

WCIRB Premium Audit Accuracy Program

Effective July 2020

Notice

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General Administration of the Program

I. Eligibility and Participation Requirements

- A. The *WCIRB Premium Audit Accuracy Program* (Program) is administered on an insurer group basis. For purposes of the Program, an insurer group (collectively referred to as “insurer”) is based on the ownership groups designated by the National Association of Insurance Commissioners (NAIC).¹ Eligibility to participate in the Program is determined each year based on the following:
- i. Part 1, *Test Audits of Payroll and Claims Classification Reporting* – Insurers that wrote at least 200 policies in the prior year for which physical audits are required are subject to the Program.
 - ii. Part 2, *Physical Audit Compliance* – Insurers that wrote at least 100 policies and \$35 million² in total California workers’ compensation written pure premium in the latest available calendar year³ are subject to the Program.
 - iii. Part 3, *Classification Ratemaking Data Validation* – All insurers are subject to the Program.

Notwithstanding the above, any insurer that is subject to the Program’s Administrative Procedures shall remain subject to the Program even if it no longer meets the eligibility requirements. In addition, the WCIRB reserves the right to include any insurer in the Program.

- B. Insurers must designate a primary authorized individual to act as the Program Coordinator to receive all correspondence related to the Program. An insurer shall immediately notify the WCIRB of any change in the designated Program Coordinator or his/her contact information. Failure to do so prevents an insurer from asserting that it did not receive written notifications related to the Program, including for purposes of waiving fines.
- C. Insurers must review test audit selections and submit test audit materials pursuant to Part 1 and respond to classification ratemaking data validation inquiries pursuant to Part 3 electronically in a manner prescribed by the WCIRB.

II. Reports of Insurer Results

Within thirty days from the end of each quarter, the WCIRB will publish for each participating insurer a report detailing the results of (a) Test Audits closed during the quarter pursuant to Part 1, *Test Audits of Payroll and Claims Classification Reporting*, and (b) Unit Statistical Reports (USR) submitted during the quarter pursuant to Part 2, *Physical Audit Compliance*.

The quarterly report will include a detailed summary of the insurer’s results for the most recent quarter and for the most recent four-quarter period.

If an insurer’s results for the most recent four quarters attain an *Unsatisfactory Performance* rating as defined in Part 1, Section IV, Paragraph C or exceed the Program tolerance as defined in Part 2, Section III, the insurer shall be subject to the Administrative Procedures of the respective Part of the Program.

¹ In some instances, to reflect insurers’ business operations, insurers within a particular NAIC group may be grouped into separate subgroups for purposes of the Program.

² This amount is subject to change by the WCIRB president based on significant changes in the average statewide rate level.

³ This standard is based on direct written premium at the advisory pure premium rate level as reported on the WCIRB call for quarterly experience. This pure premium is after the application of experience modifications but prior to the application of deductible credits.

Part 1 — Test Audits of Payroll and Claims Classification Reporting

I. Purpose

The WCIRB administers a test audit program for the following purposes:

- A. To conform with California Insurance Code (CIC) § 11750.3(f), which prescribes that the WCIRB shall initiate test audits of insured employers' payrolls and insurers' audits of those payrolls to check the accuracy and reliability of insurers' audits, and to examine all records relative to insurers' audits and premises of insured employers for ensuring the accurate reporting of exposures, classification of claims and application of experience modifications, if any, by insurers pursuant to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) and the *California Workers' Compensation Experience Rating Plan—1995*;
- B. To establish minimum auditing standards and to develop a program for monitoring insurer performance toward achievement of established standards;
- C. To improve audit proficiency through the evaluation of insurer auditing practices and the dissemination of beneficial information relevant to auditing procedures, training and materials; and
- D. To provide oversight of insurer's premium audit practices to help ensure that the same set of audit rules is applied across all California employers.

