



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
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BILL HASLAM  
GOVERNOR

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COMMISSIONER

April 9, 2012

Honorable David Lillard, Jr., Chair  
Tennessee Workers' Compensation Advisory Council  
Treasurer, State of Tennessee  
State Capitol, First Floor  
Nashville, TN 37243-0225

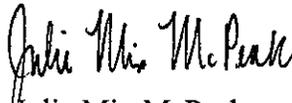
Dear Chairman Lillard:

Tenn. Code Ann. §50-6-402(d) requires that the Commissioner of Commerce and Insurance report to the Workers' Compensation Advisory Council regarding all workers' compensation filings made by the designated rate service organization and received by this Department.

Attached to this letter, please find a summary of all NCCI filings made in Tennessee for the period January 1, 2012 through March 31, 2012. This Department appreciates the role that the Workers' Compensation Advisory Council provides in the area of workers' compensation regulation.

Should you or any member have questions or comments concerning this report, please do not hesitate in contacting me or a member of my staff.

Sincerely,

  
Julie Mix McPeak  
Commissioner

JMM/ms

# NCCI Filing Activity Report:

Summary as of March 31, 2012

(includes filings received January 1, 2012 and later)

## 1. 01-TN-2012 Revisions to *Basic Manual* Classifications for Tire Salespersons

**Filed: January 25, 2012**

**Effective Date: March 1, 2012 applicable to new and renewal voluntary policies only**

**Status: Approved February 10, 2012**

### **PURPOSE**

This item clarified the Tennessee special classification treatment for tire salespersons.

### **BACKGROUND**

Item 02-TN-91 created special Tennessee phraseology with respects to Code 8380 – Automobile – Service or Repair Center & Drivers. Tire salespersons engaged exclusively in inside sales, while limited to working in a physically separated work space, are to be separately rated as Code 8748 – Automobile Salespersons.

It is customary for tire salespersons to leave the inside sales area to inspect customers vehicles in order to evaluate the customer's specific tire type and size. Current phraseology restricts the sales staff from leaving the inside sales area to conduct this visual inspection in the parking lot of the tire store.

By modifying the current phraseology note to clarify the intent of the classification treatment of tire salesperson, this filing authorizes a Tennessee exception to allow for removal of the aforementioned restriction as long as the tire salesperson does not have any exposure to repair operations. Thus, Code 8748 – Automobile Salespersons is the applicable class for sales staff that performs outside visual inspections of tires, incidental to inside sales activities.

### **PROPOSAL**

Changes proposed to in NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance* are as follows:

1. The phraseology note for Code 8380—Automobile—Service or Repair Center & Drivers is being revised.
2. A phraseology note for Code 8748—Automobile Salespersons" is being created.

**IMPACT**

This proposal may result in some reclassification of payrolls from Code 8380 to Code 8748 in Tennessee. The impact to individual policyholders will be dependent upon the amount of payroll (if any) that shifts from code 8380 redefined to 8748.

**2. RM-01-TN-2012 Revisions to *Basic Manual* Classifications for Tire Salespersons**

**Filed: January 25, 2012**

**Effective Date: March 1, 2012 applicable to new and renewal assigned risk policies only**

**Status: Approved February 10, 2012**

This is the assigned risk version of 01-TN-2012.

**3. Large Account Incurred Loss Premium Adjustment Plan (TAIL Plan)**

**Filed: March 23, 2012**

**Effective Date: July 1, 2012 to new and renewal assigned risk policies**

**Status: Approved March 28, 2012**

**PURPOSE**

This filing proposed to implement a loss sensitive rating plan (AKA Retrospective Rating Plan) for large policyholders in the Tennessee Workers' Compensation Insurance Plan (TWCIP).

