Endorsements**

To provide Program I for employments subject to F.E.L.A., attach the Federal Employers' Liability Act Coverage Endorsement (WC 00 01 04). To provide Program II, also attach the Voluntary Compensation and Employers' Liability Coverage Endorsement (WC 00 03 11).

**\* 4. L. & H.W. Act**

\* When insurance is provided for liability under admiralty law or F.E.L.A., insurance for liability under the L. & H.W. Act also may be necessary. \* To provide such insurance, attach the Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06 A). \*

D. LIMITS OF LIABILITY

1. Standard Limit

The standard limit of liability under Part Two-Employers' Liability Insurance for admiralty or F.E.L.A. insurance under Program I or II is \$25,000.

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 following Liability Limit table to the total premium for admiralty or F.E.L.A. classifications before application of:

a. Expense Constant

b. Experience rating modification

c. Premium discount or retrospective rating adjustment.

The premium for increased limits is subject to an experience rating modification.

Admiralty/F.E.L.A. Operations  
Liability Limit Table \*

Limit Per Accident	Factor	Minimum Premium	
		Program I	Program II
\$ 25,000	1.00	\$ 50	\$ 100
50,000	1.23	54	107
100,000	1.36	55	109
200,000	1.48	56	112
300,000	1.59	58	116
400,000	1.70	59	118
500,000	1.80	60	120

If limits higher than those shown in the table are desired, then the higher limits factor is an "a" rate.

3. Minimum Premium

The separate minimum premium shown in the above Liability Limit table applies to a policy which includes classifications for operations subject to admiralty law or the F.E.L.A. Such minimum premium is the lowest premium for insuring admiralty or F.E.L.A. 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

The classifications for admiralty or F.E.L.A. operations follow. If insurance includes liability for transportation, wages, maintenance and cure, the rates shall be increased by up to 10%.

	Classifications		
	Code Number		
	Program I	Program II	
	State Act Benefits	USL Act Benefits	
<b>Boat Livery</b> - 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 classifications.	7016	7024	7047
<b>Diving</b> - marine	7016	7024	7047
<b>Dredging</b> - all types	7046	7098	7099
<b>Ferries</b> This classification includes dock employees	7016	7024	7047
<b>Fishing Vessels</b> - NOC This classification includes packing, curing or shipping fish and repair of nets or boats.	7016	7024	7047
<b>Oyster Boats</b> This classification includes planting; harvesting; and operation of boats.	7016	7024	7047
<b>Salvage Operations</b> - marine	7016	7024	7047
<b>Supply Boats</b>	7016	7024	7047
<b>Tugboats</b>	7016	7024	7047
<b>Vessels</b> -NOC	7016	7024	7047
<b>Vessels</b> - used in connection with Rule XIV of the Manual-Oil, Gas or Other Mineral Operations On or Over Water This classification includes all barges, supply boats, tugs, or any vessel used in connection with such operations.	7016	7024	7047
<b>Vessels</b> - not self-propelled. Such vessels having a regular master and crew who are furnished living quarters aboard the vessel, shall be rated as "Vessels, NOC."	7046	7098	7099

	Classifications		
	Code Number		
	Program I	Program II	
	State Act Benefits	USL Act Benefits	
<b>Vessels</b> - sail	7016	7024	7047
<b>Wrecking</b> - marine This classification includes salvage operations.	7016	7024	7047
<b>Yachts</b> - private-sail or power	7016	7024	7047
<u>Federal Employers' Liability Act</u>			
<b>Railroad Operation</b> - all employees including drivers. This classification contemplates the normal operations of railroads including normal maintenance and repair.	7133	7134	7135

\* 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 which apply to statutory employees under workers' compensation insurance.

2. Premium Determination

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

\* 3. Admiralty Law Or L. & H.W. Act Liability

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 L. & H.W. Act, refer to Rule XII.

**RULE XIV - OIL, GAS OR OTHER MINERAL OPERATIONS ON OR OVER WATER**

**A. GENERAL EXPLANATION**

This rule applies to all operations conducted on or over water in connection with exploring for, developing of, construction of facilities, removing or transporting oil, gas or other minerals which are beneath waters in the State of Texas except those which are accessible by land or fixed approaches.

**B. COVERAGE**

The Standard Policy may be used to provide the following insurance for liability under statutory or admiralty law:

**1. Program I**

Provides under Part One-Workers' Compensation Insurance, statutory liability under the workers' compensation law and under Part Two-Employers' Liability Insurance for liability under admiralty law. Part Two-Employers' Liability Insurance is subject to a standard limit of \$25,000. Attach the Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06A) to provide such insurance. \*

**2. Program II**

Provides the same coverage as Program I, but with the addition of Voluntary Compensation. Part Two-Employers' Liability Insurance is subject to a standard limit of \$25,000. Attach the Maritime Coverage Endorsement (WC 00 02 01 A) and the Voluntary Compensation and Employers' Liability Coverage Endorsement (WC 00 03 11) to provide this coverage. Attach the Voluntary Compensation Maritime Coverage Endorsement (WC 00 02 03) when such benefits are to be provided for masters and members of the crews of vessels.

**C. RATES**

For the above coverages, rates shall be as follows:

1. For all employees other than those hired as a master or member of the crew of a vessel, the appropriate workers' compensation rate shall apply and may be adjusted as follows:
  - a. An increase for Oil, Gas or other Mineral Operations may be charged. The increase factors for Oil, Gas or other Mineral Operations On Or Over Water are "a" rates. \*
  - b. If the limit of liability under the Maritime Coverage Endorsement (WC 00 02 01 A) is in excess of \$25,000, the rate resulting from the application of a. above shall be multiplied by the appropriate factor in the limit table. \*
2. For all employees hired as masters or members of the crews of vessels:
  - a. The following classifications shall apply for the crew of all barges, supply boats, tugs or any vessel used in connection with such operations:
 

	Program I	Program II	
		State Act Benefits	USL Act Benefits
Vessels	7016	7024	7047
  - b. To provide coverage from any liability imposed upon the employer arising from any obligation to provide transportation, wages, maintenance and cure, the rates for Code 7016, 7024 and 7047, may be increased by up to 10%.
  - c. If the limit of liability under the Maritime Coverage Endorsement (WC 00 02 01 A) is in excess of \$25,000, the premium shall be multiplied by the applicable factor shown in the Admiralty/F.E.L.A. Operations-Liability \* Limit Table -Rule XIII- D.2.

\*

## \* OFFSHORE OPERATIONS-LIABILITY LIMIT TABLE

Upper Limits	(Limit in Thousands)										
	Lower Limits										
	25	30	40	50	100	150	200	250	300	400	500
25	1.00										
30	1.03	1.07									
35	1.05	1.09									
40	1.07	1.11	1.19								
45	1.08	1.12	1.20								
50	1.10	1.14	1.22	1.30							
70	1.12	1.16	1.24	1.32							
100	1.15	1.19	1.27	1.36	1.48						
150	1.18	1.23	1.31	1.39	1.52	1.58					
200	1.20	1.25	1.33	1.41	1.55	1.61	1.68				
250	1.23	1.28	1.36	1.45	1.58	1.64	1.70	1.75			
300	1.25	1.30	1.38	1.47	1.61	1.67	1.73	1.78	1.82		
350	1.27	1.32	1.41	1.49	1.63	1.70	1.76	1.80	1.85		
400	1.29	1.34	1.43	1.52	1.66	1.72	1.78	1.83	1.88	1.99	
500	1.33	1.38	1.47	1.56	1.71	1.77	1.84	1.88	1.93	2.05	2.15

To apply this table to a policy stating a single limit of liability, the applicable factor shall be the factor shown for upper and lower limits, each of which are identical with the single limit stated in the policy. If limits higher than those shown in the table are desired, then the higher limits factor is an "a" rate.

**RULE XV - DOMESTIC WORKERS - RESIDENCES****A. DEFINITION**

Domestic workers are employees engaged exclusively in duties in or around the residence. Examples include cooks, housekeepers, laundry workers, maids, butlers, companions, nurses, baby-sitters, private chauffeurs and gardeners. The domestic worker must be employed directly by the resident owner, the estate of the owner, or family of the resident.

**B. COVERAGE**

Statutory Workers' Compensation and Employers' Liability Insurance may be extended to domestic workers by attaching the Texas Exempt Employees Coverage Endorsement (WC 42 03 05 A) to the Standard Workers' Compensation Policy.

