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# Washington USL&H Assigned Risk Plan

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## Premium & Payroll Rules and Miscellaneous Values

Premium charges are primarily based on rates per \$100 of payroll using the applicable base rates shown in the rate pages (see “Rates & Class Codes” link on the WARP website). Other factors in the total cost may include minimum premiums, optional coverages, experience rating, etc.

An accurate estimate of the cost can only be determined by submitting an application to Alaska National Insurance Company where an employer's operations, insurance coverage options, claim history and eligibility are reviewed by an underwriter who can then provide an estimated premium. However, for reference we are providing some extracts from our Underwriting Manual that may be helpful:

- **Miscellaneous Values** (attached)  
Additional information used in the determination of premium charges can be found in the “Miscellaneous Values” that include items such as corporate officer minimum and maximum payroll limits and the cost for optional coverages.
- **Premium & Payroll Rules** (attached)  
Details on what payroll is or is not subject to premium charges can be found in these pages.

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## WARP Servicing Carrier Underwriting Manual Extract

### Part Four – Miscellaneous Values

Effective 11-01-2016

**A. Minimum and Maximum Payroll Limits**

In accordance with Manual Rule Part Two-A- 5, payroll for executive officers and LLC members is limited to a minimum of \$500 per week and a maximum of \$1,900 per week.

**B. Optional Endorsements and Coverages**

**Waiver of Right to Recover From Others (Waiver of Subrogation) Endorsement**

For companies other than Human Resource Companies, this endorsement is subject to an additional premium charge of 10% applied to the premium otherwise charged for the work described in this endorsement subject to a \$195 minimum premium per policy for this endorsement. The minimum shall not be prorated upon policy cancellation if the cancellation is initiated by the Insured.

**Maritime Coverage (Maritime Employers' Liability / MEL) Endorsement**

Premium for Maritime Coverage is charged based on the rate per hundred dollars of payroll under maritime code 7047 "Vessel Crew – NOC". Maritime Coverage is subject to a \$1,000 minimum premium. Upon cancellation the minimum premium for this endorsement shall be prorated but if the cancellation is initiated by the Insured in no event will less than 50% of the minimum premium apply.

**Employers' Liability Insurance**

Increased Limits of liability for Employers' Liability Insurance under Part Two of the Standard Policy are available as shown below in the Table for Employers' Liability Limits. The minimum shall not be prorated upon policy cancellation if the cancellation is initiated by the Insured.

Table for Employers' Liability Limits	Option 1	Option 2	Option 3
<i>Bodily Injury by Accident each accident</i>	\$100,000	\$500,000	\$1,000,000
<i>Bodily Injury by Disease each employee</i>	\$100,000	\$500,000	\$1,000,000
<i>Bodily Injury by Disease policy limit</i>	\$500,000	\$500,000	\$1,000,000
<i>Additional Premium Charge</i>	<i>Basic Limit included in USL&amp;H rates</i>	1.7%	2.8%

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## **C. Minimum Premiums**

### **USL&H Coverage**

Coverage represented by the USL&H Class Codes in the Rate Pages is subject to a minimum premium of \$900 per policy. Upon cancellation the minimum premium for this coverage shall be prorated but if the cancellation is initiated by the Insured in no event will less than 50% of the minimum premium apply.

### **Policy Minimum Premium**

The policy minimum premium is the cumulative total of all applicable minimums.

## **D. Human Resource Companies (HR)**

Rates for Human Resource Companies (i.e., employers providing staffing, temporary labor, employee leasing, professional employer organization (PEO) services, labor contractor services or any other similar services) include premium charges for Waiver of Subrogation and Alternate Employer endorsements.

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## WARP Servicing Carrier Underwriting Manual Extract

### A. PREMIUM BASIS AND PAYROLL ALLOCATION

#### 1. Premium Basis

The Servicing Carrier (not Washington Labor & Industries or the U.S. Dept. of Labor) determines USL&H premium charges. Premium charges are calculated on the basis of the total payroll paid or payable by the Insured for services of workers who could receive benefits for work-related injuries as provided by the policy.

