



**B U L L E T I N**

**November 7, 2008**

*Contact: Martin Heagen, VP & Actuary  
Ext. 117, mheagen@nycirb.org*

**R.C. 2191**

**To the Members of the Board**

**Re: New York Workers Compensation  
NY Workers Compensation Security Fund Surcharge**

Pursuant to Sections 108 and 109 of the New York Workers' Compensation Law, the New York State Insurance Department has announced that private insurance carriers are to start collecting a Security Fund surcharge of one and one half percent from their insureds on policies written or renewed on or after January 1, 2009. A copy of the Department's Circular Letter No. 24, dated November 6, 2008, is attached for your reference.

A revised Miscellaneous Values Page 6 of the New York Workers Compensation and Employers Liability Manual, displaying the one and one half percent surcharge, is also attached. This page will be published and included shortly in the Board's manual.

You are also reminded that the surcharge amount is to be shown on the policy information page and reported on unit statistical reports under Code 9749.

Questions regarding compliance with Circular Letter No. 24, or the Workers Compensation Security Fund in general, should be addressed directly to the New York State Insurance Department.

**Very truly yours,**

**Monte Almer**

**President**

**MH/ab  
Encl.**



**STATE OF NEW YORK  
INSURANCE DEPARTMENT  
ONE COMMERCE PLAZA  
ALBANY, NY 12257**

**David A. Paterson  
Governor**

**Eric R. Dinallo  
Superintendent**

**Circular Letter No. 24 (2008)  
November 6 , 2008**

**TO: All Property/Casualty Insurance Companies and Reciprocal Insurers  
Authorized to Write Workers' Compensation Insurance**

**RE: Workers' Compensation Insurance Security Fund**

**STATUTORY REFERENCE: Sections 108 and 109 of the Workers' Compensation Law**

Determinations made by the Insurance Department in accordance with the requirements of Section 109 of the Workers' Compensation Law indicate that the net value of the Workers' Compensation Security Fund (Fund) as of September 30, 2008 was less than \$74 million. Section 109 provides that when the net value of the Fund is less than \$74 million, contributions shall be resumed.

Section 108 of Article 6-A of the Workers' Compensation Law provides that for the privilege of carrying on the business of workers' compensation insurance in New York State, every "carrier" (as that term is defined in Section 106) shall pay into the Fund, on a quarterly basis, a sum equal to one percent; provided, however, that the Superintendent of Insurance may require each carrier to pay into the Fund not more than two per centum of its net written premiums, less the amount of dividends paid to policyholders, as shown on the quarterly report return form required to be filed by Section 108.

Section 109.1 also provides that when the Superintendent determines, as of the end of any quarterly period, that the amount of assets in the Workers' Compensation Security Fund equals or exceeds \$74 million, no further payment under Section 108 shall be required to be made after that quarterly period. However, whenever as of any subsequent quarterly period, the amount of such assets is less than \$74 million, payments shall be resumed at the beginning of the next quarter.

Accordingly, carriers are to start collecting the surcharge of one and one half percent from their insureds on policies written or renewed on or after January 1, 2009.

The first quarterly payment reflecting the 1.5% assessment rate will be due on or before May 15, 2009 for the quarter ending March 31, 2009. The required report forms are on the Department's website ([www.ins.state.ny.us](http://www.ins.state.ny.us)).

Please refer any questions regarding this circular letter to:

Mark E. Daigneault  
Director of Taxes and Accounts  
New York State Insurance Department  
One Commerce Plaza  
Albany, New York 12257  
e-mail: [billing@ins.state.ny.us](mailto:billing@ins.state.ny.us)

Sincerely,

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Karen E. Cole  
Director of Administration and Operations

MISCELLANEOUS VALUES (continued)

New York State Assessment Charges

General Instructions and Information

Refer to Rule IX-L., Sections 1. and 2.

<u>Assessment</u>	<u>Applicable Premium Charge</u>		
	<u>Volunteer Ambulance</u>	<u>Volunteer Firefighters</u>	<u>All Other Classes</u>
Workers' Compensation Board	1.8%	2.6%	2.8%
Reopened Case Fund	1.5%	1.5%	1.8%
Special Disability Fund	0.0%	0.0%	7.9%
Interdepartmental Expenses	0.0%	0.0%	0.8%
<u>Special Funds Conservation Committee</u>	<u>0.0%</u>	<u>0.0%</u>	<u>0.1%</u>
Total	3.3%	4.1%	13.4%

Premium Base

Refer to Rule IX-L., Section 3.

For all policies not retrospectively rated, premium is defined as premium determined on the basis of approved carrier rates, including any experience modification or merit rating factor, plus any applicable territory differential premium, minimum premium, Construction Classification Premium Adjustment Program credits, surcharges and credits from workplace safety programs, credits from return to work programs, credits from drug and alcohol prevention programs, credits from independently filed carrier specialty programs (for example, alternative dispute resolution, managed care or preferred provider organization programs), the charge for the waiver of subrogation, the charge for foreign voluntary coverage, the charge for terrorism and the charge for natural disasters and catastrophic industrial accidents. Any expense constant, including an expense constant in a minimum premium, the premium discount, and premium credits for participation in any Deductible Program are excluded from the determination of the assessment charge.

For retrospectively rated policies, premium is defined as the retrospective premium as determined by the applicable parameters of the Retrospective Rating Plan plus the implied premium discount determined on the basis of standard premium.

**Passenger Seat Surcharge** - Applicable in conjunction with Code 7421 "Aircraft or Helicopter Operation: Transportation of Personnel in Conduct of Employer's Business - Flying Crew"

in accordance with the classification footnote instructions..... \$100 per passenger seat  
\$1,000 maximum per aircraft

**Terrorism and Catastrophe Loss Cost Charges**

Terrorism

Applicable only in conjunction with Rule IX-N.1 of the Manual

Terrorism loss cost (**NOT RATE**) charge per \$100 of total policy payroll ..... \$.038  
For non-payroll based classes, charge is % of non-payroll class manual premium..... 2.9%

Natural Disasters and Catastrophic Industrial Accidents

Applicable only in conjunction with Rule IX-N.2 of the Manual

Catastrophe loss cost (**NOT RATE**) charge per \$100 of total policy payroll ..... \$.008  
For non-payroll based classes, charge is % of non-payroll class manual premium..... 0.7%

**Workers Compensation Security Fund Surcharge**

Applicable only in accordance with Rule IX - M of the Manual

★ Charge is % of total policy premium, including the New York State Assessment..... 1.5%  
(Effective January 1, 2009)

**United States Longshore and Harbor Workers' Compensation Coverage Percentage**

Applicable only in connection with Rule XII-D of the Manual ..... 71.3%  
(Multiply a Non-F classification rate by a factor of 1.713 to adjust for differences in state and federal benefits and assessments)