**C. CLASSIFICATION****1. Domestic Workers**

Domestic Workers - Residences - Per Capita Basis – Code 0913. The insured shall maintain a record of the names, duties and period of service of each domestic worker. Domestic workers need not be named on the policy or on the Information Page. The substitution of one worker for another requires no notice to the company.

Domestic Workers - Residences - Payroll Basis - Code 0923. The insured shall maintain payroll records for domestic workers if workers' compensation premium is to be determined for domestic workers on a payroll basis rather than on a per capita basis.

**2. Maintenance, Repair or Construction Operations**

- a. Codes 0913 and 0923 include ordinary repair or maintenance of the insured's premises or equipment by domestic workers.
- b. Extraordinary repairs, alterations, new construction, erection or demolition of structures shall be assigned to construction or erection classifications.

**D. RATES AND PREMIUM****1. Rates**

The "a" rate for Code 0913 is applied on a per capita basis. The "a" rate for Code 0923 is applied on a payroll basis.

**2. Premium**

- a. Premium for Code 0913 is determined on a per capita basis. Premium is calculated on the number of domestic workers during the policy period. If additional domestic workers are employed during the policy period or if some domestic workers leave employment and are not replaced, the per capita premium charges shall be pro rated.
- b. Premium for the Terrorism Risk Insurance \* Act of 2002 does not apply to Code 0913
- c. Premium for Code 0923 is determined on a \* payroll basis. Premium is calculated on the total payroll for domestic workers during the policy period.

**E. MINIMUM PREMIUM**

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

**RULE XVI - FINAL EARNED PREMIUM DETERMINATION**

A. ACTUAL PAYROLL

Final earned premium for the policy shall be determined on actual, instead of estimated, payroll or other premium basis.

B. PREMIUM DETERMINATION

The determination of final earned premium is governed by the rules and classifications in this

Manual, subject to modification by applicable rating plans.

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 in the Standard Policy.



**RULE XVII - PREMIUM INCENTIVES FOR SMALL EMPLOYERS****A. DEFINITION**

A "small employer" means an employer who is not experience rated for workers' compensation insurance purposes and whose payrolls produce a Texas annual workers' compensation premium of less than \$5,000.

**B. QUALIFICATIONS**

This rule applies to business entities which have been in existence for at least one year and that carried workers' compensation insurance during that year. All insurance companies writing workers' compensation insurance in Texas shall grant a discount to small employers who qualify and shall assess a surcharge against small employers who experience two or more employee compensable lost-time injuries during a one-year period as follows:

1. A small employer who has not experienced a compensable employee lost-time injury during the most recent one-year period for which statistics are available shall receive a discount of 10 percent on the amount of employer's workers' compensation insurance premium.
2. A small employer who has not experienced a compensable employee lost-time injury during the most recent two-year period for which statistics are available shall receive a discount of 15 percent on the amount of employer's workers' compensation insurance premium.
3. A small employer who has experienced one compensable employee lost-time injury during the most recent one-year period for which statistics are available is not eligible for a discount on the amount of the employer's workers' compensation insurance premium.

4. A small employer who has experienced two or more compensable employee lost-time injuries during the most recent one-year period for which statistics are available shall be assessed a surcharge of 10 percent on the amount of the employer's workers' compensation insurance premium.

**C. DISCOUNT AND SURCHARGES**

Discounts and surcharges established under this rule are not cumulative; however, a small employer is entitled to receive the discount or shall be subject to the surcharge provided by this rule in addition to any lesser deviation in the rate at which a policy is written. For any annual workers' compensation premium, a small employer may not receive a discount of more than 15 percent, and a small employer may not be required to pay a surcharge of more than 10 percent.

**D. APPLICATION OF DISCOUNT AND SURCHARGE**

If a small employer's policy premium will clearly not exceed \$5,000, the discount or surcharge will normally be applied at policy inception. However, when circumstances indicate that the premium could exceed \$5,000 the discount or surcharge may be applied at audit.

**E. SHORT TERM OR CANCELLED POLICIES**

If the policy is written for a period less than one year, or if the policy is cancelled prior to the expiration date, the premium shall be projected to an annual basis to determine eligibility for the premium incentive for small employers.

**F. TERRORISM PREMIUM**

\*

Premium for the Terrorism Risk Insurance Act of 2002 is not subject to the premium incentive for small employers.

**RULE XVIII - GROUP PURCHASE OF WORKERS' COMPENSATION****A. EXPLANATION**

Upon approval of the Texas Department of Insurance, two or more eligible business entities engaged in same or similar business pursuits or two or more members of a trade association may join together to form a group for the benefit of a group purchase program. Members of the group may save insurance dollars as a result of premium discount and dividends paid to group members. Additionally, members of a group may benefit from specialized safety programs designed specifically for the group.

**B. DEFINITIONS**

1. **"Department"** means the Texas Department of Insurance.
2. **"Business entity"** means a business enterprise owned by a single person or a corporation, organization, business trust, trust, partnership, joint venture, association, or other business entity.
3. **"Group"** means:
  - a. two or more business entities that join together, with the approval of the Department, to purchase individual workers' compensation insurance policies covering each business entity that is a part of the group; or
  - \* b. two or more members of a trade association of business entities that join together to purchase individual workers' compensation insurance policies covering each participating trade association member.
4. **"Same as or similar business pursuits"** means that the governing classification code of each business entity is the same or the business entities are engaged in similar operations as approved by the Department.
5. **"Pre-determined premium discount evaluation date"** is the date agreed upon by the group and the insuring carrier and set forth in the group's plan of operation used in lieu of a common expiration date by the members of the group.

**C. GROUP MEMBER ELIGIBILITY**

To be eligible to join a group, a business entity must be:

1. engaged in a business pursuit that is the same as or similar to the other business entities participating in the group, as determined by the Department in B.4. above or
- \* 2. a member of the same trade association as the other business entities participating in the group.

**D. FILING REQUIREMENTS**

1. Prior to a group's formation and renewal, certain filings have to be made with the Department.

An **application** form (Form GPP-1) must be completed and submitted to the Department at least sixty days prior to the proposed start-up date of an initial group.

A renewal application form (Form GPP-2) must be completed and submitted to the Department at least thirty days prior to each renewal date or the pre-determined premium discount evaluation date.

2. A **Plan of Operation** must be developed, adopted by the group, filed with the insuring carrier, and filed with the Department. The Plan of Operation, once filed with the Department, shall not be amended without Department approval. The Plan of Operation must include:
  - a. The composition and selection of a governing board which will be composed of members of the group and as a whole representative of the membership of the entire group;
  - b. The methods for administering the group which shall include:
    - who will administer the day-to-day operations of the group,
    - how the administrator is selected,
    - what the cost of this administration will be, and
    - from where these funds will be derived.

(Note: An administrator for group purchase of workers' compensation insurance is not required to be licensed as a Third Party Administrator.)

- c. Guidelines for obtaining workers' compensation coverage for the group, including:
  - the payment of premiums,
  - funding of security requirements and reimbursement for payments made by the carrier under a deductible option,
  - the pre-determined premium discount evaluation date as agreed upon by the group and insuring carrier if a common expiration date is not used,
  - the distribution of discounts and dividends,
  - the methods of providing risk management, and
  - treatment of any member who withdraws prior to the group's expiration or pre-determined premium discount evaluation

date or who does not maintain good standing in the group;

- d. safety and loss control measures as recommended by the insuring carrier or other safety group or organization; and
- e. the procedures to resolve any and all disputes and/or claims that may arise among members and/or potential members of the group.

The establishment of membership eligibility criteria is the responsibility of the group governing body and/or the insuring carrier, as is the acceptance, declination, or termination of employers from eligibility in the group.

3. A **final report** listing all group members shall be filed with the Department no later than sixty days after the common expiration date or the pre-determined premium discount evaluation date of policies written for the members of the group. The annual final reporting shall include:

- active members,
- members terminated, and
- members added

subsequent to the group's certification or renewal. If, at the annual review, there appear to be ineligible risks in the group, the group will be notified of the ineligible risks.

The completed Application Form GPP-1, the Plan of Operation, Final Reporting, and Renewal Application Form GPP-2 are to be submitted to:

Texas Department of Insurance  
W. C. Group Purchase Program  
Mail Code 105-2A  
P. O. Box 149104  
Austin, TX 78714-9104

#### E. CERTIFICATE OF APPROVAL

When the required forms are received by the Department and deemed to be in compliance with Department criteria, the Department shall issue a Certificate of Approval authorizing formation and maintenance of the group.