**BACKGROUND**

Anticipating substantial growth in the TWCIP over the next several years, the Department included the development of a loss sensitive rating plan in the 2011 Request for Proposal for the administration of the assigned risk plan. Aon was awarded the contact, and subsequently worked in conjunction with the Department and SIGMA Actuarial Consulting Group to develop the Rating Rule and endorsements. Loss sensitive rating plans are common for larger policyholders in the voluntary market, and the Department felt that it was appropriate and timely to provide this rating mechanism in the TWCIP. Seventeen NCCI states employ a loss sensitive rating plan similar to the TAIL Plan.

**PROPOSAL**

The purpose of the TWCIP Large Account Incurred Loss Premium Adjustment Plan

(TAIL Plan) is to ensure that employers insured in the TWCIP with annual standard premium of \$250,000 or more are provided with a premium adjustment program that is sensitive to the losses incurred during the policy term. This a mandatory program for all TWCIP policyholders where the standard premium for the Tennessee exposure covered under their policy meets or exceeds the \$250,000 eligibility threshold.

The TAIL Plan incorporates the actual loss experience incurred on the workers compensation insurance policy during the policy term. The TAIL Plan uses an annual premium adjustment process, starting at 18-months from the effective date of the insurance policy and recurring at 12-month intervals until the fourth and final adjustment has occurred. Each adjustment will likely result in either an increase or decrease in premium; however, it is possible for there to be no change in the estimated premium. Ultimately, the purpose of the TAIL Plan is to encourage large employers insured in the TWCIP to seek their workers compensation and employers liability insurance coverage in the voluntary market. However, if the employer is unable to obtain coverage outside the TWCIP, the TAIL Plan will provide them with a premium return should their actual loss experience be better than expected or with a premium penalty should their actual loss experience be worse than expected. Employers subject to the TAIL Plan have an incentive to develop and implement a comprehensive safety and cost containment program and comply with loss control recommendations to help avoid controllable losses and reduce loss costs when they do occur.

For details of the TAIL Plan, please see the filed Rating Rule (Exhibit 1) shown below.

#### **IMPACT**

Over the past 12 months, the Aon Assignment database identified at least 5 policies that would be subject to the TAIL Plan. There are likely several more that would qualify, since the database identifies discounted premium of \$250,000 and over. Since premium discount is excluded for the eligibility of the TAIL Plan (see definition of Standard Premium), there are likely some of the 24 policies in the \$100,000 to \$249,999 range that would qualify as well. The equivalent discounted premium to the \$250,000 standard premium threshold is approximately \$222,000.

## Exhibit 1

### Rating Rule

The purpose of the TWCIP Large Account Incurred Loss Premium Adjustment Plan (TAIL Plan) is to ensure that employers insured in the TWCIP with annual standard premium of \$250,000 or more are provided with a premium adjustment program that is sensitive to the losses incurred during the policy term. This a mandatory program for all TWCIP policyholders where the standard premium for the Tennessee exposure covered under their policy meets or exceeds the \$250,000 eligibility threshold.

The TAIL Plan incorporates the actual loss experience incurred on the workers compensation insurance policy during the policy term. The TAIL Plan uses an annual premium adjustment process, starting at 18-months from the effective date of the insurance policy and recurring at 12-month intervals until the fourth and final adjustment has occurred. Each adjustment will likely result in either an increase or decrease in premium; however, it is possible for there to be no change in the estimated premium. Ultimately, the purpose of the TAIL Plan is to encourage large employers insured in the TWCIP to seek their workers compensation and employers liability insurance coverage in the voluntary market. However, if the employer is unable to obtain coverage outside the TWCIP, the TAIL Plan will provide them with a premium return should their actual loss experience be better than expected or with a premium penalty should their actual loss experience be worse than expected. Employers subject to the TAIL Plan have an incentive to develop and implement a comprehensive safety and cost containment program and comply with loss control recommendations to help avoid controllable losses and reduce loss costs when they do occur.

