

TITLE 13 INSURANCE
CHAPTER 17 WORKERS' COMPENSATION INSURANCE
PART 6 PREMIUM ADJUSTMENT PROGRAM

13.17.6.1 ISSUING AGENCY: New Mexico Public Regulation Commission, Insurance Division.
[7-1-97; 13.17.6.1 NMAC – Rn & A, 13 NMAC 17.6.1, 5-15-01]

13.17.6.2 SCOPE: This rule authorizes premium credits for workers' compensation and employer's liability insurance as defined in NMSA 1978 Section 59A-7-6A(3) for those employers utilizing certain qualifying classifications. The premium credit calculation in this rule shall apply to new or renewal qualifying policies effective on and after July 1, 1992.
[4-1-92; 13.17.6.2 NMAC – Rn & A, 13 NMAC 17.6.2, 5-15-01]

13.17.6.3 STATUTORY AUTHORITY: NMSA 1978 Sections 59A-2-9, 59A-3-6, and 59A-17-5.
[4-1-92; 13.17.6.3 NMAC – Rn, 13 NMAC 17.6.3, 5-15-01]

13.17.6.4 DURATION: Permanent.
[7-1-97; 13.17.6.4 NMAC – Rn, 13 NMAC 17.6.4, 5-15-01]

13.17.6.5 EFFECTIVE DATE: April 1, 1992, unless a later date is cited at the end of a section.
[4-1-92, 7-1-97; 13.17.6.5 NMAC – Rn & A, 13 NMAC 17.6.5, 5-15-01]

13.17.6.6 OBJECTIVE: The purpose of this rule is to implement NMSA 1978 Section 59A-17-8C directing the Superintendent of Insurance to equalize and calculate workers' compensation premium rates on a basis that does not discriminate against or penalize employers who pay higher wages than other employers to workers in the same job classification. The legislative objective is satisfied by retaining the present payroll-based system modified by the application of progressively greater premium credits to progressively higher hourly wages on policies for qualifying classifications. [4-1-92; 13.17.6.6 NMAC – Rn & A, 13 NMAC 17.6.6, 5-15-01]

13.17.6.7 DEFINITIONS: In addition to the definitions in the Workers' Compensation Act, NMSA 1978 Sections 52-1-1 et seq., as used in this rule:

- A. **aggregate call for experience**** means the requests by the WCSO to workers' compensation carriers for summaries of payroll, premium or loss experience data;
- B. **ARAP calculations**** means the Assigned Risk Adjustment Program approved by the Superintendent pursuant to NMSA 1978 Section 59A-33-10;
- C. **basic manual**** means the Basic Manual for Workers' Compensation and Employers Liability Insurance applicable to New Mexico filed by the WCSO and approved by the Superintendent;
- D. **experience rating**** means any workers' compensation premium rating plan which provides for premium adjustments based upon an insured's prior loss experience;
- E. **final earned premium**** means that premium which applies after the application of payroll audits and retrospective rating adjustments;
- F. **manual premium**** means the product of payroll per \$100 and the manual rate for a given classification. Manual premium for a policy means the sum of the manual premiums for the classification applicable to that policy;
- G. **manual rate**** means workers' compensation base rates filed by authorized insurers or the workers' compensation assigned risk pool and approved by the Superintendent;
- H. **qualifying classifications**** means those workers' compensation classifications listed in subsection C of 13.17.6.8 NMAC;
- I. **qualifying policy**** means a workers' compensation or employer's liability policy the premium for which is attributable to one or more qualifying classifications;
- J. **rate service organization**** has the meaning given in NMSA 1978 Section 59A-17-4;

K. remuneration shall have the meaning used in Rule V of the Basic Manual for Workers Compensation and Employers Liability Insurance;

L. standard earned premium means the premiums on which general rate levels are set as defined in the Basic Manual for Workers' Compensation;

M. Workers' Compensation Service Organization (WCSO) means either a rate service organization licensed in accordance with NMSA 1978 Section 59A-17-19 or an advisory organization licensed in accordance with NMSA 1978 Section 59A-17-24 that is designated by the Superintendent of Insurance in workers' compensation matters.

[4-1-92, 7-1-97; 13.17.6.7 NMAC – Rn & A, 13 NMAC 17.6.7, 5-15-01]

13.17.6.8 QUALIFYING CLASSIFICATIONS:

A. The Superintendent may amend this rule to add or delete classifications from the schedule by providing at least thirty (30) days' notice to the WCSO and otherwise furnishing public notice as required by the Insurance Code.