II. Selection of Risks Subject to Test Audit

- A. Policy Selection Quota: The Annual Selection Quota for each insurer will range from 48 to 120 test audits. The quota will be based on the number of policies issued by the insurer for which a physical audit is required.
- B. Eligible Policies: Policies are eligible for test audit selection if the first report level USR is submitted to the WCIRB within twenty-two months of policy inception. Policies are only eligible for selection if the USR indicates that (a) a physical audit was required and (b) the exposure was reported as audited.
- C. Monthly Selection List: On or about the 1st of each month, the WCIRB will provide the insurer a list of policies selected for test audit. The Monthly Selection List will indicate the WCIRB file number, insurer name, policyholder name, policy number, policy issuing office (if available), and policy effective date.
- D. Providing Requested Materials: The insurer, within thirty days following the release of the Monthly Selection List, shall electronically submit the following audit materials:
 - 1. An electronic copy of the auditor's worksheets, original and any corrected premium invoice, and, in the event non-standard classifications are used, a statement detailing the exposures by standard classification as they were reported on the USR;
 - 2. An electronic copy of the claims data (loss run). For each compensable injury, the following information must be included: name of the claimant, date of injury, standard classification assigned to the claim, claim file number and date the claim was reported to the insurer; and
 - 3. If the policyholder is disputing the insurer's audit, all documentation regarding the dispute.
- E. Fine for Delinquent Material: The WCIRB will charge a \$200 fine for each test audit selection for which the required material is not received within thirty days following the release of the Monthly Selection List. For example, if the Monthly Selection List for October is released October 1, for each test audit selection for which the required material is not received by October 30, a fine of \$200 will be charged. The submission of required test audit materials will not be considered received until all required materials are provided to the WCIRB. Waivers of fines may be granted at the WCIRB's sole discretion upon a demonstrated showing of good cause provided an application for waiver is received within thirty days of release of the Monthly Selection List.

- F. No risk shall be test audited more than once in any four-year period except upon conditions established by the WCIRB president.

III. Test Audit Procedure

- A. A test audit "reportable difference" will be found under the following conditions:
1. The USR for the selected policy indicates that the exposures were audited, but the WCIRB review of the provided audit materials determines the policy to be unaudited.
 2. The insurer does not provide the required audit materials within thirty days following the due date for submitting the required audit materials.
 3. There is a significant difference between the pure premium developed under the test audit and that developed using the exposure reported by the insurer on the USR. The difference shall be determined as follows:
 - a. For each standard classification developing exposure, the test audit will apply the applicable approved pure premium rate to the difference between (1) the exposure determined by the test audit in accordance with the rules of the USRP and (2) the exposure reported by the insurer on the USR.
 - b. A difference will be reported if the sum of the absolute values of the pure premium differences for each applicable standard classification exceeds 5% of the total insurer pure premium for the policy.

Notwithstanding the above, a difference will not be reported due to the insurer's compliance with CIC § 11753.2 provided the insurer's audit material specifies (a) that CIC § 11753.2 applied to the policy, and (b) the classification that would have been used if CIC § 11753.2 had not applied.

4. More than 10% of the claims are misclassified. The WCIRB will review all reported compensable claims up to but not exceeding 20. If there are more than 20 claims, the WCIRB will review the 20 largest in terms of total incurred loss.
 5. The premium invoice at the time of the test audit selection applies the wrong experience modification, irrespective of the experience modification shown on the USR.
- B. For those test audits that do not develop a reportable difference, the insurer will be notified that the test audit was closed without a reportable difference.
- C. For those audits that develop a reportable difference:
1. The insurer will be provided with a report explaining all differences.
 2. The insurer shall determine whether it agrees with the WCIRB's findings and shall conduct a re-audit if necessary.
 - a. If the insurer does not dispute the WCIRB's findings, the insurer shall submit a corrected USR, if required, within sixty days of issuance of the WCIRB's test audit report. Upon receiving the corrected USR, the WCIRB will verify that it is consistent with the test audit results. If a corrected USR is not submitted within sixty days of issuance of the WCIRB's test audit report or if a corrected USR is submitted within sixty days of issuance of the WCIRB's test audit report but it is not consistent with the WCIRB's findings, the insurer will be notified again by the WCIRB after sixty days of issuance of the test audit report of the need to submit a corrected USR. If an acceptable corrected USR is not received within thirty days following the date of this additional WCIRB notification to submit a corrected USR, a monthly fine of \$500 will be charged until an acceptable corrected USR is received.
 - b. Except as provided in d. below, if the insurer disputes the WCIRB's findings, the insurer may file a protest electronically in a manner prescribed by the WCIRB. To be considered timely, the protest must be in writing, fully documenting all areas of contention, and must

be filed electronically with the WCIRB within sixty days after issuance of the WCIRB's test audit report. Only those differences fully documented in the initial protest will be considered by the WCIRB.