*An injured worker who has any maritime connection might have the right to pursue federal USL&H Act benefits; the USL&H Act declares a presumption that benefits are payable under the Act rebuttable only by substantial evidence to the contrary.*

#### 2. Payroll

For purposes of this manual, payroll means money or substitutes for money for work subject to the USL&H Act.

#### A. Payroll includes:

1. Wages or salaries (including retroactive wages or salaries).
2. Total cash received by an employee for commissions and draws against commissions.
3. Bonuses including stock bonus plans. Bonuses may be allocated on a pro-rata basis to USL&H work and non-USL&H work unless eligibility for the bonus payment was clearly tied to specific work.
4. Extra pay for overtime work except as provided in Overtime rules.
5. Pay for holidays, vacations, or periods of sickness. (Refer to other rules for allocation of payroll for employees subject to more than one classification code.)
6. Payment by an Employer of amounts that would have been withheld from employees to meet statutory obligations for insurance or pension plans such as the Federal Social Security Act or Medicare.
7. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans.

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8. Payment or allowances for hand tools or hand-held power tools used by employees in their work or operations for the Insured. These tools may be supplied directly by the employee or to the employee through a third party.
9. The rental value of an apartment or house provided to an employee based on comparable accommodations.
10. The value of lodging, other than an apartment or house received by an employee as part of their pay to the extent shown in the Insured's records.
11. The value of meals received by employees as part of their pay to the extent shown in the Insured's records.
12. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.
13. Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125) that are made through employee-authorized salary reduction from the employee's gross pay.
14. Davis-Bacon wages or wages from a similar prevailing wage law.
15. Annuity plans.
16. Expense reimbursements to employees to the extent that an Employer's records do not confirm that the expense was incurred as a valid business expense. Exception: When it can be verified that the employee was away from home overnight on the business of the Employer, but the Employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 per day, is permitted.
17. Payment for filming of commercials excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in print or is broadcast.

B. Payroll excludes:

1. Tips or other gratuities received by employees
2. Payments by an Employer to group insurance or group pension plans for employees, other than those included by manual rules above.

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3. Payments by an Employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).
4. The value of special rewards for individual invention or discovery.
5. Dismissal or severance payments except for time worked or vacation accrued.
6. Payments for active military duty.
7. Employee discounts on goods purchased from the employee's Employer.
8. Expense reimbursements to employees to the extent that an Employer's records confirm that the expense was incurred as a valid business expense. Reimbursed expenses and flat expense allowances (except for hand or hand-held power tools) paid to employees may be excluded from the audit only if all three of the following conditions are met:
  - a. The expenses are incurred for the business of the Employer.
  - b. The amount of each employee's expense payments or allowances is shown separately in the records of the Employer.
  - c. The amount of each employee's expense reimbursement is a fair estimate of the actual expenses incurred by the employee in the conduct of his/her work.

Note: When it can be verified that the employee was away from home overnight on the business of the Employer, but the Employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 per day, is permitted.
9. Supper money for late work.
10. Work uniform allowances.
11. Sick pay paid to an employee by a third party such as an Insured's group insurance carrier that is paying disability income benefits to a disabled employee.
12. Employer-provided perks such as:
  - a. Use of company-provided automobiles
  - b. Airplane flights
  - c. Incentive vacations (e.g., contest winners)
  - d. Discounts on property or services
  - e. Club memberships

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- f. Tickets to entertainment events

## 13. Employer contributions to employee benefit plans such as:

- a. Employee savings plans
- b. Retirement plans
- c. Cafeteria plans (IRC 125)

These include contributions made by the Employer, at the Employer's expense, which are determined by the amount contributed by the employee.

## 3. Overtime

### A. Overtime means hours worked for which there is an increase in the rate of pay:

- 1. For work in any day or in any week in excess of the number of hours normally worked.
- 2. For hours worked in excess of 8 hours in any day or 40 hours in any week
- 3. For work on Saturdays, Sundays, or holidays
- 4. In the case of a guaranteed wage agreement, overtime means only those hours worked in excess of the number specified in that agreement.

Note: Forms of incentive pay, commonly referred to as "shift differential" or "premium pay" associated with working other than normal day shift hours during the standard work week are not considered overtime.