### 1. TAIL Plan Eligibility

Eligibility for mandatory participation in the TAIL Plan is determined by the annual total estimated standard premium. When the estimated annual standard premium for the TWCIP policyholder is \$250,000 or more the policyholder is subject to the mandatory TAIL Plan. The term "Standard Premium" is defined to mean the total payroll for each employer classification multiplied by the premium rate for each classification times the experience modification factor, including the application of tabular surcharges applicable to TWCIP employers. However, the definition of "Standard Premium" excludes the following:

- The expense constant charge
- The premium discount plan adjustment
- Any premium resulting from non-ratable element codes
- Premium resulting from any occupational disease rates subject to the Federal Coal Mine Health and Safety Act
- Any premium resulting from the passenger seat surcharge under Classification Code 7421
- Catastrophe and Terrorism charges

The following outlines the different policyholder scenarios that may arise and how eligibility for the TAIL Plan is established where the total annual standard premium is \$250,000 or more, as follows:

- a. Employers with exposures only in the state of Tennessee and no other states are listed on Item 3. A. of the Information Page.

- b. Employers with exposures in the state of Tennessee where the standard premium exposure is \$250,000 or more, not including the premium exposure for the other states that are listed on Item 3. A. of the Information Page.
- c. Employers insured in the TWCIP through an employee leasing arrangement where the individual clients are insured through a Multiple Coordinated Policy.
- d. Employers insured in the TWCIP that are a temporary help service company that hires its own employees and assigns them to clients for a finite time period to support or supplement the client's workforce in special work situations.

## 2. TAIL Plan Rating Components and Definitions

The rating components of the TAIL Plan are used to determine the amount of premium to be charged to the policyholder at the beginning of the policy term and at the four annual adjustments that occur on 12-month intervals, starting at 18-months following the effective date of the policy.

a. **Retrospective Premium (RP)** – The Retrospective Premium is the calculated premium at the end of each of the four annual premium adjustment periods; at 18-months, 30-months, 42-months and 54-month following the effective date of the policy. The Retrospective Premium is comprised of the following formula:

$$RP = [(SP \times B) + (IL \times LDF \times LCF)] \times TM$$

Subject to a minimum amount = MIN x SP

Subject to a maximum amount = MAX x SP

b. **Standard Premium (SP)** – The Standard Premium is the total payroll for each employer classification multiplied by the premium rate for each classification times the experience modification factor, including the application of any appropriate premium incentive/disincentive plans applicable to TWCIP employers, including the Tabular Surcharge. However, the following premium elements are excluded:

- The expense constant charge.
- The premium discount plan adjustment.
- Any premium resulting from non-ratable element codes.
- Premium resulting from any occupational disease rates subject to the Federal Coal Mine Health and Safety Act.
- Any premium resulting from the passenger seat surcharge under Classification Code 7421.
- Catastrophe and Terrorism charges in accordance with NCCI's *Basic Manual Rule 3-A-24*.

Any premium references to preliminary audited premium or final audited premium are considered at all times to be Standard Premium.

c. **Basic Premium Factor (B)** – The Basic Premium Factor is derived from the relation of the basic expenses associated with servicing a TWCIP workers compensation and employers liability insurance policy when compared to the standard premium. The basic premium factor represents the general expenses incurred by the Servicing Carrier or Direct Assignment Carrier in providing the insurance policy, providing loss control services, premium audit services, and other general administration services. It also includes expenses related to loss development in addition to the Loss Development Factors specified below; however, taxes and charges for claims administration are accounted for separately in the TAIL Plan retrospective rating formula. The Basic Premium Factor value in the TAIL Plan is **0.40**.

d. **Incurred Loss, including ALAE/DCCE (IL)** – The Incurred Loss amount is the amount of money that has been paid for medical and indemnity costs on a particular claim, including amounts reserved for future payments on the claim. Incurred Loss also includes the amount of money paid on a claim for Allocated Loss Adjustment Expenses (ALAE) and amounts reserved for future ALAE payments on a particular claim.

e. The Incurred Loss and ALAE Development Factors (LDF) in the TAIL Plan are as follows:

LDF at 18 months is **1.220**

LDF at 30 months is **1.120**

LDF at 42 months is **1.050**

LDF at 54 months is **1.000**

f. **Loss Conversion Factor (LCF)** – The Loss Conversion Factor is a factor that is applied in the TAIL Plan formula to the Incurred Loss amounts at each annual premium adjustment period to reflect the claims adjustment expenses that are not allocated to individual claims (Unallocated Loss Adjustment Expenses). The Loss Conversion Factor (LCF) in the TAIL Plan is **1.067**

g. **Tax Multiplier (TM)** - The Tax Multiplier is a factor that is used in the TAIL Plan formula to represent the amount of money necessary to cover the appropriate taxes, licenses and fees that must be paid on collected premium.