The Certificate of Approval will reflect an approval number for the group which will be the control number for that group, and will be required on all filings for group members; such as policies, deductible notice of election forms, endorsements, and all correspondence directed to the Department relative to the group program.

#### F. PREMIUM DETERMINATION

1. Each policy will be written in accordance with the ***Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers'***

#### ***Compensation and Employers' Liability Insurance.***

2. Each group member's policy shall be subject to its own experience rating modification, if applicable. An experience rating modification will not be promulgated for a group. Policies issued to individual members of the group are subject to the current filed rate for that insurer. Insurers who have filed Schedule Rating plans are not required to apply schedule credits uniformly to all policies issued within the group.
3. Premium discount for two or more policies issued to a certified group purchase program is based on the group's total standard premium. Premium discount is based on the total estimated premium of the group at the inception of the group member's policies and shall be adjusted based on either audited premium or reported premium as required by this rule. Total premium for all members that are still part of the group at the common expiration of the policies or at the pre-determined premium discount evaluation date as set forth in the group's plan of operation shall be combined to determine the premium discount percentage applicable to each individual group member's premium. The premium discount will be distributed in accordance with the group's plan of operation submitted to and approved by the Department. The premium discount for an individual member cannot be less than what it would have been had the member not been part of the group.

The insurance carrier and group administrator may agree that the final premium discount percentage will be determined based on the premium reported as of the common expiration of the group's policies or the pre-determined premium discount evaluation date rather than wait until all policies are audited. If the insurance carrier and group administrator do not agree to this early determination of the discount percentage, the final premium discount percentage will not be determined until all policies subject to the group are audited.

4. Members of a group established under this rule are entitled to any authorized dividend or deviation when applicable. Distribution of dividends will be as outlined in the Plan of Operation.
5. A Member of a group is not subject to the discounts and surcharges established as Premium Incentives for Small Employers.
6. Members of a group are entitled to deductible options they may qualify for based on their individual estimated annual premium. Funding of deductible reimbursement and/or security funds required as collateral by the insurer may be specified in the Plan of Operation.

Eligibility for a deductible option will be in accordance with Rule XIX of the ***Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance.***

G. GENERAL RULES

1. All policies written for members of a group shall have a common expiration date or a pre-determined premium discount evaluation date. If a common expiration is not used, the pre-determined evaluation date will be the renewal date for the group.
2. Cancellation rules for policies are those set forth in Rule X of this manual. Distribution of dividends and discounts for members terminated from the group shall be addressed in the Plan of Operation filed with the Department.
3. Endorsement WC 42 04 04-Group Purchase of Workers' Compensation Insurance shall be attached to each policy issued to a member of a group.
4. Group certification requires that filings be made annually in accordance with Rule XVIII-D.
5. Policies for all members within a group shall be issued by one or more carriers under the same management and are subject to the current filed rate for that insurer. Insurers who have filed Schedule Rating Plans are not required to apply schedule credits uniformly to all policies issued within the group.
6. Group certification does not in any way allow for exceptions to the laws that would otherwise be applicable.

**RULE XIX - DEDUCTIBLE PROGRAMS**

A combined medical and indemnity promulgated deductible program shall be offered to all policyholders meeting the eligibility requirements set forth below. A negotiated deductible may be offered to policyholders meeting the eligibility requirements in D.2. below. When a deductible is elected, the policyholder is required to reimburse the insurance carrier for benefits payable under the law up to the deductible amount. The election of a deductible option by a policyholder results in a premium credit being applied against the policy premium.

If, as a result of a credit investigation, the insurer determines that the policyholder is not sufficiently stable to be responsible for the reimbursement of deductible amounts to the insurer, security may be required. A deductible program option is not effective until any required security has been received and accepted by the insurer.

**A. ELIGIBILITY**

All policyholders, including members of a certified Texas Workers' Compensation Group Purchase Program and insureds with operations in other states, with an estimated annual premium in excess of \$5,000 are eligible for a promulgated deductible option.

**B. ELECTION**

The policyholder may choose only one deductible program option per policy. The policyholder's election of a deductible program option must be made prior to the effective date of the policy, and shall apply to the entire policy period. (Note: Receipt of notice of election by agent or salaried employee is deemed to have been received by the insured.)

The policyholder's election or rejection of a deductible program option shall be executed, each policy year, in writing using the Deductible Notice of Election form (Refer to DNE-1 [1-97 Ed.] in Forms Section of this Manual). The Deductible Notice of Election form must contain the name of insured, name of insurance carrier, policy number, and signature of the insured or authorized insured representative.

The signed DNE-1 [1-97 Ed.] form is to be maintained in the insuring carrier's file and shall be made available to the Texas Department of Insurance upon specific request.

**C. APPLICATION**

The deductible may apply to indemnity and medical benefit payments, damages and allocated loss adjustment expenses under Part One, Part Two, or any other endorsement to the policy.

**D. DEDUCTIBLE PROGRAM OPTIONS**

The following deductible program options and amounts shall be available to an eligible policyholder.

**1. Promulgated Deductibles****a. Per Accident Deductible Option**

Per accident deductibles shall be available for combined medical and indemnity benefits at levels of \$1,000, \$2,500, \$5,000, \$10,000 and \$25,000. The deductible amount on a per accident basis shall not exceed fifty percent of the policyholder's estimated annual workers' compensation premium for which this deductible option is chosen. The per accident deductible is effected by attaching the Texas Accident Deductible Endorsement (WC 42 06 02) to the policy. \* The deductible applies separately to each person who sustains bodily injury by disease and separately to all bodily injuries arising out of any one accident covered under the policy.

**b. Aggregate Deductible Option**

An aggregate deductible shall be available for combined medical and indemnity benefits at levels of \$2,000, \$4,000, \$6,000, \$8,000, \$10,000, \$15,000, \$25,000, \$50,000, \$75,000, and \$100,000. The deductible amount on an annual aggregate basis shall not exceed one hundred percent of the policyholder's estimated annual workers' compensation premium.

The aggregate deductible coverage is effected by attaching the Texas Aggregate Deductible Endorsement (WC 42 06 03 B) to the policy. The aggregate deductible is the maximum amount a policyholder must reimburse an insurer for all covered medical or indemnity benefits for each policy regardless of the number of accidents, incidences of disease, or employees who sustain injury by accident or disease. \*

c. Per Accident/Aggregate Deductible Option

Per accident deductibles shall be available for combined medical and indemnity benefits at levels of \$1,000, \$2,500, \$5,000, \$10,000 and \$25,000, not to exceed fifty percent of the policyholder's estimated annual workers' compensation premium.

Corresponding aggregate deductibles for combined medical and indemnity benefits shall be available in amounts ranging from \$2,000 to one hundred percent of the policyholder's estimated annual workers' compensation premium, not to exceed \$100,000.

The per accident deductible shall apply separately to each person who sustains bodily injury by disease and separately to all bodily injuries arising out of any one accident covered under the policy, provided that the total of all per accident deductibles shall not exceed the aggregate deductible. The per accident/aggregate deductible option is effected by attaching the Texas Accident / Aggregate Deductible Endorsement (WC 42 06 04 B) to the policy.

\*

**2. Negotiated Deductibles**

a. Eligibility

Each insurer offering to write workers' compensation in Texas may negotiate terms of a deductible option with an insured when:

\*

- (1) a policyholder elects a deductible amount that exceeds the highest per accident deductible option (\$25,000) and/or the highest annual aggregate deductible option (\$100,000) available in a promulgated deductible plan, or
- (2) an insured's estimated annual policy premium exceeds \$100,000 prior to the application of any deductible credit. Insureds with operations in other states may use their combined U.S. premium to qualify for a negotiated deductible.

b. Endorsement

Any insurer desiring to include a negotiated deductible in a Texas workers' compensation policy must file its form of

endorsement with the Department for approval prior to use. If disapproved, the endorsement will be returned to the insurer with reasons for disapproval. Endorsement forms need not be uniform among the insurers.

A copy of the negotiated deductible endorsement reflecting the terms and conditions negotiated by the insurer and the insured must be attached to the policy.

**E. PREMIUM DETERMINATION**

The election of a deductible option by a policyholder results in a premium credit being applied against the policy premium.

The premium credit for all three promulgated deductible options will be determined by using the tables found in this rule according to the type of deductible option and hazard group. The hazard group assignments are based on the Table of Classifications by Hazard Group in the Texas Retrospective Rating Plan Manual and the classifications subject to deductible coverage that produce the greatest amount of estimated annual workers' compensation premium for Texas exposures.