### B. Exclusion of Overtime Payroll

#### 1. Payroll Records

The extra pay for overtime is excluded from payroll on which premium is calculated as indicated below, provided that the Insured's books and records are maintained to show overtime pay separately by employee and in summary by classification. Extra pay is the difference between the regular pay rate and the overtime pay rate multiplied by the number of overtime hours worked.

#### 2. Calculating Overtime

- a. If the records show extra pay earned for overtime separately then the entire extra pay is excluded.
- b. If the records show total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime then 1/3 of this total pay must be excluded.
- c. If the records show double time is paid for overtime and the total pay for such overtime is recorded separately then 1/2 of the total pay for double

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time must be excluded.

Note: The only portion of the overtime payroll that is deductible is the amount in excess of wages that would have been applied if the overtime were compensated at the regular rate of pay.

### **Exception**

Exclusion of overtime pay does not apply to payroll assigned to any classification under the caption *Stevedoring*.

### 3. Hours Worked

- a. Extra pay for overtime is deducted only if the employee receives extra pay for:
  1. Working more than 8 hours per day or 40 hours per week, or
  2. Hours worked in a day or week greater than the number of hours usual to the Insured or industry. This may permit an overtime deduction if an employee works less than 8 hours per day or less than 40 hours per week (e.g., for a 32-hour workweek, any hours over 32 hours is overtime).
- b. No deduction for overtime is permitted for wages earned by employees who work in excess of 40 hours per week but do not receive an increase in their normal hourly rate of pay for the overtime work.

### 4. Guaranteed Wages

In some industries, guaranteed wage contracts or agreements exist under which the employee receives a guaranteed wage for work up to a specified number of hours per week, such as 50. The guaranteed wage, for example, is calculated on the basis of 40 hours at straight time and 10 hours at 1.5 times the basic hourly wage. Under guaranteed wage plans of this general type, the full guaranteed wage is included in the premium calculation for any hours that an employee works up to the maximum number of hours covered by the guaranteed wage, regardless of how this wage is calculated. The overtime rule is applicable in the case of guaranteed wages only to earnings in excess of the guaranteed wages.

### 5. Premium Pay

This rule applies with respect to higher rates of pay that are paid at the traditional overtime hourly rate of pay for work on Saturdays, Sundays, or holidays, even though the employee has not worked the normal workweek, because work on these days has been regarded traditionally as overtime and not as part of the normal workweek.

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- a. Premium Pay is extra compensation paid to employees who work nights, holidays, weekends, other special hours or work under unusual conditions. This premium pay is not considered overtime pay when it is the normal pay for working these shifts.
- b. Consider an employee that works a 40-hour night shift at a rate of \$15 per hour. The day shift rate of pay for the same work is \$10 per hour. No overtime deduction is made from the \$15 per hour since this is considered premium pay. If the night shift employee works more than the normal number of hours and receives pay in excess of the normal \$15 per hour, that excess is considered overtime.

## 4. Payroll Limitations

- A. Payroll limitation applies after any deductions of extra pay for overtime. Partial weeks are considered full weeks when determining average weekly pay. Total time of any worker employed during the policy period is the sum of the portions of all verbal or written agreements with that employee that fall within the policy period.
- B. Specific limitations may apply to payroll for Executive Officers and to classifications with notes that indicate payroll limitations. Payroll used to calculate premium must exclude that part of the employee's average weekly pay that exceeds the applicable weekly limitation, provided:
  - 1. Books and records are maintained to show separately that the total payroll earned by each employee is in excess of the weekly payroll limitation for the total time employed during the policy period and
  - 2. Separate records are maintained, in summary, by classification for such employees
- C. Bonuses: For purposes of applying the payroll limitation rule, bonuses paid during the policy term must be earned during the policy term and prorated for the period of employment during the policy term.

## 5. Executive Officers, LLC Members, Partners, and Sole Proprietors

### A. Executive Officers

Executive Officers of a corporation or unincorporated association are the president, vice president, secretary, treasurer, or any other officer appointed in accordance with the charter or bylaws of such entity. Executive Officers are employees under a WARP policy and subject to premium charges for work deemed subject to the USL&H Act.

#### 1. Classification Assignment

Executive Officers must be assigned to the classification that applies to the principal operations in which the executive officer is engaged.