- c. The WCIRB shall respond to timely protests within sixty days of receipt of the protest. If the WCIRB does not respond within sixty days, the test audit shall be eliminated unless the delay is caused by a lack of cooperation by the insured or by similar circumstances beyond the WCIRB's control. A test audit difference for which a fully documented protest is not received by the WCIRB within sixty days of issuance of the test audit report shall be closed as a difference. If the WCIRB upholds the test audit difference and a corrected USR is required, the insurer has thirty days from the WCIRB's protest response to submit the corrected USR; otherwise, a monthly fine of \$500 will be charged until an acceptable corrected USR is received.
- d. For test audit differences due to failure to submit required audit materials as defined in Section A, Paragraph 2 above, the insurer shall have thirty days following notification of the difference to submit all required audit materials; otherwise, the test audit shall be closed as a difference.
- e. If the test audit is closed as a difference due to the insurer's failure to perform a physical audit or submit required audit materials, the insurer must still perform a physical audit and submit the audit material for examination and comparison with the USR. If necessary, the insurer will be required to submit a revised USR.
- f. In those instances where insurers are unable to resolve test audit differences with WCIRB staff, an appeal may be presented to the Classification and Rating Committee.

IV. Test Audit Program Standards

Each insurer's overall audit performance will be summarized and reported once a quarter. The overall performance will be evaluated based upon the most recent four quarters. Each insurer's results will be rated in accordance with the following standards:

- A. **Exemplary Performance:** If no more than 10% of the policies test audited within the four-quarter review period have a "reportable difference", the insurer's performance shall be rated as "exemplary." This rating requires a minimum of 40 test audits within the four-quarter period. If the four-quarter period includes fewer than 40 test audits, the insurer will not be subject to exclusion.
 - 1. Insurers achieving the Exemplary Performance rating shall be excluded from the requirements of Part 1 for the next eight consecutive calendar quarters provided the insurer's performance under other Parts of the Program is acceptable. Policies in the process of test audit, but not included in the summary at the time of exclusion, will be completed and insurers will be required to file revised USRs when necessary.
 - 2. Insurers entering Part 1 of the Program or re-entering after exclusion will not be eligible for exclusion from Part 1 for eight consecutive quarters.
- B. **Satisfactory Performance:** If no more than 20%, but more than 10%, of the policies test audited within the four-quarter review period have a "reportable difference", the insurer's performance shall be rated as "satisfactory."
- C. **Unsatisfactory Performance:** If more than 20% of the policies test audited within the four-quarter review period have a "reportable difference", the insurer's performance shall be rated as "unsatisfactory." This rating requires a minimum of 40 test audits within the four-quarter period or if the four-quarter period includes fewer than 40 audits, more than 8 test audits that develop reportable differences.

V. Administrative Procedures

A. Review of Results

Insurers that have an Unsatisfactory Performance rating as defined in Section IV, Paragraph C above will be notified in writing by the WCIRB.

B. Remedial Procedures

1. Stage 1: WCIRB Staff. The following actions shall be taken when an insurer's test audit results for the most recent four-quarter period first receive an Unsatisfactory Performance rating:
 - a. Within thirty days of notification of an Unsatisfactory Performance rating, the insurer shall provide a detailed written remediation plan that describes:
 - i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented, and
 - iii. the date by which the insurer expects to achieve a Satisfactory Performance rating.
 - b. A representative of the insurer will be required to meet with the WCIRB president or his/her designated representative (hereafter collectively referred to as "the WCIRB") to discuss the insurer's remediation plan.
 - c. The WCIRB will notify the insurer's senior management of the insurer's Unsatisfactory Performance and will advise of the following:
 - i. The time frame by which a Satisfactory Performance rating must be achieved (Remediation Evaluation Period) to avoid being cited to the Classification and Rating Committee for further administrative action as described in Stage 2. The Remediation Evaluation Period shall encompass a minimum of two quarters and may be subsequently extended until enough test audits have been completed to produce a credible evaluation.
 - ii. If the insurer's performance does not make significant progress to achieve a Satisfactory Performance rating during the Remediation Evaluation Period, the insurer will be cited to the Classification and Rating Committee for further administrative action as described in Stage 2.
 - iii. If significant progress is made to achieve a Satisfactory Performance rating during the Remediation Evaluation Period, such improvement must be sustained over the subsequent six consecutive quarters (Remediation Monitoring Period); otherwise, the insurer will be cited to the Classification and Rating Committee for further administrative action as described in Stage 2.
 - iv. If the insurer's performance achieves a Satisfactory Performance rating during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the Classification and Rating Committee as described in Stage 2. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer results receive an Unsatisfactory Performance rating, the insurer will again be subject to remedial action pursuant to Stage 1.
2. Stage 2: Classification and Rating Committee. If an insurer does not achieve a Satisfactory Performance rating after completion of Stage 1 as described above, the insurer will be subject to the following:
 - a. The WCIRB will cite the insurer to the Classification and Rating Committee for receiving an Unsatisfactory Performance rating.
 - b. Within thirty days of notification of citation to the Classification and Rating Committee, the insurer shall provide a new remediation plan that describes:

