



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

April 18, 2008

CIRCULAR LETTER NO. 2088

To All Members and Subscribers of the Bureau:

GENERAL REVISION OF RATES

**EFFECTIVE SEPTEMBER 1, 2008
APPLICABLE TO NEW AND RENEWAL BUSINESS**

The Commissioner of Insurance has approved a Stipulation for the general revision of workers' compensation rates, effective 12:01 A.M., September 1, 2008, applicable to new and renewal policies. This includes:

1. **RATE LEVEL DECREASE OF 1.00%**
The overall average decrease of 1.00% in the existing workers' compensation average rates will vary by class.
2. **EXPENSE CONSTANT REVISIONS**
A new three tiered system of expense constants will replace the existing two tiered system.
 - A. Policies with less than \$200 in standard premium are subject to an expense constant of \$159.
 - B. Policies with at least \$200 in standard premium but less than \$1,000 in standard premium are subject to an expense constant of \$250.
 - C. Policies with at least \$1,000 in standard premium will be subject to an expense constant of \$338.
 - D. Per capita classes are subject to an expense constant of \$64 per exposure up to a maximum of 4 exposures.
3. **F - CLASS RATE LEVEL INCREASE OF 8.55%**
The overall average increase of 8.55% in the existing workers' compensation F-Class average rates will vary by class.
4. **USL&HW ACT COVERAGE PERCENTAGE APPLICABLE TO NON-F CLASSIFICATIONS**
The percentage applicable in connection with Rule XII-D-3 "U.S. Longshore and Harbor Workers' Compensation Act" will be revised.

5. EXPERIENCE RATING PLAN CHANGES

The Experience Rating Plan Expected Loss Rates and D-Ratios will be revised and distributed by the Bureau. The State Per Claim Accident Limitation and the State Multiple Claim Accident Limitation remain unchanged.

6. SMALL DEDUCTIBLE CREDITS

The premium credits applicable to the election of small deductibles under either the Massachusetts Benefits Deductible Program or the Massachusetts Benefits Claim and Aggregate Deductible Program have been revised.

7. RETROSPECTIVE RATE PLAN CHANGES

Two hazard group mappings will be available – a seven hazard group option and a four hazard group option – that are consistent with those designated by NCCI in Item Filing B – 1403. Carriers who wish to use the four hazard group option must advise the Bureau in writing by August 1 of each year for policies effective on or after September 1 of that year. Carriers will be required to use the seven hazard group option for all policies effective on or after September 1, 2011. Excess loss factors have been updated. Also, there will be a new Table of Expected Loss Ranges and new State and Hazard Group Relativities. The Table of Expected Loss Ranges is updated in accordance with NCCI Item Filing R – 1396.

8. DISEASE ELEMENTS TABLE

The rate associated with Class 0059 has changed.

9. NO CHANGES IN THE FOLLOWING:

- A. Loss Constants
- B. Admiralty Law and Federal Employers' Liability Act classifications
- C. Merit Rating Program
- D. Premium Discount Tables A and B
- E. Take-Out Credit
- F. Qualified Loss Management Program [QLMP]
- G. Weights and Ballasts Tables

Experience ratings and ARAP factors (including replacement of preliminary experience ratings and ARAP factors) effective September 1, 2008 and subsequent will be issued in due course using the new Expected Loss Rates, D-Ratios, and ARAP maximum.

When the new rates, experience ratings, and ARAP factors are received and incorporated into policy issuance, carriers should no longer attach Massachusetts Pending Premium Change Endorsement WC 20 04 01 to policies. Revised Massachusetts manual rate pages will be distributed and will be available on our website at www.wcribma.org. The new rates and rating values will also be available in electronic form (Microsoft Excel and text files) on our website. Attached is a copy of the Commissioner's Decision and Order and the Stipulation.