Exceptions:

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Payroll of an executive officer who regularly and frequently engages in duties that are ordinarily performed by a superintendent, foreperson, or worker must be assigned to the governing classification.

Payroll of an executive officer who performs construction, erection or stevedoring operations must be divided and assigned to the classifications that apply to the different operations of the executive officer, subject to interchange of labor rules.

## 2. Premium Determination

Premium for executive officers is based on their total payroll, subject to the following limitations and the requirements of Payroll Limitation Rules:

- a. The weekly minimum individual payroll for an executive officer applies as shown in Part Four – Miscellaneous Values.
- b. The weekly maximum individual payroll for an executive officer applies as shown in Part Four – Miscellaneous Values.
- c. The executive officer minimum and maximum payroll limitations apply to the average weekly payroll of each executive officer for the number of weeks the officer was involved in or visits operations covered under this policy. Partial weeks are considered full weeks when determining average weekly pay and applying minimums and maximums.
- d. Payroll is subject to minimum and maximum limitations and included when:
  1. The executive officer visits the premises of the risk, even if the officer is an employee or officer of another risk in which he/she takes an active interest.
  2. The officer receives no salary; however, a regular salary is credited to him or her on the books. In this instance the amount credited must be included in payroll.
  3. The officer receives no salary, either drawn or credited, or the audit records fail to disclose the salary. In this instance the amount to be included in the payroll is the applicable minimum.
- e. Payroll is excluded when:
  1. The executive officer is elected for the value of his/her name or because of stock holdings, has no duties and does not visit the premises, except perhaps to attend directors' meetings.
  2. The executive officer ceases to perform any duties and does not visit the premises, except perhaps to attend directors' meetings.

## B. Members of Limited Liability Companies (LLC)

### 1. Treatment

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For purposes of manual rules, any references to LLC members or managers will collectively be referred to as members of limited liability companies. Members are employees under a WARP policy and subject to premium charges.

2. Premium Determination

Members are treated as executive officers under these rules and all such executive officer rules apply to members of an LLC.

C. Partners or Sole Proprietors

Partners or Sole Proprietors are not considered employees and, therefore, not covered under a WARP policy and not subject to premium charges.

6. Wages for Time Not Worked

A. Idle Time

Some Employers pay employees for time not worked. All wages paid to the employee for such idle time must be included in payroll. These wages are assigned to the classification for work normally performed by the employee under the following circumstances:

1. Suspension or delay of work due to weather conditions.
2. Delays while waiting for materials.
3. Delays while waiting for another party to complete certain work.
4. Delays arising from breakdown in equipment.
5. "Stand-by" time where employees such as operators of cranes, hoists or other equipment are on the job but their active services are not required continuously.
6. Special union requirements or agreements between Employer and employees calling for pay for idle time under specific circumstances.
7. Inability of non-striking employees to perform normal duties due to other employees who are on strike. If non-striking employees perform absolutely no work for their Employer and are not present at their Employer's premises or job sites during a strike period, their payroll must be assigned to Code 8810—Clerical Office Employees, provided adequate records are maintained by the Employer.
8. All other causes of a similar nature.

B. Wages Paid to Key Employees

Wages paid to key employees of construction, erection or stevedoring risks, such as superintendents, forepersons or engineers, must be assigned to the classification applicable to the work that each one actually performs during any period where no jobs are in progress.

Exception: If such work consists exclusively of drafting or other office work, or if such employee is completely idle, the wages must be assigned to Code 8810. However, Code 8810 is not available for office time of a project manager, construction executive, construction manager, or construction superintendent who qualifies for Code 5606. It is

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normally expected that such an employee will spend a considerable portion of time engaged in office work.

## 7. Interchange of Labor

A. Some employees may perform duties directly related to more than one properly assigned classification. Their payroll may be divided among the properly assigned classifications provided that:

1. The classifications can be properly assigned to the Employer according to the rules of the classification system and the Employer maintains proper payroll records, which show the actual payroll by classification for that individual employee.
  - a. Records must reflect actual time spent working within each job classification and an average hourly wage comparable to the wage rates for such employees within the Employer's industry.
  - b. Estimated or percentage allocation of payroll is not permitted.