The Tax Multiplier (TM) in the TAIL Plan is **1.046**

h. **Minimum Premium Factor (MIN)** – The Minimum Premium Factor is used in the TAIL Plan formula to determine the absolute minimum amount of premium the policyholder will pay at each point in the annual premium adjustment process, including the final premium adjustment at 54-months after the effective date of the policy. The standard premium is multiplied by the MIN to determine the minimum premium allowed in the TAIL Plan.

The Minimum Premium Factor (MIN) in the TAIL Plan is **0.75**

i. **Maximum Premium Factor (MAX)** – The Maximum Premium Factor is used in the TAIL Plan formula to determine the absolute maximum amount of premium the policyholder will pay at each point in the annual premium adjustment process, including the final premium adjustment at 54-months after the effective date of the policy. The standard premium is multiplied by the MAX to determine the maximum premium allowed in the TAIL Plan.

The Maximum Premium Factor (MAX) in the TAIL Plan is **1.65**

j. **Deposit Premium** – The Deposit Premium refers to the initial or deposit premium paid in accordance with the premium payment plans established in the TWCIP. On policies subject to the TAIL Plan, the deposit premium does not include the TAIL Plan Security Deposit.

k. **TAIL Plan Security Deposit (Security Deposit)** – In addition to the deposit premium, policyholders that are subject to the TAIL Plan must also provide a security deposit. The security deposit is used as collateral for premium that may be due in the future consistent with TAIL Plan rules. The security deposit is determined by multiplying the standard premium by 20%. The Security Deposit is paid directly to the assigned Servicing Carrier or Direct Assignment Carrier and is held until the final TAIL Plan adjustment has been billed and paid (54-months following policy effective date) by the employer. However, if at any time prior to the final adjustment, the Servicing Carrier or Direct Assignment Carrier determines that the security deposit is no longer necessary due to anticipated adjustment credits, they are allowed to return the security deposit to the employer.

### **3. TAIL Plan General Provisions**

- a. Pricing Programs, Rating Programs and Premium Elements – All of the regular pricing, rating and premium elements approved for use in the TWCIP are applicable to policies in the TAIL Plan.
- b. Notification of the TAIL Plan is found within the ACORD-133TN application form. When the applicant signs the Applicant's Statement section of the ACORD-133TN form, the applicant understands and agrees that they are acknowledging that the TAIL Plan has been adequately explained, and agrees to the terms of the TAIL Plan if the applicant employer meets the TAIL Plan eligibility requirements.
- c. Notification of the TAIL Plan is also found within every renewal quote for all accounts. By executing payment of the renewal quote, the policyholder confirms that they understand and agree that the TAIL Plan has been adequately explained, and that they agree to the terms of the TAIL Plan if they meet the eligibility requirements.
- d. All policies issued in the TWCIP have the TAIL Plan Notification Endorsement attached, providing notification about and a description of the TAIL Plan. Those policies that meet the TAIL Plan eligibility requirements also receive the TAIL Plan Rating Endorsement as well.
- e. TAIL Plan Security Deposit Provisions
- 1) Any employer subject to the TAIL Plan must pay the security deposit as collateral against potential future premium payments. Non-payment of the security deposit will result in policy cancellation and the applicant will be considered to be ineligible for coverage in the TWCIP.
  - 2) The security deposit shall be paid directly to the Servicing Carrier or Direct Assignment Carrier via acceptable electronic funds transfer, credit card payment, and check or via Irrevocable Letter of Credit (ILOC).
  - 3) Security deposit payments that are made via ILOC must meet the following criteria:
    - i) Name the insured on the policy as the Applicant for the ILOC.
    - ii) Name the assigned Servicing Carrier or Direct Assignment Carrier as the Beneficiary.
    - iii) Be acceptable, clean, unconditional, and irrevocable.
    - iv) Be drawn on a bank that is a member of the U.S. Federal Reserve System and is in good standing with the appropriate state and federal regulatory authorities.
    - v) Contain a provision where the assigned Servicing Carrier or Direct Assignment Carrier is notified in writing in advance of any proposed alteration, modification, amendment or waiver of terms and conditions and must give its advance express written consent to any such proposed changes.
      - vi) Not be transferable or assignable.
      - vii) Contain an initial expiration that is at least 10 months following the end of the policy expiration date.
      - viii) Must have an automatic annual renewal clause for as many as three additional one-year periods.
  - 4) The employer must pay the deposit premium in accordance with TWCP guidelines before their application is randomly assigned to a Servicing Carrier or Direct Assignment Carrier and coverage is bound. The security deposit must be paid directly to the Servicing Carrier or Direct Assignment Carrier within thirty (30) calendar days after the date of assignment by the TWCIP Plan Administrator.
  - 5) If the applicant is satisfying its security deposit requirement via an ILOC, the ILOC must be delivered within thirty (30) calendar days after the assignment date.