Paul Meagher, Esq.
President



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DIVISION OF INSURANCE

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Rate Filing of the Worker's Compensation Rating and Inspection Bureau
Docket No. R2008-01

Decision and Order

I. Introduction and Procedural History

On February 29, 2008, the Worker's Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), on behalf of its members, submitted a filing for a worker's compensation rate revision to be effective September 1, 2008 ("the Filing"). The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. and Stephen M. Sumner, Esq. as presiding officers on this matter. A notice of hearing issued on March 5, 2008, scheduling a public comment hearing and a prehearing conference for April 3. On March 12, the Attorney General filed a notice of intent to participate in this matter as a statutory intervenor.

Representatives of the three parties to this proceeding, the WCRIB, the State Rating Bureau in the Division of Insurance, and the Attorney General, spoke at the public comment hearing on April 5. Other individuals offered statements on behalf of the Massachusetts Workers' Compensation Advisory Council, the Massachusetts Association of Insurance Agents, American Risk Management, representing trade associations related to the construction industry, and the American International Insurance Group.¹ A cross-examination schedule was set at the prehearing conference that followed the public comment hearing. On April 16, the parties submitted a stipulation (the "Stipulation") that

¹ American Risk Management represents the Building Trades Employers Association of Eastern Massachusetts, their affiliated trade groups, and the Associated General Contractors of Massachusetts.

addressed several specific aspects of the WCRIB filing. On April 17, the Commissioner approved the Stipulation.

II. Statutory Framework

G.L. c. 152, §53A ("§53A") sets out the statutory requirements for obtaining approval of rates for Massachusetts workers' compensation insurance. Subsection (1) requires any insurance company writing workers' compensation insurance in the Commonwealth to file its risk classifications and premiums with the Commissioner, either directly or through a rating organization authorized to act on its behalf. The Commissioner thereafter conducts a hearing to determine whether the classifications and rates are not excessive, inadequate or unfairly discriminatory for the risks to which they effectively apply, and fall within a range of reasonableness. In addition to these general requirements, §53A(12) specifically states that the Commissioner shall not approve classifications or rates that provide for any of the following: 1) dividends, unabsorbed premium deposits, savings or other payments allowed or returned by the insurer to policyholders, members, subscribers or stockholders; 2) expenses that exceed the filing insurer's expense needs; and 3) commission allowances that are not demonstrated to be reasonable and to reflect the actual cost to the agent or broker of services they provide. The Commissioner, pursuant to §53A(13), also must make a finding, on the basis of information in the rate filing, that insurers employ acceptable cost control programs and techniques which have had or are expected to have a substantial impact on fraudulent claim costs, unnecessary health care costs, any other unreasonable costs and expenses, and on the collection of appropriate premium charges owed to the insurer. If the Commissioner finds that the rates are excessive, and that the excess is the result of a failure to employ adequate cost control programs, she may disapprove or limit any proposed increase in rates.

III. The Recommendations

The WCRIB, in its initial filing, sought an overall rate increase of 2.3 percent. The Stipulation, in summary, provides the following:

1. No party will object to or appeal from the Commissioner's approval of the WCRIB's general rate filing dated March 1, 2008 [sic], subject to the condition that there will be a -1.00 percent overall change in the existing workers'

compensation average rates, to be effective on and after September 1, 2008, subject to the following conditions.

