

# Workers Compensation Guide

## Table of Contents

<b>Introduction: The Workers Compensation System</b>	<b>1</b>
A Great Social Compromise	1
<b>Chapter 1: Policy Organization, General Section</b>	<b>5</b>
Policy Organization	5
General Section	6
<b>Chapter 2: Workers Compensation Insurance</b>	<b>9</b>
To “Pay Promptly When Due the Benefits Required by Law”	9
How This Insurance Applies	9
We Will Pay	10
We Will Defend	11
We Will Also Pay	12
Other Insurance	12
Payments You Must Make	12
Recovery from Others	13
Statutory Provisions	13
<b>Chapter 3: Employers Liability Insurance</b>	<b>15</b>
How This Insurance Applies	16
The Course of Employment	16
We Will Pay	17
Employers Liability Exclusions	17
We Will Defend	19
We Will Also Pay	19
Other Insurance	19
Limits of Liability	20
Recovery from Others	21
Actions Against Us	21
<b>Chapter 4: Other States Insurance</b>	<b>23</b>
Notice Clauses	24
<b>Chapter 5: Duties After Injury Occurs/Conditions</b>	<b>25</b>
The Duties of the Insured	25
Conditions	27
<b>Chapter 6: Endorsements</b>	<b>31</b>
Alternate Employer Endorsement WC 00 03 01 A	31
Employers Liability Coverage Endorsement WC 00 03 03 B	32

Joint Venture as Insured Endorsement WC 00 03 05	32
Medical Benefits Exclusion Endorsement WC 00 03 06	32
Medical Benefits Reimbursement Endorsement WC 00 03 07	32
Partners, Officers and Others Exclusion	
Endorsement WC 00 03 08	33
Sole Proprietors, Partners, Officers and Others Coverage	
Endorsement WC 00 03 10	33
Voluntary Compensation and Employers Liability Coverage	
Endorsement WC 00 03 11	33
Voluntary Compensation and Employers Liability Coverage	
for Residence Employees Endorsement WC 00 03 12	34
Waiver of Our Right to Recover from Others	
Endorsement WC 00 03 13	35
Workers Compensation and Employers Liability Coverage	
for Residence Employees Endorsement WC 00 03 14	35
Domestic and Agricultural Workers Exclusion	
Endorsement WC 00 03 15	35
Employee Leasing Client Endorsement WC 00 03 19	36
Labor Contractor Endorsement WC 00 03 20 A	36
Labor Contractor Exclusion Endorsement WC 00 03 21	36
Employee Leasing Client Exclusion Endorsement WC 00 03 22	37
Anniversary Rating Date Endorsement WC 00 04 02	37
Experience Rating Modification Factor	
Endorsement WC 00 04 03	37
Premium Discount Endorsement WC 00 04 06 or	
WC 00 04 06 A	37
Retrospective Premium Endorsement One Year Plan	
WC 00 05 03 A	37
Retrospective Premium Endorsement Three Year Plan	
WC 00 05 04 A	38
Retrospective Premium Endorsement One Year Plan —	
Multiple Lines WC 00 05 12 A	38
Retrospective Premium Endorsement Three Year Plan	
Multiple Lines WC 00 05 13 A	38
Benefits Deductible Endorsement WC 00 06 03	38

## **Chapter 7: Nonprivate Insurance      39**

Monopolistic State Funds	39
North Dakota	39
Ohio	40
Washington	42
West Virginia	43
Wyoming	45
Residual Markets	46

## **Chapter 8: Federal Workers Compensation Coverage      47**

Introduction	47
The Longshore and Harbor Workers Compensation Act	48
Scope of Coverage	48
Employer's Liability	49
Third Party Actions	50

Compensation	51
The L&HWCA and the Workers Compensation Policy	51
State vs. Federal Coverage	52
The Jones Act	53
Scope of Coverage	53
Definition of “Seaman”	55
Jurisdiction of the Jones Act	56
Federal Workers Compensation Endorsements	57
Defense Base Act Coverage Endorsement WC 00 01 01 A	57
Federal Coal Mine Health and Safety Act Coverage	
Endorsement WC 00 01 02	58
Federal Employers Liability Act Coverage	
Endorsement WC 00 01 04	58
Longshore and Harbor Workers Compensation Act	
Coverage Endorsement WC 00 01 06 A	58
Nonappropriated Fund Instrumentalities Act Coverage	
Endorsement WC 00 01 08 A	59
Outer Continental Shelf Lands Act Coverage	
Endorsement WC 00 01 09 A	59
Maritime Coverage Endorsement WC 00 02 01 A	60

## **Chapter 9: Premium 61**

Manuals	61
Classifications	61
Remuneration	62
Premium Payments	62
Final Premium	62
Records	63
Audit	63
Workers Compensation Bureaus	64
Classification of Exposures	64
Premium Basis	66
Payroll Limitation	66
Rates	67
Other Factors	67
Limits of Liability	68
Sample Premium Calculation	68
Extension of Information Page	69

## **Chapter 10: Experience Rating 71**

Introduction	71
General Points	71
The Mod	72
Anniversary Rating Date	73
The Mod Formula	74
Unit Statistical Plan	75
Making the Calculation	76
Applying the Mod	76
Recalculation and Revisions	77
One Risk or Two?	78
Experience Rating Summary	79

Schedule Rating	80
Why is This Important?	81

## **Chapter 11: Financial Plans 83**

Introduction	83
Type of Financial Plans	85
Guaranteed Cost Plans	87
Dividend Plans	87
Standard Dividend Plans	88
Sliding Scale Dividends	89
Estimated Dividend Display	91
Retrospective Rating Plans	91
Retrospective Rating Formula	93
Excess Loss Premium	94
How a Retro Works	95
Optional Retro Premium Components	97
Audit vs. Retro Calculation	98
Retro Policy Cancellation	98
Retrospective Rating Forms	99
Incurred Loss vs. Paid Loss Plans	99
Deductible Plans	100
Option Evaluation Form	103

## **Chapter 12: Cost Management Issues 107**

Introduction	107
Managing Loss Reserves	108
A Typical Claims Review	109
Location Coding	110
Return to Work Programs	112
ADA Implications	112
Integrated Disability Management	113
Loss Prevention Incentive Programs	113
Premium Allocation Systems	114
Financial Impact	115

## **Chapter 13: Issues in Workers Compensation 117**

Introduction	117
Exclusive Remedy	117
Dual Capacity	118
Intentional Tort	118
Third-Party-Over	120
Other Possible Doctrines	120
Mental Stress Claims	123
In the Course of Employment	125
Relationship to Employment	126
Employment of Minors	127
Principals and Contractors	130
Leased Employees	132
Stop Gap Coverage	135
Workers Compensation and Volunteers	136
Various Workers Compensation Doctrines	138

The Positional Risk Doctrine	138
Odd Lot Doctrine	139
Usual Exertion Doctrine	140
Last Injurious Exposure Rule	140
Peculiar Risk Doctrine	141
Personal Comfort Doctrine	141
Successive Injury Cases	142
 <b>Appendix A: NCCI WC Policy Information Page</b>	<b>147</b>
NCCI Workers Compensation and Employers Liability Policy Form	148
 <b>Appendix B: Sample Experience Modification Worksheet</b>	<b>154</b>
Confidential Request for Information Form ERM-14	155
 <b>Appendix C: Application of Workers Compensation Laws by State</b>	<b>159</b>
Residual Markets	161
Successive Injury Funds by State	163
Type of WC Law by State	173
 <b>Index</b>	<b>175</b>