The amount of deductible credit for the negotiated deductible shall be the amount agreed upon by the insurer and the insured.

The premium reduction for deductible coverage is determined by applying the appropriate premium credit to the estimated annual premium in the order indicated in Rule III E.

**F. CLAIM PAYMENT**

All claims shall be paid by the insurer. The policyholder shall then reimburse the insurer for any deductible amounts paid by the insurer. The policyholder shall be liable for reimbursement up to the limit of the deductible amount chosen. An insurer may not request reimbursement more frequently than monthly. The payment or nonpayment of deductible amounts by the policyholder shall be treated under the policy insuring liability for workers' compensation in the same manner as payment or nonpayment of premium.

In the event the insurer makes a recovery from a third party through subrogation, the amount

recovered shall first be applied to the amount paid on the claim by the insurer and then to the amount of the deductible paid by the insured, with reimbursement being made to the insured, if necessary.

The insurer and insured may agree to establish an escrow fund for the payment of the deductible.

## G. FINANCIAL SECURITY

### 1. Requirements

An insurer may require an employer to provide security acceptable to the insurer, but its authority to require any particular type or types of security is conditioned on the Department's determination of the reasonableness of the burden or cost of the type of security as hereafter specified.

When a policy is written with an aggregate deductible option or accident/aggregate deductible option, the amount of the security may not exceed the aggregate. When a policy is written with a per-accident deductible option, the amount of the security may not exceed 100% of the estimated annual premium for the policy.

A security agreement outlining the circumstances under which the insurer may draw upon the security as well as how long the security will be required may be executed by mutual agreement between the insurer and employer.

An employer may appeal to the Department the insurer's requirement of a type of security for the purchase of a workers' compensation policy with

a deductible program. The Department may require the insurer to accept a different type or

types of security if in the Department's opinion the type required by the insurer is unreasonably burdensome or costly. The Department may inquire into the financial condition of the employer in connection with such an appeal but only to the extent the Department deems necessary. The Department may deny or grant any appeal. The decision of the Department may be appealed to the Commissioner of Insurance. The Commissioner's review shall be limited to the record made upon the appeal to the Department. This employer's remedy for review of an insurer's requirement of a type of security is provided solely by this rule and is limited to the administrative proceeding described. The decision by the Commissioner in any such appeal is final and is not appealable beyond the Commissioner.

### 2. Deposit Premium

In lieu of, or in addition to, the requirements in F. above, an insurer may require payment of 100% of the estimated annual premium on the effective date of the policy.

## H. REPORTING OF LOSSES

Losses reported on unit statistical cards shall be reported as gross losses or total losses incurred, including those paid under the deductible.

## I. DEDUCTIBLES NOT SHOWN IN TABLES

Use of a deductible not shown in the tables and not meeting the qualification of a negotiated deductible will take the credit of the next lowest deductible.

\* **PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE**

PER ACCIDENT DEDUCTIBLE	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 1,000	14.9	13.9	7.0	5.7
\$ 2,500	18.8	17.4	10.7	8.9
\$ 5,000	23.9	22.7	15.6	13.4
\$ 10,000	36.4	34.3	25.2	22.4
\$ 25,000	59.0	55.4	43.5	39.9

\* **PREMIUM CREDITS (%) BY AGGREGATE LIMIT**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$5,001 - \$10,000

AGGREGATE LIMIT	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 2,000	13.8	13.3	11.9	11.1
\$ 4,000	18.3	18.0	15.7	14.6
\$ 6,000	21.8	21.3	19.0	17.4
\$ 8,000	25.1	24.4	21.6	19.7
\$ 10,000	28.0	27.2	23.9	21.8

\* **PREMIUM CREDITS (%) BY AGGREGATE LIMIT**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$10,001 - \$25,000

AGGREGATE LIMIT	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 2,000	11.4	11.0	10.0	9.4
\$ 4,000	16.2	15.9	14.1	13.2
\$ 6,000	20.0	19.1	17.4	16.3
\$ 8,000	22.9	21.9	19.7	18.4
\$ 10,000	25.6	24.6	21.8	20.3
\$ 15,000	30.3	29.7	26.5	25.1
\$ 25,000	38.7	37.9	33.6	31.4



**PREMIUM CREDITS (%) BY AGGREGATE LIMIT**  
 ESTIMATED ANNUAL PREMIUM RANGE\* : \$25,001 - \$50,000

\*

AGGREGATE LIMIT	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 2,000	9.0	8.8	8.5	8.0
\$ 4,000	12.9	12.6	11.7	11.1
\$ 6,000	16.1	15.8	14.8	13.8
\$ 8,000	19.2	18.8	17.3	16.1
\$ 10,000	21.9	21.4	19.4	18.0
\$ 15,000	26.5	26.2	24.4	22.8
\$ 25,000	34.8	34.1	31.3	29.0
\$ 50,000	47.0	47.0	43.1	40.2

**PREMIUM CREDITS (%) BY AGGREGATE LIMIT**  
 ESTIMATED ANNUAL PREMIUM RANGE\* : \$50,001 - \$75,000

\*

AGGREGATE LIMIT	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 2,000	7.5	7.5	7.3	7.1
\$ 4,000	10.2	10.2	9.7	9.4
\$ 6,000	12.8	12.5	12.0	11.7
\$ 8,000	15.8	15.4	14.6	14.0
\$ 10,000	18.1	17.6	16.4	15.6
\$ 15,000	22.4	22.2	20.7	19.9
\$ 25,000	30.5	30.0	27.4	26.2
\$ 50,000	42.7	42.7	39.5	37.4
\$ 75,000	49.0	49.0	45.4	43.1

**PREMIUM CREDITS (%) BY AGGREGATE LIMIT**  
 ESTIMATED ANNUAL PREMIUM RANGE\* : \$75,001 - \$100,000

\*

AGGREGATE LIMIT	HAZARD GROUP I	HAZARD GROUP II	HAZARD GROUP III	HAZARD GROUP IV
\$ 2,000	6.9	6.9	6.7	6.7
\$ 4,000	9.1	9.1	8.9	8.7
\$ 6,000	11.2	11.2	10.9	10.7
\$ 8,000	13.3	13.1	12.7	12.4
\$ 10,000	15.3	15.1	14.4	13.9
\$ 15,000	19.2	19.1	18.3	17.6
\$ 25,000	26.7	26.5	24.9	23.4
\$ 50,000	39.8	38.8	36.2	34.4
\$ 75,000	48.5	47.4	44.2	42.0
\$ 100,000	54.9	53.9	50.4	48.0

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

\*

**HAZARD GROUP I**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$5,001 - \$10,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	13.4				
\$ 4,000	14.4				
\$ 6,000	14.9	17.4			
\$ 8,000	14.9	17.9			
\$ 10,000	14.9	18.3	21.3		
\$ 15,000					
\$ 25,000					
\$ 50,000					
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP I**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$10,001 - \$25,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	12.9				
\$ 4,000	14.4				
\$ 6,000	14.7	16.8			
\$ 8,000	14.9	17.4			
\$ 10,000	14.9	17.7	20.5		
\$ 15,000	14.9	18.3	21.9		
\$ 25,000	14.9	18.6	23.1	31.8	
\$ 50,000					
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP I**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$25,001 - \$50,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	10.7				
\$ 4,000	13.2				
\$ 6,000	14.2	15.6			
\$ 8,000	14.4	16.5			
\$ 10,000	14.7	17.2	19.5		
\$ 15,000	14.9	17.9	21.1		
\$ 25,000	14.9	18.5	22.8	29.8	
\$ 50,000	14.9	18.8	23.6	33.4	43.6
\$ 75,000					
\$ 100,000					

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

**HAZARD GROUP I** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$50,001 - \$75,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	8.2				
\$ 4,000	12.2				
\$ 6,000	13.4	13.6			
\$ 8,000	14.2	15.0			
\$ 10,000	14.4	16.1	17.0		
\$ 15,000	14.9	17.2	19.7		
\$ 25,000	14.9	18.3	21.9	28.6	
\$ 50,000	14.9	18.6	23.3	33.1	41.3
\$ 75,000	14.9	18.8	23.8	34.8	46.7
\$ 100,000					