B. NOC means “not otherwise classified”.

C. The premium credit program established by this rule applies only to premium attributable to one or more of the following classifications:

3365	Welding or cutting – NOC & drivers
3724	Millwright work NOC & drivers (Concrete sawing & drilling) & drivers
3726	Boiler installation or repair - steam
5020	Ceiling installation - suspended acoustical grid type
5022	Masonry NOC
5037	Painting - metal structures
5040	Iron or steel erection - erecting iron or steel frame structures
5057	Iron or steel erection NOC
5059	Iron or steel erection - frame structures not over two stories
5069	Iron or steel erection in the construction of dwellings not exceeding two stories
5102	Door, door frame or sash erection
5146	Furniture or fixtures installation in offices or stores NOC
5160	Elevator erection or repair
5183	Plumbing - NOC & drivers
5188	Automatic sprinkler installation & drivers
5190	Electrical wiring (within buildings) & drivers
5213	Concrete construction NOC - including foundations
5215	Concrete work - construction of private residence
5221	Concrete or cement work (floors, driveways, yards, or sidewalks) & drivers
5222	Concrete construction in connection with bridges or culverts
5223	Swimming pool construction (not iron or steel) all operations & drivers
5348	Tile, stone, mosaic or terrazzo work - interior construction only
5402	Hothouse erection - all operations
5403	Carpentry - NOC
5437	Carpentry - installation of cabinet work or interior trim
5443	Lathing & drivers
5445	Wallboard installation (within buildings) & drivers
5462	Glaziers (away from shop) & drivers
5474	Painting or paper hanging NOC & shop operations, drivers
5479	Insulation work & drivers
5480	Plastering NOC & drivers
5491	Paper hanging & drivers
5506	Street or road construction, paving or repaving all kinds & drivers

5507	Street or road construction, clearing or right of way & drivers
5508	Street or road construction, rock excavation & drivers
5538	Sheet metal work erection NOC & drivers
5551	Roofing (all kinds) & drivers
5606	Contractor - executive supervisors
5610	Cleaner - engaged in removal of debris
5645	Carpentry - in the construction of detached private residences
5651	Carpentry - in the construction of dwellings not exceeding three stories in height
5703	Building raising or moving & drivers
5705	Salvage operation - removing, sorting, reconditioning & distributing merchandise in building
6003	Pile driving & drivers
6005	Jetty or breakwater construction & drivers
6017	Concrete work in connection with dams or locks - all types
6018	Earth moving or placing in connection with dams or locks - all types
6045	Levee construction & drivers
6217	Excavation & drivers
6229	Irrigation or drainage system construction & drivers
6251	Tunneling (not pneumatic)
6252	Shaft sinking (all work to completion)/Caisson work (all work to completion)
6306	Sewer construction (all operations) & drivers
6319	Gas mains or connections construction & drivers
6325	Conduit construction for cables or wires & drivers
6400	Fence construction (metal)
7538	Electric light or power line construction & drivers
7601	Telephone, telegraph or fire alarm line construction & drivers
7855	Railroad construction: maintenance of way by contractors & drivers
8227	Construction or erection permanent yard for maintenance of equipment or storage of material
9534	Mobile crane & hoisting service contractors NOC (All operations/yard employees)

[4-1-92; 13.17.6.8 NMAC – Rn & A, 13 NMAC 17.6.8, 5-15-01]

13.17.6.9 ADMINISTRATIVE REQUIREMENTS: The premium credit program shall be administered in the following manner:

A. Each workers' compensation carrier shall issue a premium credit application form for each qualifying policy. This form must be issued by each individual carrier and shall be sent to each insured employer prior to policy issuance or within sixty (60) days after the policy's effective date. The Superintendent shall approve such forms prior to their use. The carrier shall maintain proof of mailing in its files and shall make such proof available to the New Mexico Insurance Division upon request.

B. The employer shall complete the required information and shall mail the completed form to the WCSO not later than 180 days after the policy's effective date.

C. The WCSO shall compute the insured's average hourly wage for each qualifying classification and shall apply the percentage of premium credit using the criteria and Premium Credit Schedule established in this rule. These calculations shall be displayed on a Policy Credit Worksheet. The WCSO shall mail a copy of the completed worksheet to the insured's carrier.

D. The carrier shall use the applicable credits to calculate the insured's estimated premium at policy issuance.

E. The experience used to determine loss cost and/or manual rates for each classification shall be reflective of the premium credit program in subsequent rate filings.