6) The employer may be considered to be ineligible for coverage in the TWCIP and their coverage may be cancelled flat if they fail to provide the Security Deposit or required ILOC within thirty (30) calendar days from the date of assignment.

7) Coverage renewals from the Servicing Carrier or Direct Assignment Carrier must provide notice of the new TAIL Plan security deposit in the renewal quote. The new security deposit must be paid along with the renewal deposit premium in a timely manner in order to maintain coverage in the TWCIP. Failure to pay the security deposit or secure the appropriate ILOC in a timely basis may result in a gap in coverage.

#### **4. TAIL Plan Premium Calculation and Security Deposit**

Due to the nature of the TAIL Plan where premium amounts are adjusted based on the actual losses incurred during the policy term and annual adjustment periods that occur (18, 30, 42, and 54 months after the effective date of coverage) it is important to ensure that there are measures taken to ensure the financial integrity of the TAIL Plan. The following requirements are in place to ensure this goal.

a. All TWCIP policyholders subject to the TAIL Plan will be required to pay a Security Deposit calculated to be 20% of the initial Standard Premium and as adjusted thereafter due to the results of any preliminary or final payroll audits. The Security Deposit must be paid in full no later than thirty (30) calendar days after the effective date of coverage or date of the application of the TAIL Plan, whichever is later. The security deposit will be retained by the Servicing Carrier or Direct Assignment Carrier until the final adjustment has been billed and paid or until such time as the assigned carrier can reasonably determine that there is no longer a need to retain collateral on the TAIL Plan policy.

b. All TWCIP policyholders subject to the TAIL Plan will be required to pay the regular deposit premium based on the estimated annual premium at the beginning of the policy term. The regular deposit premium is subject to the regular premium payment plans in the TWCIP.

c. The TAIL Plan retrospective premium amounts will be calculated after the end of the policy term.

d. The first adjustment of the TAIL Plan retrospective premium will be determined using incurred losses valued as of 18 months after the effective date of coverage. Three additional TAIL Plan adjustments will occur at intervals of 30, 42, and 54 months after the effective date of coverage. All adjustments will be made as soon as practical after each interval.

e. If there are no open claims at the time of any annual adjustment and it is anticipated that there will not be any subsequent annual adjustments, the Loss Development Factor typically used for the 4th adjustment will instead be applied to the otherwise early final adjustment.

f. If there is notification that the policyholder has declared bankruptcy, the assigned TWCIP Servicing Carrier or Direct Assignment Carrier must file a Proof of Claim with the appropriate Bankruptcy Court. At this time, we may effect a special adjustment to the TAIL Plan premium to determine if any additional or return premium is due when any of the following occurs:

- The TAIL Plan policyholder has declared bankruptcy.
- The TAIL Plan policyholder has defaulted on premium payments.
- The TAIL Plan policyholder is involved in any financial reorganization, receivership or liquidation.
- The TAIL Plan policyholders have disposed of all or nearly all assets.