2. The WCRIB shall compute average and manual rates for each rating classification in the manner shown in its filing, provided that the average rate change shall be -1.00 percent and that 15 per cent shall be substituted for 20 percent for purposes of calculating maximum and minimum rate changes as set out in lines 8 and 9 of Section IX, p. 263 of the Filing.
3. The rating values in Section X, XI and XII of the Filing shall be computed in a manner consistent with the Filing, but shall reflect a -1.00 percent average rate change as a result of substituting an underwriting profit provision of -4.27 percent for the underwriting profit provision of -1.2 percent shown in Section I, p. 11 of the Filing. The stipulated profit provision reflects only the parties' agreement to use this method to implement their overall negotiated resolution of this matter. It does not reflect any party's position with respect to the underwriting profit provision calculated in the Filing.
4. The average rate level change for F-classes shall be +8.55 percent.
5. The approved Expense Constants set forth below shall be substituted for those proposed in Section I, p. 10 of the Filing, regardless of any loss of revenue resulting from those substitutions. The Expense Constants shall be: 1) \$338 for risks developing at least \$1,000 in Standard Premium; 2) \$250 for risks developing \$200 through \$999 in Standard Premium; 3) \$159 for risks developing less than \$200 in Standard Premium; and 4) \$64 for Per Capita risks. These revised Expense Constants are temporary values resulting solely from the parties' overall negotiated resolution. The parties agree that an anticipated 2009 nationwide study of industry experience by the National Council on Compensation Insurance will warrant future review of expense constants to be used in Massachusetts.
6. The recalculated excess loss factors to be used in retrospective rating shall be divided into seven hazard groups, as shown in Section XII, pp. 33-34, of the Filing, provided that a company that wishes to continue to use recalculated excess loss factors for the four hazard groups as shown in Section XII, pp. 35-36 of the Filing, rather than the seven hazard groups, may be allowed to do so for up to three consecutive policy years only. The company must make an annual written request to the WCRIB. For policies with effective dates on or after September 1, 2008, the written request must be made no later than August 1, 2008. At the company's option, the request may be renewed on or before August 1, 2009 and August 1, 2010, for the succeeding policy year. For policies effective on or after September 1, 2011, the excess loss factors for seven hazard groups shall be used for retrospective rating for all companies, unless the Commission expressly approves the use of other factors.
7. The revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after September 1, 2008, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool
8. The parties acknowledge that the Stipulation has no precedential value and implies no approval or disapproval by any party of any particular ratemaking

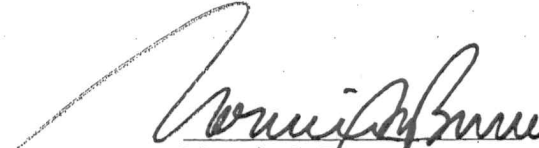
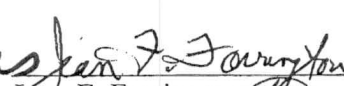
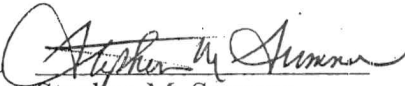
2008 Rate Filing of the Worker's Compensation Rating and Inspection Bureau,
Docket No. R2008-01

methodology or projection. Each party reserves the right to contest in future hearings all aspects of rate-setting, including those addressed in the Stipulation.

IV. Conclusion

We find that the Stipulation submitted by the parties will provide for classifications or premiums that are "not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and fall within a range of reasonableness."

We therefore approve the Stipulation this 17th day of April 2008.

		
Nonnie S. Burnes Commissioner of Insurance	Jean F. Farrington Presiding Officer	Stephen M. Sumner Presiding Officer

shall be -1.00% and that 15% shall be substituted for 20% in the calculation of the values in lines (8) and (9) of section IX, page 263 of the WCRIB Filing..

b. The rating values shown in sections X, XI and XII of the WCRIB Filing shall be computed in a manner consistent with the WCRIB Filing except that they should reflect a -1.00% overall average rate change resulting from substituting a profit provision of -4.27% for the profit provision of -1.2% found in the WCRIB Filing in section I, page 11. This substitute profit provision reflects only an agreed-upon method of implementing the parties' overall negotiated resolution and does not reflect any position by any party with respect to the profit provision actually calculated in the WCRIB Filing.

c. The average rate level change for F-classes shall be +8.55%.

d. The approved Expense Constants shall be as set forth below, in lieu of those proposed in section I, page 10 of the WCRIB Filing, irrespective of any loss of revenue resulting from these changes:

- | | | |
|-----|---|-------|
| (1) | For Risks developing at least \$1,000
in Standard Premium: | \$338 |
| (2) | For Risks developing at least \$200 but less
than \$1,000 in Standard Premium: | \$250 |
| (3) | For Risks developing less than \$200 in Standard Premium: | \$159 |
| (4) | Per Capita Risks (for each exposure up to a maximum of 4): | \$64. |