- i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented, and
 - iii. the date by which the insurer expects to achieve a Satisfactory Performance Rating.
- c. An officer of the insurer will be required to meet with the Classification and Rating Committee to explain why the insurer's remediation plan submitted in Stage 1 failed to achieve the desired results and to present the new remediation plan.
- d. At the meeting of the Classification and Rating Committee, the following actions shall be taken:
 - i. The insurer's performance with respect to Parts 2 and 3 of this Program and any other data quality concerns in other WCIRB data quality programs will be reported to the Classification and Rating Committee;
 - ii. A fine equal to 1/100 of 1% of the most recent certified calendar year written pure premium⁴ at the time the insurer was notified that it had been cited to the Classification and Rating Committee pursuant to subparagraph a. above, subject to a minimum of \$5,000 and a maximum of \$50,000, shall be imposed; and
 - iii. A Remediation Evaluation Period will be established. The insurer's Monthly Selection Quota shall be doubled and the insurer shall pay a fee for the cost of conducting all test audits. The increased Monthly Selection Quota shall coincide with the Remediation Evaluation Period, unless the Committee establishes a different effective period. The increased Monthly Selection Quota and fees will continue until it has been determined that the insurer's test audit results during the Remediation Evaluation Period achieved a Satisfactory Performance rating.
- e. The Classification and Rating Committee may recommend any additional lawful administrative actions it deems necessary, reasonable or appropriate to facilitate or encourage the insurer's implementation of adequate remedial measures, including citation to the Governing Committee.
- f. The WCIRB will report the Classification and Rating Committee's findings and actions to the appropriate insurance company officer and advise of the following:
 - i. If the insurer's audit performance does not improve such that it achieves a Satisfactory Performance rating during the Remediation Evaluation Period, the insurer will be cited to the Governing Committee for further administrative action as described in Stage 3.
 - ii. If the insurer's audit performance improves such that it achieves a Satisfactory Performance rating during the Remediation Evaluation Period, this acceptable performance must be sustained through the Remediation Monitoring Period; otherwise, the insurer will be cited to the Governing Committee for further administrative action as described in Stage 3.
 - iii. If the insurer achieves a Satisfactory Performance rating during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the Governing Committee. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer's results receive an Unsatisfactory Performance rating, the insurer will again be subject to remedial action pursuant to Stage 1.

⁴ Complete calendar year (January 1 to December 31) direct written premium at pure premium rate level (prior to application of deductible credits), as reported on the WCIRB *Data Call for Direct California Workers' Compensation Experience* (due by February of the following year), that has been certified as to its accuracy on the *WCIRB Financial Call Data Certification* (due by June of the following year) submitted by that insurer.