Either the TAIL Plan policyholder or applicable bankruptcy estate will be responsible for paying any additional premium due to this off-cycle adjustment. Under these

circumstances, any off-cycle adjustment will occur no more than sixty (60) days following the termination date of the TAIL Plan policy.

g. All TAIL Plan premium adjustment payments are due in full no more than thirty (30) days after the date of invoice. Failure to pay timely will result in the cancellation of any current TWCIP policy insuring the employer and will render the employer ineligible for coverage in the TWCIP.

#### **5. TAIL Plan Formula**

a.  $RP = [(SP \times B) + (IL \times LDF \times LCF)] \times TM$

Subject to a minimum amount =  $MIN \times SP$

Subject to a maximum amount =  $MAX \times SP$

Where:

RP = Retrospective Premium

SP = Standard Premium

B = Basic Premium Factor

IL = Incurred Loss and ALAE/DCCE

LDF = Incurred Loss and ALAE Development Factor

LCF = Loss Conversion Factor

TM = Tax Multiplier

MIN = Minimum Premium Factor

MAX = Maximum Premium Factor

#### **6. Responsibilities of Servicing Carriers and Direct Assignment Carriers**

The TWCIP Servicing Carriers (SCs) and Direct Assignment Carriers (DACs) are ultimately responsible for the administration of the TAIL Plan. The SCs and DACs must provide any employers subject to the TAIL Plan with information regarding the TAIL Plan at the beginning of the policy term by applying the TAIL Plan Notification Endorsement. The SCs and DACs must also complete all preliminary and final payroll audits in accordance with TWCIP standards and other specific TAIL Plan service requirements. The SCs and DACs must provide all employers with notice that acceptance of the renewal quote is sufficient notice of the potential that the policyholder may be subject to the TAIL Plan. The SCs and DACs must apply all appropriate policy endorsements in accordance with these TAIL Plan rules. The SCs and DACs must also complete a preliminary payroll audit on all new policies with estimated annual standard premiums that are equal to or greater than \$175,000 in order to determine if actual payroll is expected to produce standard premiums of \$250,000 or more, which is the threshold for TAIL Plan eligibility. This preliminary payroll audit must occur within sixty (60) days of the policy effective date.

#### **7. Responsibilities of TWCIP Policyholders**

TWCIP policyholders that are subject to the TAIL Plan must not engage in any activity that would either intentionally or unintentionally avoid the application of the TAIL Plan. These actions are strictly prohibited and may include any of the following actions:

- Failure to comply with all the terms and conditions of the policy.
- Non-compliance with all payroll audit requests.
- Failure to disclose or report any changes in ownership.
- Any information that is necessary for the adequate application of the TAIL Plan.