**HAZARD GROUP I** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$75,001 - \$100,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	6.2				
\$ 4,000	10.5				
\$ 6,000	12.7	11.6			
\$ 8,000	13.7	13.6			
\$ 10,000	14.2	14.8	14.6		
\$ 15,000	14.9	16.5	17.9		
\$ 25,000	14.9	17.9	20.8	26.0	
\$ 50,000	14.9	18.6	22.9	31.8	38.4
\$ 75,000	14.9	18.8	23.6	34.0	44.5
\$ 100,000	14.9	18.8	23.8	34.9	48.0

**HAZARD GROUP II** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$5,001 - \$10,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	12.7				
\$ 4,000	13.6				
\$ 6,000	13.9	16.1			
\$ 8,000	13.9	16.7			
\$ 10,000	13.9	17.0	20.3		
\$ 15,000					
\$ 25,000					
\$ 50,000					
\$ 75,000					
\$ 100,000					

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

\*

**HAZARD GROUP II**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$10,001 - \$25,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	12.0				
\$ 4,000	13.4				
\$ 6,000	13.6	15.6			
\$ 8,000	13.9	16.1			
\$ 10,000	13.9	16.5	19.6		
\$ 15,000	13.9	16.8	20.7		
\$ 25,000	13.9	17.2	21.9	29.9	
\$ 50,000					
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP II**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$25,001 - \$50,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	10.1				
\$ 4,000	12.5				
\$ 6,000	13.2	14.5			
\$ 8,000	13.6	15.4			
\$ 10,000	13.9	15.9	18.3		
\$ 15,000	13.9	16.7	20.0		
\$ 25,000	13.9	17.2	21.4	28.2	
\$ 50,000	13.9	17.4	22.4	31.6	41.4
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP II**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$50,001 - \$75,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	7.8				
\$ 4,000	11.3				
\$ 6,000	12.7	12.8			
\$ 8,000	13.2	14.2			
\$ 10,000	13.6	15.1	16.3		
\$ 15,000	13.9	16.1	18.7		
\$ 25,000	13.9	16.8	20.7	26.8	
\$ 50,000	13.9	17.4	22.2	31.1	39.3
\$ 75,000	13.9	17.4	22.6	32.5	44.1
\$ 100,000					

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

**HAZARD GROUP II** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$75,001 - \$100,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	5.9				
\$ 4,000	9.9				
\$ 6,000	12.0	11.2			
\$ 8,000	12.9	12.9			
\$ 10,000	13.4	14.2	14.1		
\$ 15,000	13.9	15.6	17.1		
\$ 25,000	13.9	16.7	19.8	24.7	
\$ 50,000	13.9	17.4	21.9	30.1	36.6
\$ 75,000	13.9	17.4	22.4	32.0	42.1
\$ 100,000	13.9	17.4	22.6	33.0	45.4

**HAZARD GROUP III** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$5,001 - \$10,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	6.4				
\$ 4,000	6.9				
\$ 6,000	6.9	10.1			
\$ 8,000	7.0	10.4			
\$ 10,000	7.0	10.5	13.8		
\$ 15,000					
\$ 25,000					
\$ 50,000					
\$ 75,000					
\$ 100,000					

**HAZARD GROUP III** \*

ESTIMATED ANNUAL PREMIUM RANGE\* : \$10,001 - \$25,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	6.3				
\$ 4,000	6.7				
\$ 6,000	6.9	9.8			
\$ 8,000	6.9	10.0			
\$ 10,000	7.0	10.3	13.4		
\$ 15,000	7.0	10.5	14.2		
\$ 25,000	7.0	10.6	14.8	22.5	
\$ 50,000					
\$ 75,000					
\$ 100,000					

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

\*

**HAZARD GROUP III**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$25,001 - \$50,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	5.5				
\$ 4,000	6.4				
\$ 6,000	6.7	9.3			
\$ 8,000	6.9	9.8			
\$ 10,000	6.9	10.0	12.8		
\$ 15,000	7.0	10.4	13.8		
\$ 25,000	7.0	10.6	14.6	21.6	
\$ 50,000	7.0	10.7	15.2	23.6	34.0
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP III**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$50,001 - \$75,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	4.5				
\$ 4,000	6.0				
\$ 6,000	6.6	8.3			
\$ 8,000	6.7	9.0			
\$ 10,000	6.9	9.5	11.6		
\$ 15,000	6.9	10.1	12.9		
\$ 25,000	7.0	10.5	14.2	20.7	
\$ 50,000	7.0	10.7	15.1	23.5	31.9
\$ 75,000	7.0	10.7	15.2	24.3	35.5
\$ 100,000					

\*

**HAZARD GROUP III**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$75,001 - \$100,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	3.5				
\$ 4,000	5.5				
\$ 6,000	6.3	7.3			
\$ 8,000	6.6	8.3			
\$ 10,000	6.7	8.9	10.3		
\$ 15,000	6.9	9.8	12.2		
\$ 25,000	7.0	10.4	13.8	19.5	
\$ 50,000	7.0	10.7	14.8	22.8	30.4
\$ 75,000	7.0	10.7	15.2	24.0	34.5
\$ 100,000	7.0	10.7	15.3	24.5	36.9

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

**HAZARD GROUP IV**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$5,001 - \$10,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	5.2				
\$ 4,000	5.6				
\$ 6,000	5.7	8.5			
\$ 8,000	5.7	8.7			
\$ 10,000	5.7	8.8	12.1		
\$ 15,000					
\$ 25,000					
\$ 50,000					
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP IV**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$10,001 - \$25,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	5.1				
\$ 4,000	5.5				
\$ 6,000	5.6	8.3			
\$ 8,000	5.7	8.4			
\$ 10,000	5.7	8.6	11.8		
\$ 15,000	5.7	8.8	12.4		
\$ 25,000	5.7	8.9	13.1	20.4	
\$ 50,000					
\$ 75,000					
\$ 100,000					

\*

**HAZARD GROUP IV**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$25,001 - \$50,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	4.5				
\$ 4,000	5.2				
\$ 6,000	5.5	7.8			
\$ 8,000	5.6	8.1			
\$ 10,000	5.6	8.4	11.3		
\$ 15,000	5.7	8.7	12.1		
\$ 25,000	5.7	8.8	12.8	19.3	
\$ 50,000	5.7	8.9	13.3	21.2	31.4
\$ 75,000					
\$ 100,000					

\*

**PREMIUM CREDITS (%) BY PER ACCIDENT DEDUCTIBLE AND AGGREGATE LIMIT**

\*

**HAZARD GROUP IV**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$50,001 - \$75,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	3.7				
\$ 4,000	4.9				
\$ 6,000	5.2	7.0			
\$ 8,000	5.5	7.7			
\$ 10,000	5.6	8.0	10.4		
\$ 15,000	5.7	8.5	11.6		
\$ 25,000	5.7	8.8	12.5	18.7	
\$ 50,000	5.7	8.9	13.2	21.0	30.1
\$ 75,000	5.7	8.9	13.3	21.7	33.1
\$ 100,000					

\*

**HAZARD GROUP IV**

ESTIMATED ANNUAL PREMIUM RANGE\* : \$75,001 - \$100,000

AGGREGATE LIMIT	\$1,000 PER ACC. DED.	\$2,500 PER ACC. DED.	\$5,000 PER ACC. DED.	\$10,000 PER ACC. DED.	\$25,000 PER ACC. DED.
\$ 2,000	3.0				
\$ 4,000	4.5				
\$ 6,000	5.1	6.3			
\$ 8,000	5.5	7.1			
\$ 10,000	5.6	7.7	9.2		
\$ 15,000	5.7	8.3	10.8		
\$ 25,000	5.7	8.7	12.1	17.8	
\$ 50,000	5.7	8.9	13.1	20.6	28.5
\$ 75,000	5.7	8.9	13.3	21.5	32.1
\$ 100,000	5.7	8.9	13.4	21.9	34.1

\* Estimated Annual Premium as referenced in these table headings means estimated annual premium after application of experience modification and prior to application of any deductible credit.



**RULE XX – RETURN OF THE MAINTENANCE TAX SURCHARGE \*****A. DEFINITIONS**

**“Amount the policyholder owes the insurance company”** - Additional premium determined at a valuation date prior to the issuance of the check to a qualifying policyholder.

**“Certified self-insurers”** - Employers who have received a certificate of authority from the Texas Workers' Compensation Commission pursuant to Chapter 407, Texas Labor Code.

**“Comptroller”** - Texas Comptroller of Public Accounts

**“Department”** - Texas Department of Insurance

**“Electronic report format”** - Reports may be submitted in either Excel spreadsheets, fixed-width text files or another format as approved by the Department. If policyholder addresses are required, these shall be entered in separate fields by street address, city, state and zip code.