3. Stage 3: Governing Committee. If an insurer does not achieve a Satisfactory Performance rating after completion of Stage 2 as described above, the insurer will be subject to the following:
- a. The WCIRB will cite the insurer to the Governing Committee for receiving an Unsatisfactory Performance rating.
 - b. Within thirty days of notification of citation to the Governing Committee, the insurer shall provide a new remediation plan that describes:
 - i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented, and
 - iii. the date by which the insurer expects to achieve a Satisfactory Performance rating.
 - c. A senior officer of the insurer will be required to meet with the Governing Committee to explain why the insurer's remediation plan submitted in Stage 2 failed to achieve the desired results and to present the new remediation plan.
 - d. The insurer's performance with respect to Parts 2 and 3 of this Program and any other data quality concerns in other WCIRB data quality programs will be reported to the Governing Committee.
 - e. Within sixty days of the notification to the insurer that the matter has been cited to the Governing Committee:
 - i. A Remediation Evaluation Period will be established. The insurer's Monthly Selection Quota will be quadrupled and the insurer will pay a fee for the cost of conducting all test audits until the insurer achieves a Satisfactory Performance rating during the Remediation Evaluation Period, or for one year (four quarters), whichever occurs last; and
 - ii. A monthly fine equal to 1/100 of 1% of the most recent certified calendar year written pure premium⁵ at the time the insurer was notified that it had been cited to the Classification and Rating Committee pursuant to Paragraph 2, *Stage 2: Classification and Rating Committee*, subparagraph a., subject to a minimum of \$5,000 and a maximum of \$50,000, will be imposed. The monthly fine will continue until such time as
 - enough test audits have been completed subsequent to the Governing Committee meeting to produce a credible evaluation of the insurer's performance, and
 - the insurer achieves a Satisfactory Performance rating.
 - f. The Governing Committee may impose any additional lawful administrative action it deems necessary, reasonable or appropriate to facilitate or encourage the insurer's implementation of adequate remedial measures, including citation to the California Insurance Commissioner.
 - g. The WCIRB will report the Governing Committee's findings and actions to the appropriate insurance company senior officer and advise of the following:
 - i. If the insurer's audit performance does not improve such that it achieves a Satisfactory Performance rating during the Remediation Evaluation Period, the WCIRB president will, unless instructed otherwise by the Governing Committee, cite the insurer to the California Insurance Commissioner for consideration of further

⁵ Complete calendar year (January 1 to December 31) direct written premium at pure premium rate level (prior to application of deductible credits), as reported on the WCIRB *Data Call for Direct California Workers' Compensation Experience* (due by February of the following year), that has been certified as to its accuracy on the *WCIRB Financial Call Data Certification* (due by June of the following year) submitted by that insurer.

administrative action, including but not limited to additional fines, penalties and/or suspension of authority to transact workers' compensation insurance. The citation to the California Insurance Commissioner will include a report on the insurer's performance with respect to this Program and any other data quality concerns in other WCIRB data quality programs.

- ii. If audit performance improves such that the insurer achieves a Satisfactory Performance rating during the Remediation Evaluation Period, the acceptable performance must be sustained through the Remediation Monitoring Period; otherwise, the insurer will be cited to the California Insurance Commissioner unless the Governing Committee instructs the WCIRB president otherwise.
 - iii. If the insurer achieves a Satisfactory Performance rating during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the California Insurance Commissioner. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer results receive an Unsatisfactory Performance rating, the insurer will again be subject to remedial action pursuant to Stage 1.
4. An insurer achieving audit results that are approaching an Unsatisfactory Performance rating may be requested to meet periodically or correspond with the WCIRB for the purpose of outlining the remedial measures the insurer proposes to implement to improve overall audit proficiency.

VI. Special Test Audits

The WCIRB may select specific policies for special test audits in order to validate the accuracy of reported data or in support of research efforts. The results obtained from these special test audits will not be included in the results summarized under Part 1 of this Program.

Part 2 — Physical Audit Compliance

I. Purpose

While Part 1 of this Program measures the accuracy of an insurer's premium audit practices with respect to policies for which the reported USR indicates that (a) a physical audit was required and (b) the reported exposure was audited, Part 2 measures an insurer's success in completing physical audits on policies for which the USRP requires that a physical audit be conducted. Part 2 of this Program serves the following purposes:

- A. To ensure that physically audited payroll is reported on USRs filed in conjunction with policies that are required to be physically audited under the terms of the USRP;
- B. To establish minimum auditing standards and to develop a program for monitoring insurer performance toward achievement of established standards; and
- C. To improve the record of reporting physically audited exposure through the evaluation of insurer auditing and data reporting practices and the dissemination of beneficial information in connection therewith.