## **8. TAIL Plan Eligibility Changes During the Policy Term**

- a. If cancellation occurs within the first 120 days of the policy term, then the following conditions apply:
  1. Cancellation is for reasons detailed in Rule 3-A-3-b of the Basic Manual Rules, Cancellation Tables 1, 2, or 3 then the policy is converted to a guaranteed cost policy, retroactively to the effective date of coverage with cancellation on a pro rata basis. The TAIL Plan Security Deposit shall be returned along with any unearned premium, subject to the final payroll audit.
  2. If the reasons for cancellation detailed in Rule 3-A-3-b of the Basic Manual Rules, Cancellation Table 4 applies, then the policy is converted to a guaranteed cost policy, retroactively to the effective date of coverage with cancellation on a short rate basis. The TAIL Plan Security Deposit shall be returned along with any unearned premium, subject to the final payroll audit.
- b. If cancellation occurs on or after the first 120 of the policy term, then the following conditions apply:
  1. Cancellation is for reasons detailed in Rule 3-A-3-b of the Basic Manual Rules, Cancellation Tables 1, 2, or 3 then the rules of the TAIL Plan policy shall apply with cancellation on a pro rata basis. Valuations shall occur pursuant to the TAIL Plan rules.
  2. If the reasons for cancellation detailed in Rule 3-A-3-b of the Basic Manual Rules, Cancellation Table 4 applies, then the rules of the TAIL Plan policy shall apply with cancellation on a short rate basis. Valuations shall occur pursuant to the TAIL Plan rules.
- c. If after the first 120 days of the policy term it is determined that the standard premium has decreased below the \$250,000 eligibility threshold, the TAIL Plan shall still be applicable and all valuations occur pursuant to the TAIL Plan rules.
- d. If after the first 120 days of the policy term it is determined that the standard premium has increased above the \$250,000 eligibility threshold, the policy shall remain as a guaranteed cost policy and shall be subject to the TAIL Plan at renewal.
- e. If within in the first 120 days of the policy term it is determined that the standard premium has increased to \$250,000 or more, the guaranteed cost policy shall be converted to a TAIL Plan policy, with the Security Deposit due within thirty (30) days following notice from the Servicing Carrier or Direct Assignment Carrier.
- f. If within the first 120 days of the policy term it is determined that the standard premium has decreased to less than \$250,000, the TAIL Plan policy shall be converted to a guaranteed cost policy, with the Security Deposit returned within thirty (30) days after the Servicing Carrier or Direct Assignment Carrier has made such determination.

## **9. TAIL Plan Valuation Provisions**

The TAIL Plan is subject to four valuation adjustments where the TAIL Plan formula is used to adjust the standard premium, based on the actual loss experience during the policy term. There will be a total of four annual adjustments. Each adjustment may result in additional premium, return premium, or no change in the premium.

- a. The annual valuation periods for TAIL Plan policies, under normal conditions where the insurance policy is in force for the full one-year policy term, are conducted at 18, 30, 42, and 54 months following the policy effective date.
- b. For TAIL Plan policies that are cancelled for any reason prior to the end of the policy term, the first annual valuation period will be conducted six months after the end of the policy, with the additional annual valuations occurring at 30, 42, and 54 months following the effective date of coverage.
- c. The TAIL Plan premium formula is subject to a minimum and maximum amount of premium that may be paid by a TAIL Plan policyholder. The TAIL Plan premium formula is

limited to a minimum of 75% of Standard Premium and a maximum of 165% of Standard Premium.

d. The TAIL Plan policies are subject to off-cycle valuations when the policy is cancelled for any reason and when the employer is engaged with the following:

- Not in compliance with terms and conditions of the policy;
- Declares bankruptcy;
- Fails to pay premium;
- Any liquidation, reorganization, or receivership; and
- The disposal of all or substantially all of its assets has occurred.

e. Certain types of losses are not considered to be part of the Incurred Losses (IL) that are used in the TAIL Plan formula. Those types of losses are as follows:

- Federal Coal Mine Safety and Health Act (disease related provision of losses covered under the Act).
- Losses that fall under the aircraft passenger seat surcharge reported under Class 9108.
- Losses where the premium is not-ratable.
- Catastrophe provisions (see NCCI's *Basic Manual Rule 3-A-24*).

#### **10. TAIL Plan Provisions for Employee Leasing Arrangements & Temporary Help Service Companies**

a. The TAIL Plan is applicable to all employee leasing arrangements and temporary help service companies insured in the TWCIP. In addition to the rules found within Section M of this TWCIP Supplement document, employee leasing arrangements and temporary help service companies are subject to special considerations that are within this subsection of the TAIL Plan.

b. The following terms have been defined to further enhance the understanding of the unique exposures and circumstances for employee leasing arrangements and temporary help service companies, as follows:

i) **Client** – The Client is defined as an entity that obtains all or part of its workforce from another entity through an employee leasing arrangement or that employs the services of an entity through an employee leasing arrangement. For the purposes of the TAIL Plan, clients are referred to as individual clients when used in conjunction with multiple coordinated policies.

