

BULLETIN

August 12, 2009

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R.C. 2210

To: The Members of the Board

RE: New York Workers Compensation - WC & EL Manual
USL&H – Boat Repairers Exclusion Language

In accordance with the authorization of the NYCIRB Underwriting Committee, and approval by the New York Insurance Department, we hereby introduce updates to the New York Workers Compensation and Employers Liability Manual reflecting language clarification which excludes certain boat repairers from USL&H coverage. These changes have an *effective* date of July 1, 2009.

The changes are a result of the Stimulus Bill (American Recovery & Reinvestment Act of 2009) which introduced a change in coverages afforded under the USL&H Act (United States Longshore and Harbor Workers Compensation). The modified language exempts coverage for individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel, in conjunction with the repair of such vessel.

On March 4, 2009, the Rating Board issued Bulletin #2201 regarding this change. That bulletin explained the impact of this change regarding affected classification codes. This bulletin provides the language needed in the NY WC & EL Manual to support this change. Amended pages R-79, C-12, and Endorsement number WC 00 01 06A are included for your information.

The modified pages noted in this bulletin are also included in an updated version of the New York Workers Compensation & Employers Liability Manual which is available via our website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
Encl.

RULE XII-U.S. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

A. GENERAL EXPLANATION

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The U.S. Longshore and Harbor Workers' Compensation Act (USL&HW Act) is a Federal law which provides for payment of compensation and other benefits to employees such as longshore and harbor workers, ship repairers, shipbuilders, shipbreakers and other employees engaged in loading, unloading, repairing or building a vessel. It applies to such employees while working on navigable waters of the United States and also while working on any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other area adjoining such navigable waters customarily used for loading, unloading, repairing or building a vessel. It does not cover masters or members of the crew of a vessel. It excludes repairers engaged in repairing a recreational vessel or dismantling any part of a recreational vessel in connection with repair of such vessel and excludes individuals employed to build any recreational vessel under sixty-five feet in length. For complete details see U.S. Code (1946), Title 33, Sections 901-950, as amended.

B. WORKERS COMPENSATION INSURANCE-PART ONE

The Standard Policy is used to insure the statutory obligation of an employer to furnish benefits required by the USL&HW Act. Attach the Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06A) to provide such insurance. Do not designate the USL&HW Act in Item 3.A. of the Information Page.

C. EMPLOYERS LIABILITY INSURANCE-PART TWO

For operations subject to the USL&HW Act, the standard limits of liability under Part Two are:

Bodily Injury by Accident:	\$100,000 – each accident
Bodily Injury by Disease:	\$100,000 – each employee
Bodily Injury by Disease:	\$500,000 – policy limit

Refer to Rule VIII.

D. CLASSIFICATIONS AND RATES

1. Classifications

Classifications for insurance under the USL&HW Act are listed in "Part Two–Classifications" of this manual.

2. Rates For Federal "F" Classifications and Admiralty/FELA Classifications That Include USL&HW Act Benefits

The carrier approved rates for classification code numbers followed by the letter "F" and those Admiralty/FELA classifications applicable to Program II–USL&HW Act benefits include premium for operations subject to the USL&HW Act.

3. Rates For Non-Federal "Non-F" Classifications and Admiralty/FELA Classifications That Do Not Include USL&HW Act Benefits

The carrier approved rates for operations subject to the USL&HW Act, and not within the scope of classifications provided for in 2. above, are determined as follows:

BILLIARD TABLE MFG. <i>Includes installation.</i>	2883
BLACKSMITH <i>Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 3111 are conducted as a separate and distinct business.</i>	3111
BLAST FURNACE OPERATION & Drivers <i>Includes maintenance and repair of furnaces or operations incidental to storage or handling of materials or product. Separately rate mining, slag excavation, quarrying, coke manufacturing or the erection of furnaces.</i>	1438
BOARDING HOUSE or Hotel RESORT ALL OTHER EMPLOYEES & Drivers <i>Includes, but not limited to, desk clerks, bellhops and maids.</i> <i>Musicians, players or entertainers to be separately rated only when restaurant operations are not conducted. See Code 9157 or Code 9159 "Theatrical Production."</i> <i>Separately rate the operation of a commercial farm. See "Farms."</i>	9052
RESTAURANT EMPLOYEES <i>Includes musicians, players or entertainers.</i>	9058
BOARDING HOUSE or Hotel SEASONAL ALL OTHER EMPLOYEES & Drivers <i>Includes, but not limited to, desk clerks, bellhops and maids.</i> <i>Musicians, players or entertainers to be separately rated only when restaurant operations are not conducted. See Code 9157 or Code 9159 "Theatrical Production."</i> <i>Separately rate the operation of a commercial farm. See "Farms."</i>	9052
RESTAURANT EMPLOYEES <i>Includes musicians, players or entertainers.</i>	9058
BOARDING or Livery STABLE not sales stable & Drivers	7201
BOAT BUILDING or REPAIR & Drivers:	
Coverage under U.S. ACT	6824F
★ <i>Code 6824F is applicable to the construction of wood, metal, fiberglass or plastic yachts, motor boats, sailboats or rowboats 65 feet and over in length and not exceeding 150 feet in length overall.</i> <i>Includes shop and yard work.</i> <i>Not applicable to repair of any recreational vessel or to dismantling any part of a recreational vessel in connection with the repair of such vessel.</i>	
Coverage under STATE ACT ONLY	6834
★ <i>Code 6824F is applicable to the construction of wood, metal, fiberglass or plastic yachts, motor boats, sailboats or rowboats 65 feet and over in length and not exceeding 150 feet in length overall.</i> <i>Includes shop and yard work.</i> <i>Not applicable to repair of any recreational vessel or to dismantling any part of a recreational vessel in connection with the repair of such vessel.</i>	

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE ENDORSEMENT

This endorsement applies only to work subject to the Longshore and Harbor Workers' Compensation Act in a state shown in the Schedule. The policy applies to that work as though that state were listed in Item 3.A. of the Information Page.

General Section C. **Workers' Compensation Law** is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers Liability Insurance), C. Exclusions., exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

Schedule

State Percentage	Longshore and Harbor Workers' Compensation Act Coverage
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The rates for classifications with code numbers not followed by the letter "F" are rates for work not ordinarily subject to the Longshore and Harbor Workers' Compensation Act. If this policy covers work under such classifications, and if the work is subject to the Longshore and Harbor Workers' Compensation Act, those non-F classification rates will be increased by the Longshore and Harbor Workers' Compensation Act Coverage Percentage shown in the Schedule.

Notes:

1. The Longshore and Harbor Workers' Compensation Act is a federal workers compensation law that applies to workers in maritime employments, including longshore, harborworkers, shipbuilders, shipbreakers and ship repairers. It does not apply to masters or crews of vessels. It excludes repairers engaged in repairing a recreational vessel or dismantling any part of a recreational vessel in connection with repair of such vessel and excludes individuals employed to build any recreational vessel under sixty-five feet in length. See Rule XII of the Basic Manual for additional details.
2. Use this endorsement to provide workers compensation insurance and employers liability insurance for work subject to the Longshore and Harbor Workers' Compensation Act in any state, including a monopolistic state fund state.
3. Coverage is provided in a state by naming the state in the Schedule.
4. The following entry may be typed or printed in the Schedule to provide coverage in Item 3.A. states:
"Each state named In Item 3.A. of the Information Page."
5. The following entry may be typed or printed in the Schedule to provide coverage in Item 3A. and 3.C. states:
"Each state named in Item 3.A. or 3.C. of the Information Page."