II. Unaudited Payroll Reporting Metric

The "Unaudited Payroll Reporting" metric measures an insurer's success in completing physical audits on policies for which the USRP requires that a physical audit be conducted. Specifically, for each insurer, the percentage of unaudited policies is determined based on the audit status reported on original first level USRs for the time period under review:

$$\frac{\text{Number of USRs for Policies Required to be Physically Audited – but Reported as Unaudited}}{\text{Number of USRs for Policies Required to be Physically Audited}}$$

III. Unaudited Payroll Reporting Tolerance

If an insurer's percentage of USRs submitted with unaudited payroll exceeds 5% over a four-quarter period based on a minimum of fifteen USRs with unaudited payroll, the insurer will be subject to Administrative Procedures as described in Section IV below.

Part 2 of the Program operates continuously and insurers are not subject to exclusion.

IV. Administrative Procedures

A. Review of Results

If an insurer's reporting of USRs with unaudited payroll exceeds the tolerance as provided above, it will be notified in writing by the WCIRB.

B. Remedial Procedures

1. Stage 1: WCIRB Staff. The following actions shall be taken when an insurer's results for the most recent four-quarter period first fail to meet the unaudited payroll reporting tolerance:
 - a. Within thirty days of notification of failure to meet the tolerance, the insurer shall provide a detailed written remediation plan that describes:
 - i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented, and
 - iii. the date by which the insurer expects to meet the unaudited payroll reporting tolerance.
 - b. A representative of the insurer will be required to meet with the WCIRB to discuss the insurer's remediation plan.
 - c. The WCIRB will notify the insurer's senior management of the insurer's failure to meet the unaudited payroll reporting tolerance and will advise of the following:

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- i. The time frame by which performance must be improved to meet the unaudited payroll reporting tolerance (Remediation Evaluation Period) to avoid being cited to the Classification and Rating Committee for further administrative action as described in Stage 2. The Remediation Evaluation Period shall encompass a minimum of two quarters and may be subsequently extended until enough USRs have been attained to produce a credible evaluation.
 - ii. If the insurer's performance does not make significant progress to meet the unaudited payroll reporting tolerance during the Remediation Evaluation Period, the insurer will be cited to the Classification and Rating Committee and subject to further administrative action as described in Stage 2.
 - iii. If significant progress is made to meet the unaudited payroll reporting tolerance during the Remediation Evaluation Period, such improvement must be sustained over the subsequent six consecutive quarters (Remediation Monitoring Period); otherwise, the insurer will be cited to the Classification and Rating Committee for further administrative action as described in Stage 2.
 - iv. If an insurer's performance improves to meet the unaudited payroll reporting tolerance during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the Classification and Rating Committee as described in Stage 2. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer fails to meet the unaudited payroll reporting tolerance, the insurer will again be subject to remedial action pursuant to Stage 1.
 2. Stage 2: Classification and Rating Committee. If an insurer's performance does not meet the unaudited payroll reporting tolerance after completion of Stage 1 as described above, the insurer will be subject to the following:
 - a. The WCIRB will cite the insurer to the Classification and Rating Committee for failure to meet the unaudited payroll reporting tolerance.
 - b. Within thirty days of notification of citation to the Classification and Rating Committee, the insurer shall provide a new remediation plan that describes:
 - i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented; and
 - iii. the date by which the insurer expects to meet the unaudited payroll reporting tolerance.
 - c. An officer of the insurer will be required to meet with the Classification and Rating Committee to explain why the insurer's remediation plan submitted in Stage 1 failed to achieve the desired results and to present the new remediation plan.
 - d. At the meeting of the Classification and Rating Committee, the following actions shall be taken:
 - i. The insurer's performance with respect to Parts 1 and 3 of this Program and any other data quality concerns in other WCIRB data quality programs will be reported to the Classification and Rating Committee;
 - ii. a fine equal to 1/100 of 1% of the most recent certified calendar year written pure premium⁶ at the time the insurer was notified that it had been cited to the

⁶ Complete calendar year (January 1 to December 31) direct written premium at pure premium rate level (prior to application of deductible credits), as reported to the WCIRB on the *Data Call for Direct California Workers' Compensation Experience* (due by February of the following year), that has been certified as to its accuracy on the *WCIRB Financial Call Data Certification* (due by June of the following year) submitted by that insurer.