These revised Expense Constant parameters are temporary values resulting solely from the parties' overall negotiated resolution. The parties acknowledge that the NCCI expects during 2009 to conduct a nationwide study of industry experience and agree that, in conjunction with the NCCI study, a review of expense constants to be used in Massachusetts in future years is warranted.

e. The recalculated excess loss factors to be used in retrospective rating shall be divided into seven hazard groups as exhibited in section XII, pages 33 and 34 of the WCRIB Filing; provided, however, that any company wishing to continue to use recalculated factors for the four hazard groups set forth in section XII, pages 35 and 36 of the WCRIB Filing and not the seven hazard groups may be allowed to do so for up to three consecutive policy years only by making an annual written request to the WCRIB for such allowance no later than August 1, 2008, to be renewed at the company's option only by additional written requests on or before August 1, 2009 and August 1, 2010 for the succeeding policy year. For policies effective on or after September 1, 2011, all companies shall use excess loss factors for retrospective rating for seven hazard groups, in the absence of express approval by the Commissioner.

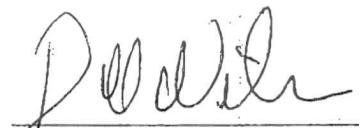
These revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after September 1, 2008, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool.

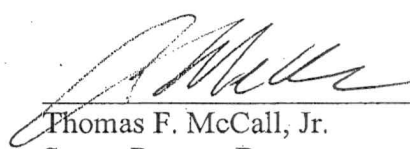
2. The WCRIB, AG and SRB agree that this Stipulation will have no precedential value and will not be relevant in future hearings on any line of insurance and that they will not attempt to introduce it (or the decision adopting it) as evidence or to rely on it (or the decision adopting it) for any purpose in future hearings, provided that the Stipulation may be considered in any future hearing with respect to the implementation of this Stipulation, but only on the issue of the implementation of this Stipulation. The WCRIB, AG and SRB each acknowledge that this Stipulation does not imply approval or disapproval by either party of any particular ratemaking methodology or projection. Each party reserves the right to contest in future hearings all aspects of rate-setting resolved for present purposes only by this Stipulation.

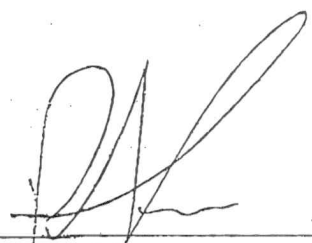
3. Each party enters into this Stipulation upon the condition that it is approved by the Commissioner, in its entirety, on the record of this hearing no later than April 18, 2008. If the Commissioner does not approve this Stipulation in its entirety on or before April 18, 2008, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose whatsoever.

4. If any person not a party to this Stipulation successfully challenges the Commissioner's approval of this Stipulation and the Commissioner's approval is suspended, set aside or otherwise rendered ineffective, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose.

5. It is understood and agreed that the WCRIB shall, by April 18, 2008, provide both the SRB and the AG with proposed revised manual pages reflecting this Stipulation applicable to new and renewal policies effective on and after September 1, 2008 for review by the SRB and the AG; absent a showing by the SRB or the AG by May ^{7 TM, DW by TM, PL by TM} ~~X~~ 2008 of good cause to believe that the proposed revised manual pages do not accurately reflect this Stipulation, the WCRIB may publish the revised manual pages to the industry on or after May 6, 2008.


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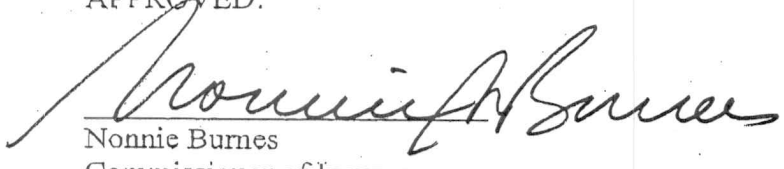

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Dated: April 16, 2008

APPROVED:



Nonnie Burnes
Commissioner of Insurance
Division of Insurance

Dated: April 17, 2008