**“FIC”** - Facility Insurance Corporation - The licensed insurance company established when the Texas Workers' Compensation Insurance Facility was converted into a domestic stock property and casualty insurance corporation.

**“FIC's refunded maintenance tax surcharge”** - The total amount of maintenance tax surcharge paid by each servicing company on premium developed by Facility policyholders during tax years 1991-1993.

**“Facility”** - The Texas Workers' Compensation Insurance Facility statutorily created by Texas Insurance Code art. 5.76-2 [Vernon 1989, repealed by Acts 1997, 75<sup>th</sup> Leg., ch. 594, § 3.01 (1)].

**“Fund”** - The Texas Workers' Compensation Insurance Fund statutorily created by Texas Insurance Code arts. 5.76-3 and 5.76-4.

**“Gross premium”** - (based on the policyholder's final payroll audit)

- (1) For policies issued with an effective date prior to September 1, 1993, gross premiums shall be computed in the following manner: Standard Premium less Premium Discount plus Expense Constant less Return Premium less Dividends Paid.

- (2) For policies issued with an effective date on or after September 1, 1993, gross premiums shall be computed in the following manner: Standard Premium less Premium Discount plus Expense Constant plus Deductible Credit less Return Premium less Dividends Paid.

**“Insurance company(ies)”** - Person(s) authorized and admitted by the Department to do insurance business in Texas under a certificate of authority that includes the authorization to write workers' compensation insurance as of the effective date of this rule or during any of the recoupment periods. This definition includes individual insurance companies as well as groups of insurance companies.

**“Insurers”** - Certified self-insurers and insurance companies licensed to write workers' compensation insurance in Texas as of the effective date of this rule or during any of the recoupment periods.

**“Proportionate share”** - The portion of the refunded maintenance tax surcharge paid to qualifying policyholders by an insurance company.

**“Qualifying policyholders”** - Insureds who had workers' compensation policies with effective dates during the applicable recoupment periods.

**“Refunded maintenance tax surcharge check” or “check”** - The negotiable instrument issued to qualifying policyholders representing their proportionate share of the refunded maintenance tax surcharge.

**“Refunded maintenance tax surcharge” or “surcharge”** - Amount of maintenance tax surcharge that the Fund is required to send to insurers that equals the amount of maintenance tax surcharge paid by the insurers for calendar years 1991 through 1996.

**“Recoupment periods”** - Twelve month time periods beginning June 1 and ending May 31 during which time insurance companies were allowed to pass the maintenance tax surcharge through to their policyholders. These periods follow the calendar year in which the insurers paid the maintenance tax surcharge. The recoupment periods and their corresponding calendar years are as follows:

- recoupment period June 1, 1992 through May 31, 1993 - calendar year 1991;
- recoupment period June 1, 1993 through May 31, 1994 - calendar year 1992;

- recoupment period June 1, 1994 through May 31, 1995 - calendar year 1993;
- recoupment period June 1, 1995 through May 31, 1996 - calendar year 1994;
- recoupment period June 1, 1996 through May 31, 1997 - calendar year 1995;
- recoupment period June 1, 1997 through May 31, 1998 - calendar year 1996.

**“Servicing Companies”** - Members of the Facility that were designated to issue policies that evidence the insurance coverage provided by the Facility to a rejected risk and to service the risks as statutorily required.

**B. REFUNDS TO THE INSURERS**

The Fund shall distribute the refunded maintenance tax surcharge to insurers in the amounts shown on the list compiled by the Comptroller and the Department not later than the 45<sup>th</sup> day following the Fund’s receipt of the list. The Fund shall pay the surcharge from its surplus. The Fund shall include a letter of explanation, provided by the Department and contained in Appendix A of this rule, with each check sent to the insurers.

**C. QUALIFYING POLICYHOLDERS ENTITLED TO RECEIVE A PROPORTIONATE SHARE OF THE SURCHARGE**

Insurance companies shall pay a proportionate share of the refunded maintenance tax surcharge to qualifying policyholders regardless of whether the insurance company recouped the maintenance tax surcharge from its policyholders. An insurance company may not be required to return to qualifying policyholders an amount greater, in the aggregate, than the amount of surcharge received from the Fund. The procedure outlined below shall be followed in identifying qualifying policyholders:

1. The insurance companies receiving refunded maintenance tax surcharges from the Fund shall pay a proportionate share of the surcharges to their qualifying policyholders.
2. The Fund shall pay a proportionate share of the Fund's refunded maintenance tax surcharge to qualifying policyholders with coverage provided by the Fund with policy effective dates during the recoupment periods June 1, 1994 through May 31, 1995 and June 1, 1995 through May 31, 1996.

3. The FIC shall pay a proportionate share of the FIC’s refunded maintenance tax surcharge to qualifying policyholders with coverage written through the Facility with policy effective dates during the recoupment periods of June 1, 1992 through May 31, 1993 and June 1, 1993 through May 31, 1994.

**D. CALCULATION OF THE QUALIFYING POLICYHOLDER’S PROPORTIONATE SHARE OF THE REFUNDED MAINTENANCE TAX SURCHARGE**

Each insurance company shall determine the proportionate share of the refunded maintenance tax surcharge each qualifying policyholder is entitled to receive by following the steps below:

1. Each insurance company shall determine the total gross premium of all qualifying policyholders.
2. Each insurance company shall divide the total gross premium for each applicable recoupment period into the amount of surcharge paid based on the prior calendar year’s premium to determine the percentage factor to be applied to each policyholder’s gross premium.
3. Each insurance company shall apply the percentage factor determined in 2. above to each policyholder’s gross premium for each applicable recoupment period to establish the portion of surcharge to be paid to each policyholder.

**Example of Calculation**

$\frac{\text{Refunded Maintenance Tax Surcharge}}{\text{Gross Annual WC Premium for 12-Month Recoupment Period}}$	=	$\text{Percentage Factor}$	X	$\text{Policyholder Premium}$	=	$\text{Policyholder Proportionate Share}$
$\frac{\$106,432}{\$6,450,425}$		$= 1.65\%$		$\times \$15,000$		$= \$247.50$

**E. PROCESSING PAYMENTS**

Each insurance company shall, no later than September 1, 2000, pay or apply a credit to each qualifying policyholder the amount determined in Section D. of this rule.

1. The insurance company shall issue a check(s) to all qualifying policyholders who do not owe premiums for any recoupment period. The insurance company shall send a letter, furnished by the Department and contained in Appendix B of this rule, along with the check explaining why

the check is being sent, listing the applicable recoupment periods and explaining how the amount of the check was determined. The information contained in the chart in Appendix B of this rule can be included as a separate attachment rather than being included in the body of the letter. No marketing or other materials may be included in the envelope from the insurance company with the check and the letter.

2. If the qualifying policyholder, as identified in Section C. of this rule, owes the insurance company for premiums developed during one or more recoupment period(s), the insurance company shall either issue a check to the qualifying policyholder or apply the policyholder's proportionate share as a credit against the premium the policyholder owes the insurance company. Any excess proportionate share of refunded maintenance tax surcharge over what the policyholder owes shall be returned to the policyholder. If the insurance company elects to apply a credit, the insurance company shall send a letter, furnished by the Department and contained in Appendix B of this rule, to the policyholder advising that the insurance company is applying some or all of the policyholder's proportionate share as a credit against the premium the policyholder owes the insurance company. The information contained in the chart in Appendix B of this rule can be included as a separate attachment rather than being included in the body of the letter. No marketing or other materials may be included in the envelope from the insurance company with this letter.
3. The insurance company may, but is not required to, issue a check or apply a credit to a qualifying policyholder if the aggregate amount of that policyholder's proportionate share is less than \$25.
4. If the insurance company determines that it has no qualifying policyholders for one or more recoupment periods, then by September 1, 2000, the insurance company shall return that refunded maintenance tax surcharge to the Fund for deposit in the Fund's surplus.