ii) **Multiple Coordinated Policies (MCP)** – These are TWCIP policies that have been written in accordance with the TWCIP's rules regarding Employee Leasing Arrangements.

iii) **Employee Leasing Arrangements** – These arrangements are defined as an arrangement, under contract or otherwise, whereby one business or other entity leases any or all of its workers from another business. Employee leasing arrangements include, but are not limited to, full-service employee leasing arrangements, long-term temporary arrangements, and any other arrangement which involves the allocation of employment responsibilities among two or more entities. For purposes of this rule, employee leasing arrangements does not include arrangements to provide temporary help services.

iv) **Temporary Help Service Companies** – Shall mean a service company whereby an organization hires its own employees and assigns them to clients for a finite time period to support or supplement the client's workforce in special work situations such as employee absences, temporary skill shortages and seasonal workloads.

c. For employee leasing arrangements, its individual clients, and temporary help service companies with covered exposures are eligible for the mandatory TAIL plan as follows:

i) If they only have exposure in Tennessee, they are eligible for the mandatory TAIL Plan if the standard premium for all policies written on an MCP policy meets or exceeds \$250,000.

- ii) If the temporary help service company's policy generates \$250,000 or more in standard premium on their Tennessee exposures.
- e. TWCIP policies issued for any states other than Tennessee are not subject to the TAIL Plan and must be written on a separate TWCIP policy, provided the Tennessee exposure meets or exceeds the eligible threshold for the TAIL Plan.
- f. Eligibility for the TAIL Plan may be impacted by ownership or combinability status in accordance with the NCCI's ***Experience Rating Plan Manual***.
- g. The deposit premium and the security deposit are applied to employee leasing arrangements and temporary help service company policies in the same manner as they apply to non-employee leasing arrangement and non-temporary help service company policies.
- h. Employee leasing arrangements and temporary help service companies policies are subject to the same TAIL Plan General Provisions and Premium Calculation and Security Deposit requirements as they are found in Section M. 3 and Section M.4 of this TWCIP Supplement document.

#### **11. Cancellation of TAIL Plan Policies**

- a. Cancellation of TAIL Plan policies must be in accordance with the standard workers compensation and employers liability insurance policy and TWCIP rules.
  - i) Cancellation of TAIL Plan policies is subject to pro rata or short-rate calculation of the TAIL Plan standard premium in accordance with NCCI's ***Basic Manual Rule 3-A-3***.
  - ii) The assigned Servicing Carrier or Direct Assignment Carrier must report any non-compliance and any subsequent compliance to the Plan Administrator.
  - iii) Cancelled TAIL Plan policies are subject to all TAIL Plan rules, as found in Section M of the TWCIP Supplement document.
  - iv) Employers with cancelled TAIL Plan policies are responsible for any additional premium due for reasons, including, but not limited to the following:
    - premium endorsements
    - payroll audits
    - an ownership change or change in combinability status in accordance with the NCCI's ***Experience Rating Plan Manual***
    - an employer retiring from business
    - any applicable and/or remaining TAIL Plan valuations.
  - v) The calculation of the minimum and maximum premium amounts at the valuation points in the TAIL Plan are subject to the following methods:
    - Pro Rata Minimum – Standard Premium X Pro Rata Factor X Minimum Premium Factor
    - Pro Rata Maximum – Standard Premium X Pro Rata Factor X Maximum Premium Factor
    - Short-Rate Minimum – Standard Premium X Short-Rate Factor X Minimum Premium Factor
    - Short-Rate Maximum – Standard Premium X Short-Rate Factor X Maximum Premium Factor

#### **Supporting Endorsements (2)**

**TWCIP Large Account Incurred Loss Premium Adjustment Plan (TAIL Plan) – Endorsement and Notice**

**The Tennessee Workers Compensation Insurance Plan (TWCIP)**

**Large Account Incurred Loss Premium Adjustment Plan (TAIL Plan) Rating  
Endorsement**