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- Classification and Rating Committee pursuant to subparagraph a. above, subject to a minimum of \$5,000 and a maximum of \$50,000, shall be imposed; and
- iii. A Remediation Evaluation Period will be established.
 - e. The Classification and Rating Committee may impose additional lawful administrative actions it deems necessary, reasonable or appropriate to facilitate or encourage the insurer's implementation of adequate remedial measures, including citation to the Governing Committee.
 - f. The WCIRB will report the Classification and Rating Committee's findings and actions to the appropriate insurance company officer and advise of the following:
 - i. If the insurer does not make significant progress in meeting the unaudited payroll reporting tolerance during the Remediation Evaluation Period, the insurer will be cited to the Governing Committee for further administrative action as described in Stage 3.
 - ii. If significant progress is made to meet the unaudited payroll reporting tolerance during the Remediation Evaluation Period, such performance must be sustained through the Remediation Monitoring Period; otherwise, the insurer will be cited to the Governing Committee for further remedial action as described in Stage 3.
 - iii. If the insurer's performance meets the unaudited payroll reporting tolerance during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the Governing Committee. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer fails to meet the unaudited payroll reporting tolerance, the insurer will again be subject to remedial action pursuant to Stage 1.
3. Stage 3: Governing Committee. If an insurer's performance fails to meet the unaudited payroll reporting tolerance after completion of Stage 2 as described above, the insurer will be subject to the following:
- a. The WCIRB will cite the insurer to the Governing Committee for failure to meet the unaudited payroll reporting tolerance.
 - b. Within thirty days of notification of citation to the Governing Committee, the insurer shall provide a new remediation plan that describes:
 - i. the specific remedial measures to be undertaken by the insurer,
 - ii. the time frames in which the remedial measures will be implemented, and
 - iii. the date by which the insurer expects to meet the unaudited payroll reporting tolerance.
 - c. A senior officer of the insurer will be required to meet with the Governing Committee to explain why the insurer's remediation plan submitted in Stage 2 failed to achieve the desired results and to present the new remediation plan.
 - d. The insurer's performance with respect to Parts 1 and 3 of this Program and any other data quality concerns in other WCIRB data quality programs will be reported to the Governing Committee.
 - e. Within sixty days of the notification to the insurer that the matter has been cited to the Governing Committee:
 - i. A Remediation Evaluation Period will be established; and

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- ii. A monthly fine equal to 1/100 of 1% of the most recent certified calendar year written pure premium⁷ at the time the insurer was notified that it had been cited to the Classification and Rating Committee pursuant to Paragraph 2, *Stage 2: Classification and Rating Committee*, subparagraph a., subject to a minimum of \$5,000 and a maximum of \$50,000, will be imposed. The monthly fine will continue until such time as:
 - enough data has been reported and evaluated subsequent to the meeting with the Governing Committee to produce a credible evaluation of the insurer's performance, and
 - the insurer's performance meets the unaudited payroll reporting tolerance.
 - f. The Governing Committee may impose any additional lawful administrative action it deems necessary, reasonable or appropriate to facilitate or encourage the insurer's implementation of adequate remedial measures, including citation to the California Insurance Commissioner.
 - g. The WCIRB will report the Governing Committee's findings and actions to the appropriate insurance company senior officer and advise of the following:
 - i. If the insurer does not meet the unaudited payroll reporting tolerance during the Remediation Evaluation Period, the WCIRB president will, unless instructed otherwise by the Governing Committee, cite the insurer to the California Insurance Commissioner for consideration of further remedial action, including but not limited to additional fines, penalties and/or suspension of authority to transact workers' compensation insurance. The citation to the California Insurance Commissioner will include a report on the insurer's performance with respect to this Program and any other data quality concerns in other WCIRB data quality programs.
 - ii. If significant progress is made in meeting the unaudited payroll reporting tolerance during the Remediation Evaluation Period, such performance must be sustained through the Remediation Monitoring Period; otherwise, the insurer will be cited to the California Insurance Commissioner unless the Governing Committee instructs the WCIRB president otherwise.
 - iii. If the insurer's performance meets the unaudited payroll reporting tolerance during the Remediation Evaluation Period and such performance is sustained through the Remediation Monitoring Period, the insurer will not be cited to the California Insurance Commissioner. However, the insurer will continue to be subject to the Program and if, following the Remediation Monitoring Period, the insurer fails to meet the unaudited payroll reporting tolerance, the insurer will again be subject to remedial action pursuant to Stage 1.
 - 4. An insurer achieving results that are approaching the unaudited payroll reporting tolerance may be requested to meet periodically or correspond with the WCIRB for the purpose of outlining the remedial measures the insurer proposes to implement to improve physical audit compliance.