#### F. LOCATING THE QUALIFYING POLICYHOLDERS THROUGH THE U. S. MAIL

Each insurance company is required to make a diligent effort to locate qualifying policyholders and send the checks to them. Each insurance company shall send the checks by First Class U. S. Mail to the last known address for each qualifying policyholder. If the U. S. Mail returns the envelope containing the check, then the following steps shall be followed:

1. If the envelope containing the check has forwarding information, the insurance company shall re-send the check by First Class U. S. Mail to the forwarding address.
2. If the envelope containing the check has no forwarding information and the insurance company has not attempted to update the policyholder's address, the insurance company shall attempt to obtain a current address and telephone number by consulting telephone books, the Internet and other reliable sources, including the web site maintained by the Comptroller of Public Accounts at <http://open.cpa.state.tx.us/openrec.html>. If the insurance company finds a new address and telephone number, the insurance company shall contact the policyholder by telephone to confirm the identity and address of the policyholder.
3. After the insurance company confirms the identity and address of the policyholder through the procedure described in Number 2 above, the insurance company shall re-send the check by First Class U. S. Mail to the confirmed address.

#### G. REPORTING THE STATUS OF PAYMENTS

By January 1, 2001, each insurance company shall file with the Department the first three (3) reports listed below, in accordance with the Department's electronic report format, for each recoupment period. If the insurance company calculated the policyholder's proportionate share by aggregating the amounts of all members of the insurance company group, each report shall include a listing of all the members of the insurance company group. If an insurance company has no qualifying policyholders for one or more recoupment periods, the insurance company is required to file the report described in Section G.4. of this rule. The Department may request additional information from the insurance companies concerning the payments if necessary.

1. The first report shall contain the list of qualifying policyholders who received payments through the procedures described in Section F. of this rule. The first report shall include:
  - a. the name and mailing address of each policyholder receiving a check or credit;
  - b. the amount of that check or credit; and
  - c. the date the check was sent or re-sent if prior check was returned or the date the credit was given.

2. The second report shall contain the list of qualifying policyholders who were not paid their proportionate share because the amount was less than \$25. This report shall include:
  - a. the name and mailing address of each policyholder, and
  - b. the amount of the proportionate share.
3. The third report shall contain the list of qualifying policyholders who were due a check but who the insurance company could not locate even after making a diligent effort to do so. This report shall include the name, address and toll-free telephone number of a person at the insurance company who a policyholder may contact to provide a current address to be used for re-sending the check. It shall also include:
  - a. the name, last known mailing address of the policyholder;
  - b. the Federal Employer Identification Number (FEIN) of the policyholder; and
  - c. the amount of the proportionate share due the policyholder.
4. The fourth report shall contain the amount, by recoupment period, for which there were no qualifying policyholders.

#### H. LOCATING QUALIFYING POLICYHOLDERS THROUGH NOTICE IN THE NEWSPAPERS

1. By April 1, 2001, the Fund shall publish a notice in at least one newspaper of general circulation in each Texas county with a population of at least 100,000, according to the most recent federal decennial census and shall pay all costs associated with the publication of the notices from the surplus of the Fund. The policyholders listed in the notices shall be the policyholders in the report described in Section G. 3. of this rule. The notice shall explain that the policyholders listed were due a proportionate share of the refunded maintenance tax surcharge, but have not been located to receive the payment. The notice shall also contain the following information:
  - a. the name of each policyholder entitled to a check;
  - b. the municipality of the last known mailing address of the policyholder;

- c. the name of the insurance company owing the payment to the policyholder; and
- d. the name, address and toll-free number of a person at the insurance company whom a policyholder may contact regarding the payment.

2. To receive a payment, a qualifying policyholder must provide its current mailing address to the applicable insurance company not later than the 180<sup>th</sup> day after the publication date of the notice of <sup>1</sup> October 1, 2001, whichever is later.
3. Not later than the 45<sup>th</sup> day after the insurance company receives the qualifying policyholder's current mailing address or November 15, 2001, whichever is sooner, the insurance company shall remit the proportionate share to the policyholder.

#### I. REPORTING THE STATUS OF QUALIFYING POLICYHOLDERS LISTED IN THE NEWSPAPER

By December 31, 2001, each insurance company shall file with the Department two (2) reports, in accordance with the Department's electronic report format, for each recoupment period listing the qualifying policyholders whose names appeared in the list of policyholders published in the newspapers pursuant to Section H. of this rule. If the insurance company calculated the policyholder's proportionate share by aggregating the amounts of all members of the insurance company group, each report shall include a listing of all the members of the insurance company group.

1. The first report shall list the qualifying policyholders to whom the insurance companies sent their proportionate share of the refunded maintenance tax surcharge as a result of the procedures in Section H. of this rule. The report shall include the following information:
  - (a) The name and mailing address of each policyholder receiving a payment;
  - (b) the amount of the payment; and
  - (c) the date the payment was sent.
2. The second report shall list the qualifying policyholders who were due a payment but were not located after following the procedures in Section H. of this rule. This report shall include the following information:
  - (a) The name and last known mailing address of each policyholder who was not located;

<sup>1</sup>Should read "or".

(b) the Federal Employer Identification Number (FEIN) of each policyholder who was not located; and

(c) the amount of the payment due the policyholder.

#### J. RETURNING UNPAID FUNDS TO THE FUND

Insurance companies that cannot locate all its qualifying policyholders through the procedures set forth in this rule shall return the remaining amount of refunded maintenance tax surcharge to the Fund for deposit in the Fund's surplus by December 31, 2001. At the same time, insurance companies shall report to the Fund the amount of maintenance tax surcharge being returned for each recoupment period.

Insurance companies shall return to the Fund by December 31, 2001, for deposit in the Fund's surplus, the total amount of each qualifying policyholder's proportionate share that was not returned or credited because the amount was less than \$25. At the same time, insurance companies shall report to the Fund the amount of maintenance tax surcharge being returned for each recoupment period.

By January 31, 2002, the Fund shall file with the Department a report, in accordance with the Department's electronic report format, for each recoupment period listing by insurance company the total amount of refunded maintenance tax surcharge returned to the Fund because qualifying policyholders were not located or because the insurance company had no qualifying policyholders.

By January 31, 2002, the Fund shall file with the Department a report, in accordance with the Department's electronic report format, for each recoupment period listing by insurance company the total amount of qualifying policyholders' proportionate shares that were not returned because the amount was less than \$25.

#### K. UNCASHED CHECKS

By May 31, 2002 each insurance company must determine if all of the refunded maintenance tax surcharge checks have been cashed. The insurance company shall remit to the Fund the total dollar amount of uncashed checks for deposit in the Fund's surplus by July 1, 2002.

By July 1, 2002, each insurance company that has uncashed refunded maintenance tax surcharge checks shall file with the Department a report, in accordance with the Department's electronic report format. The report shall include the following information:

(a) The name and mailing address of the policyholders who have not cashed their refunded maintenance tax surcharge checks;

(b) the date of the each check; and

(c) the amount of each check that was not cashed.

By August 1, 2002, the Fund shall file with the Department a report, in accordance with the Department's electronic report format, listing by insurance company the total dollar amount of uncashed checks received from each insurance company for each recoupment period.

#### L. RIGHTS TO RECEIPT OF PAYMENT EXPIRE

Notwithstanding any other law of this state, all rights to a payment of a proportionate share of the refunded maintenance tax surcharge under this rule expire on December 31, 2001.

#### M. CONFIDENTIALITY

Each report filed with the Department pursuant to this rule by an insurance company that includes the identification of a policyholder by name is confidential. The Department shall maintain the confidentiality of the reports and in the information contained in the reports, except as otherwise provided by this rule. A report made pursuant to this rule by an insurance company is not subject to disclosure under Chapter 552, Government Code.

#### N. REQUIREMENTS FOR INSURANCE COMPANIES IN RECEIVERSHIP

In the event an insurance company that is subject to this rule is either in receivership on the effective date of this rule or is subsequently placed in receivership, the requirements of this rule shall be applicable to the receiver or special deputy receiver for the insurance company. With the exception of amounts retained as credits against unpaid premium under Section E.2. of this rule, the refunded maintenance tax surcharges shall not be considered assets of a receivership for the purposes of TEX. INS. CODE, art. 21.28.

#### O. EXPIRATION OF RULE

This rule expires September 1, 2002.

## LETTER FROM FUND TO INSURERS

Re: Refund of Maintenance Tax Surcharge

Dear Sir or Madam:

In accordance with House Bill 3697, 76<sup>th</sup> Legislature, the Texas Workers' Compensation Insurance Fund (the Fund) is sending the enclosed check(s) to you as a refund of the maintenance tax surcharge paid during tax years 1991-1996. The law also requires that all insurance companies, including the Fund, send a proportionate share of the refunded maintenance tax surcharge to qualifying policyholders. The Comptroller in cooperation with the Texas Department of Insurance (TDI) determined the amount of the maintenance tax surcharge paid by your company during tax years 1991 through 1996 and provided that information to the Fund. Based on that information, the enclosed check(s) are being sent to you.