F. The applicable premium credits shall be reflected in the experience rating and ARAP calculations.

G. Standard earned premium reported to the WCSO on the aggregate call for experience must include the effects of premium credits.
[4-1-92; 13.17.6.9 NMAC – Rn & A, 13 NMAC 17.6.9, 5-15-01]

13.17.6.10 AUDIT; PREMIUM CREDIT REVISION: Upon audit at the end of the policy term, the carrier shall use the same credits in the calculation of the insured's final earned premium, provided that the carrier may verify the original qualification criteria as well as the data originally provided by the insured for the computation of the premium credits by reviewing those records upon which the insured's data were originally based. If this process uncovers any errors, revised payroll and/or hours worked data must be submitted to the WCSO. The carrier shall use the revised data to calculate corrected premium credits and revised premium.
[4-1-92; 13.17.6.10 NMAC – Rn & A, 13 NMAC 17.6.10, 5-15-01]

13.17.6.11 CALCULATION OF AVERAGE HOURLY WAGE AND PREMIUM CREDIT: The average hourly wage and premium credit shall be calculated in the following manner:

A. The average hourly wage for each policy's qualifying classifications shall be determined by dividing the total payroll or remuneration for each classification by the number of actual hours worked.

B. Total payroll and hours worked during the third calendar quarter of the year preceding the policy effective date as reported to taxing authorities shall be utilized in determining average hourly wage. If the insured did not engage in operations for the complete quarter, then the first complete quarter after policy inception shall be used.

C. In the absence of specific employer records demonstrating actual hours worked for a given employee, remuneration for such an employee shall not be included in the determination of average hourly wage, and the premium attributable to such remuneration shall not be subject to the premium credit program.

D. The percentage credit to be applied to the manual rate shall be determined separately for each classification, and shall initially be in accordance with the following Premium Credit Schedule until the schedule is amended pursuant to subsection F of this section:

INITIAL PREMIUM CREDIT SCHEDULE

Average Hourly Wage	Credit From Manual Premium	Average Hourly Wage	Credit From Manual Premium
\$10.99 or less	None	\$14.50 - \$14.99	13%
\$11.00 - \$11.49	6%	\$15.00 - \$15.49	14%
\$11.50 - \$11.99	7%	\$15.50 - \$15.99	15%
\$12.00 - \$12.49	8%	\$16.00 - \$16.49	16%
\$12.50 - \$12.99	9%	\$16.50 - \$16.99	17%
\$13.00 - \$13.49	10%	\$17.00 - \$17.49	18%
\$13.50 - \$13.99	11%	\$17.50 - \$17.99	19%
\$14.00 - \$14.49	12%	\$18.00 and above	20%

E. The credit shall be calculated for each qualifying classification utilizing the percentage credit determined in accordance with subsection D of this section. The discounted rates shall then be utilized to develop the manual premium.

F. By September 1 of each year beginning in 1992, the WCSO shall file for approval by the Superintendent an amended Premium Credit Schedule to adjust the starting and ending points for each of the wage groups in increments of \$.10 to reflect any increase or decrease in the maximum compensation rate for total disability as established pursuant to NMSA 1978 Section 52-1-41. To determine the updated starting point for a wage increment, the previous starting point shall be adjusted by a percentage equal to the percentage increase in the maximum compensation rate for total disability. The result shall be rounded to the nearest \$.10. No amendment of this rule shall be necessary in order to implement an adjustment made pursuant to this section.
[4-1-92; 13.17.6.11 NMAC – Rn & A, 13 NMAC 17.6.11, 5-15-01]

13.17.6.12 PERIODIC UPDATING OR REVISION: Pursuant to NMSA 1978 Section 59A-17-8D the rate classification system relied on for workers' compensation shall be updated and revised periodically to reflect changes in the workplace.

[4-1-92; 13.17.6.12 NMAC – Rn & A, 13 NMAC 17.6.12, 5-15-01]

13.17.6.13 REVIEW:

A. By rate service organization or insurer. Any rating determination made pursuant to this rule may be appealed as provided in NMSA 1978 Section 59A-17-30B.

B. By Superintendent. Any other determination or decision made pursuant to this rule may be reviewed by requesting a hearing pursuant to NMSA 1978 Section 59A-4-15.

4-1-92; 13.17.6.13 NMAC – Rn & A, 13 NMAC 17.6.13, 5-15-01]

13.17.6.14 PENALTIES: The Superintendent may revoke, suspend or refuse to continue the license or certificate of authority of any person who fails to comply with this rule and may impose such other applicable administrative penalties as may be authorized by the Insurance Code.

[4-1-92; 13.17.6.14 NMAC – Rn, 13 NMAC 17.6.14, 5-15-01]

HISTORY OF 13.17.6 NMAC:

Pre-NMAC history.

SCC 91-2-IN, Workers' Compensation Premium Adjustment Program for Qualifying Classifications (Reg. 17, Rule 3), filed on 2-26-92.

History of repealed material.

NMAC history.

13 NMAC 17.6, Premium Adjustment Program, filed 5-27-97 was reformatted, renumbered as 13.17.6 NMAC, and amended effective 5-15-01.