Note: If payroll records do not show the actual payroll applicable to each classification, the entire payroll of the individual employee must be assigned to the highest rated classification that represents any part of his or her work.

2. Payroll for holiday, vacation, sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the classification code with the greatest amount of payroll applicable to the individual employee.

If none of the classification codes applicable to the employee has the greatest amount of payroll, the payroll for holiday, vacation, sick pay, overtime and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the highest rated classification code applicable to the employee.

3. Some employees qualify for division of payroll between two or more basic classification codes and also engage in operations that are classified by Codes 8810 or 8742. The payroll for these standard exception operations must be allocated to the basic classification code with the largest amount of payroll applicable to that employee.

B. Exceptions to Interchange of Labor Rule:

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1. Code 8810—Clerical Office Employees and Code 8742—Salespersons or Collectors—Outside are not available for division of payroll under this rule.
2. The distribution of payroll for the employee may result in no single basic classification code that represents the largest amount of that employee's payroll. In such cases, the payroll included in the standard exception codes (8810 and 8742) will be assigned to the highest rated classification code that represents any part of the employee's work.
3. This rule does not apply to miscellaneous employees.

8. Subcontractors

- A. A contractor is responsible for the payment of USL&H benefits to employees of its uninsured subcontractors; the contractor must furnish satisfactory evidence that the subcontractor has insurance for USL&H in force covering the work performed for the contractor. The following documents may be used to provide satisfactory evidence:
  1. Certificate of insurance for the subcontractor evidencing USL&H coverage.
  2. Certificate evidencing the subcontractor is a qualified USL&H Self-Insured.
  3. Copy of the subcontractor's workers compensation policy endorsed to provide coverage for USL&H.
  
- B. For each subcontractor not providing such evidence of USL&H coverage, additional premium must be charged on the contractor's policy for the uninsured subcontractor's employees according to Subcontractor Table 1 and Table 2.

<b>Subcontractor Table 1</b>	
<i><b>If the contractor has not furnished evidence of USL&amp;H coverage and...</b></i>	<i><b>Then to calculate the additional premium . . .</b></i>
Furnishes complete payroll records of the subcontractor's employees . . .	Use the payroll detailed in the records
Does not furnish complete payroll records and the subcontract price does not reflect a definite payroll amount . . .	Use the full subcontract price of the work performed during the policy period by the subcontractor as payroll
Does not furnish complete payroll records, but documentation of a specific job discloses that a definite amount of the subcontract price represents payroll . . .	Use the payroll amount indicated by the documentation as the payroll, subject to the minimums in Subcontractor Table 2 below

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<b>Subcontractor Table 2</b>	
<i><b>If the job involves:</b></i>	<i><b>Then the minimum to calculate additional premium is:</b></i>
Mobile equipment with operators (such as but not limited to earth movers, graders, bulldozers, or log skidders)	Not less than 33 1/3% of the subcontract price
Labor and material	Not less than 50% of the subcontract price
Labor only	Not less than 90% of the subcontract price
Piecework	Not less than 100% of the subcontract price (The entire amount paid to pieceworkers must be the payroll.)

- C. Vehicles with drivers, chauffeurs, messengers, or helpers entitled to benefits under the USL&H Act may be engaged under verbal or written contract. The amount used to calculate the premium is determined in the manner shown in Subcontractor Table 3:

<b>Subcontractor Table 3</b>	
<i><b>If the owner of such vehicles has not furnished evidence of USL&amp;H coverage and . . .</b></i>	<i><b>Then . . .</b></i>
Payroll can be obtained	The total payroll of these drivers must be included as payroll of the Insured Employer that contracted for the vehicles.
Payroll cannot be obtained or the driver is an owner-operator and does not receive a set payroll	1/3 of the total contract price for the vehicles must be included as payroll of the drivers.
The contract price does not include the cost of fuel, maintenance, or other services provided to the owner or the owner-operator of a vehicle under contract	The value of these goods and services must be added to the contract price before determining the 1/3 amount.

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- D. In all cases, the payroll determined for subcontractors is assigned to the classification that would have applied if the individuals had been employees of the contractor.
- E. In all cases, if an experience modification has been established for the contractor, this experience modification must be applied to the premium developed for the uninsured subcontractor.