If you wish to view House Bill 3697 in its entirety, you may do so on-line at the Texas Legislature's web site at [www.capitol.state.tx.us](http://www.capitol.state.tx.us). The TDI is in the process of adopting rules to implement House Bill 3697. If you have questions regarding the proper procedure to follow in returning this money to qualifying policyholders, please contact Nancy Moore at TDI by e-mail at [Nancy.Moore@tdi.state.tx.us](mailto:Nancy.Moore@tdi.state.tx.us), by telephone (512) 322-3486 or by fax at (512) 322-4108. If you have questions regarding the amount of maintenance tax surcharge paid by your company, please contact Gary Johnson at the Comptroller's by e-mail at [Gary.Johnson@cpa.state.tx.us](mailto:Gary.Johnson@cpa.state.tx.us), by telephone at (512) 463-4068 or by fax at (512) 475-0900.

Sincerely,

Russell R. Oliver  
President

**APPENDIX A**

LETTER FROM INSURANCE COMPANIES TO QUALIFYING POLICYHOLDERS

Re: Distribution of Policyholders' Proportionate Share of the Maintenance Tax Surcharge

Dear Sir or Madam:

In 1999, the Texas Legislature passed HB 3697, 76<sup>th</sup> Leg., R.S. codified as Tex. Ins. Code Ann. Art. 5.76-5 §10A concerning the reimbursement of the maintenance tax surcharge for tax years 1991 through 1996. Insurance companies who paid the maintenance tax surcharge for any of those years have been reimbursed from the surplus of the Texas Workers' Compensation Insurance Fund and are required to distribute those refunds proportionately among their policyholders. The Texas Department of Insurance, under Rule XX of the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*, stipulates the procedures by which insurance companies are to pay their policyholders. The rule requires insurance companies to send checks to policyholders who have no outstanding premiums owed and allows for the application of credits to premium amounts owed.

The method used for calculating and returning your proportionate share of the maintenance surcharge is shown below [on the attachment].

Tax Year	Recoupment Period	Proportionate Share	Credit or Refund

Please contact company representative at toll free number if you have further questions regarding this issue.

Sincerely,

Company Representative





PROCEDURES

A. POLICY ISSUANCE

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. All insurance associations, companies, or persons writing Workers' Compensation and Employers' Liability Insurance in Texas are required to use the Standard Provisions for Workers' Compensation and Employers' Liability policies and endorsement forms prescribed or approved for use in the State of Texas.</li> <li>2. No compensation insurance shall be written on a form differing in any manner from the approved policy and information page.</li> <li>3. Policies shall be written to cover the entire liability of employers under the Workers' Compensation Law in connection with each respective industry in which they are engaged in the State of Texas.</li> <li>4. Policies covering Texas Workers' Compensation Insurance may also cover:             <ol style="list-style-type: none"> <li>(a) The liability under the Longshore and Harbor Workers' Compensation Act;</li> <li>(b) Employers' Liability, if the employer so elects, as respects persons who are employed by the employer but who are not employees as defined in the Texas Act;</li> <li>(c) Voluntary Compensation with respect to persons referred to in (b) above;</li> <li>(d) Disease with respect to persons referred to in (b) and (c) above.</li> </ol> </li> <li>5. A policy may not be amended except by the use of standard endorsements prescribed and approved by the Texas Department of Insurance. Changes in the typewritten portion of the Information Page may be made by the use of a general change endorsement.</li> <li>6. The information indicated on the Information Page of the policy shall be complete in all details:             <ol style="list-style-type: none"> <li>(a) Name of employer.</li> </ol> </li> </ol> | <ol style="list-style-type: none"> <li>(b) Post Office Address - in sufficient detail as to permit of reasonable certain delivery of mail.</li> <li>(c) Status of insured, such as individual, partnership, corporation, estate or other entity.</li> <li>(d) Effective date and expiration date.</li> <li>(e) Full information regarding the location of known places of operations. "Texas" should be inserted in Item 3 of the Information Page along with the names of other states in which the policy is intended to provide coverage.</li> <li>(f) Complete manual wording for each classification.</li> <li>(g) Correct code number for each classification.</li> <li>(h) Estimated annual payroll for each classification.</li> <li>(i) Applicable rate for each classification.</li> <li>(j) Estimated premium for each classification.</li> <li>(k) Premium for increased limits for employers' liability, if applicable.</li> <li>(l) Experience modifier, if applicable.</li> <li>(m) Negotiated experience modifier, if applicable.</li> <li>(n) Schedule rating factor, if applicable.</li> <li>(o) Network credit factor, if applicable. *</li> <li>(p) Deductible credit, if applicable. *</li> <li>(q) Premium discount, if applicable. *</li> <li>(r) Expense constant. *</li> <li>(s) Terrorism premium, if applicable. *</li> <li>(t) Total estimated policy cost. *</li> <li>(u) Minimum premium. *</li> <li>(v) Deposit premium. *</li> <li>(w) Signature or name of authorized Texas agent countersigning policy. *</li> </ol> |
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**B. CLASSIFICATIONS**

1. Policies shall show classifications approved for the expiring insurance and payrolls updated to reflect current conditions.
2. Changes in classifications of current insurance may be made only after approval by this Department. The approval will be conditioned upon receipt by this Department of reliable information from the insurance carrier, the insured, or inspection. A memorandum briefly describing the operations must accompany any classification change or addition. This Department may require the insurance carrier or the insured to submit sworn statements. The effective date of the change in classifications, if any, shall be clearly shown on the reclassification endorsement.
3. Classifications applicable to a policy covering an employer not previously a subscriber to the Workers' Compensation Law may be selected in accordance with the best judgment of the carrier. Classifications may be subject to change by this Department.
4. Where the insurance carrier is in doubt as to the classifications applicable to any given operation which is not described by a classification appearing on the policy, this Department will determine the classification.
5. For risks involving more than one specific location, each classification other than the Standard Exceptions shall be designated against the location to which it applies. Likewise, when a policy covers more than one entity, each entity with corresponding classifications shall be separately scheduled.

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**C. RATES**

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

to be used in calculating premium. Changes specifically approved by the Commissioner apply to outstanding policies if such changes are deemed necessary to comply with Article 5.55, Insurance Code.

**D. RATING DATA**

1. Insuring companies shall automatically file with the designated statistical agent all data required by the Texas Workers' Compensation Statistical Plan in accordance with its provisions.
2. Where no experience modifier has been promulgated, and it appears to the insuring company that an insured and/or risk may qualify for experience rating, it is the duty of the insuring company to calculate the modifier. The agent of record, insured or other authorized parties may request that an initial modifier be promulgated.
3. One copy of the experience modifier shall be forwarded to the insured without charge on form ERM-1.2 or any other experience rating form that includes at least the same information as contained in form ERM-1.2. A plain language transmittal letter shall be sent to the insured explaining the modifier calculation, the insured's right of appeal, and advising that one copy of the unit statistical data used in the calculation will be furnished to the insured upon request at no charge.

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

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

the request. No charge may be made for this information.

policy is subject to the rules contained in this manual.

#### E. SPECIAL RULES

1. Stevedoring operations of a contract stevedoring risk using union labor supplied under contract from union labor pools are not subject to the Experience Rating Plan. Applicable rates for Stevedoring Codes 7309, 7313, 7317, 7327, 8709 and 8726 are to be applied on:
  - (a) an outstanding basis for contract stevedore risks not subject to experience rating;
  - (b) a new and renewal basis for incidental stevedoring operations subject to experience rating.
2. Interstate writing is permitted; i.e., a Texas policy may be endorsed to cover the operations of an employer outside of Texas. Conversely, a policy written to cover the operations of an employer outside of Texas may be endorsed to cover Texas operations. The Texas portion of that
3. Payrolls and losses developed under Voluntary Workers' Compensation and Employers' Liability shall be combined with the payrolls and losses for Statutory Workers' Compensation for treatment under the Experience Rating Plan.
4. The prescribed Designated Workplaces Exclusion Endorsement (WC 00 03 02) must be \* attached to a policy to take care of the following situations:
  - (a) a division of the insurance between two or more carriers where the operations are in one business at separate locations; and
  - (b) a division of the insurance, either between carriers or between a carrier and no insurance, where the division is between two separate businesses.
5. When a policy covers more than one entity, the carrier shall maintain payroll and loss information separately by entity.