⁷ Complete calendar year (January 1 to December 31) direct written premium at pure premium rate level (prior to application of deductible credits), as reported to the WCIRB on the *Data Call for Direct California Workers' Compensation Experience* (due by February of the following year), that has been certified as to its accuracy on the *WCIRB Financial Call Data Certification* (due by June of the following year) submitted by that insurer.

Part 3 — Classification Ratemaking Data Validation

I. Purpose

The purpose of Part 3 is to ensure that USR data that may significantly impact advisory pure premium ratemaking is accurate and complete by encouraging insurers to timely and completely respond to Classification Ratemaking Data Validation Inquiries.

II. Classification Ratemaking Data Validation Inquiries

A Classification Ratemaking Data Validation Inquiry (Inquiry) will be sent to an insurer that submitted a USR that includes exposure or claim data that may significantly impact the subject classification's proposed advisory pure premium rate.

Insurers must provide a timely, complete and satisfactory response to an Inquiry. In order to be considered timely, the response must be received electronically within sixty calendar days of the date of the Inquiry unless an earlier due date is specified in the Inquiry.⁸ A complete and satisfactory response is: (a) USR correction(s) or (b) an explanation supporting the accuracy of the data reported that includes documentation such as audit records or loss runs.

The WCIRB may request additional documentation or initiate a special inspection or test audit to substantiate the response.

Based on the review of the Inquiry response or the special inspection or test audit, the WCIRB may require that the insurer submit a corrected USR. If a corrected USR is required, the insurer has thirty calendar days to submit the correction.

III. Classification Ratemaking Data Validation Inquiry Fines

An insurer that fails to provide a complete and satisfactory Inquiry response by the due date or a corrected USR within thirty days of request from the WCIRB shall be subject to a fine of \$150 per calendar day until the required response is received⁹, subject to a maximum of \$6,000.

IV. Appeal Procedures

An insurer may appeal a determination that its response to a Classification Ratemaking Data Validation Inquiry was not timely, accurate or complete, provided such appeal is submitted electronically in a manner prescribed by the WCIRB no later than thirty calendar days after the commencement of the daily fine. An appeal with respect to timeliness shall be accompanied by proof of submission of the complete response by the specified due date. Once the appeal has been received, any continuing daily fine will cease until the WCIRB has responded to the appeal.

Within thirty calendar days of receipt of an appeal, the WCIRB will: (1) deny the appeal and provide additional information supporting the fine charged; (2) accept the appeal and waive the fine in whole or in part; or (3) advise the insurer that an additional thirty days is needed to review the appeal.

If the WCIRB fails to timely respond to the appeal, the fine shall be waived.

An insurer may appeal the WCIRB's decision to the Classification and Rating Committee.

⁸ Any request for an extension to this due date must be submitted to the WCIRB in writing on or before the due date for the Inquiry response. WCIRB staff will evaluate the request and may grant an extension if doing so will not negatively impact the WCIRB's advisory pure premium ratemaking recommendations.

⁹ If an approved extended due date for an inquiry response is not adhered to, the insurer will be subject to delinquency fines accruing from the original inquiry response due date.

V. Administrative Procedures

If, based on its review of available data, the WCIRB determines that an insurer has: (1) systemic data reporting deficiencies that impact the accuracy of the data used in the WCIRB's pure premium ratemaking recommendations, or (2) has egregiously or persistently failed to timely, completely and satisfactorily respond to Classification Ratemaking Data Validation Inquiries, the insurer may be subject to remedial action, which initially involves meeting with the WCIRB for purposes of outlining remedial measures the insurer proposes to implement to address the deficiencies or non-responsiveness. Depending on the issue, remedial action may also include, but is not limited to: (1) imposing special inspections or test audits¹⁰ at the insurer's expense to validate the accuracy of the reported data and (2) referring the insurer to a WCIRB Committee, at which time further remedial action may be taken, including but not limited to additional fines, special inspections or test audits.

¹⁰ In accordance with Part 1, Section VI, *Special Test Audits*, the results of special test audits will not be included in the results for Part 1 of the Program.



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