Montana State Fund
Rating, Underwriting and Dividend Rules

1. GENERAL

As provided in MCA 39-71-2375, administrative rules adopted by the State Fund board of directors prior to July 1, 2016, apply to new and renewal policies issued by State Fund that are effective prior to July 1, 2016. The following Rules apply to new and renewal policies issued by Montana State Fund that are effective on and after July 1, 2016, except that Rules 13 and 14 apply to all policies, issued before and after July 1, 2016, for dividend declarations after July 1, 2016. As used in these Rules, “policy year” means each period of July 1 – June 30 for which the board of directors adopts rates for policies incepting during this time period. These Rules must at all times be applied in conformance with any rates and rating plan filed with and approved by the Montana State Auditor, Commissioner of Securities and Insurance.

2. MULTIPLE RATING TIERS

(1) State Fund, upon approval of the board, must establish multiple rating tiers, to be applied to all classification rates with assignment of individual policies to a tier based on factors as approved by the board. Factors used by the board may include but are not limited to:

(a) loss experience;
(b) premium size;
(c) the policyholder’s experience modification factor;
(d) length of coverage with State Fund;
(e) number of losses;
(f) expense;
(g) management;
(h) loss experience of a premium segment;
(i) location of the insured; and
(j) type of industry.

(2) An analysis shall be conducted upon policy renewal, or upon enrollment for new policies, and will result in placement of insureds into a rating tier for the policy period for policies with new or renewal effective dates in the policy year (July 1 through June 30).

(3) Notwithstanding placement in a rating tier under (1), a policyholder may be placed in a higher or lower rated tier based on underwriting criteria including, but not limited to:

(a) industry type;
(b) the prior insolvency of the insured or any of the insured's principals;
(c) determination that the insured is an increased or decreased risk pursuant to a State Fund evaluation;
(d) the work is primarily performed at locations other than the insured's principal job site or place of business and the insured does not have control over the job site or place of business;
(e) the insured has a history of preventable losses;
(f) an employer's history and experience with any other insurer; or
(g) new business without workers' compensation experience history.

3. CALCULATION OF MANUAL RATES

(1) The board of directors must approve one or more loss-cost multipliers that, when applied to loss-costs as filed by the advisory or rating organization as provided for in (2) or loss-costs as provided for in (3), results in the State Fund's manual rates effective for new and renewal policies as of July 1 of each year or other effective date as determined by the board. In determining the loss-cost multipliers, the board shall take into consideration the following factors such as, but not limited to:

(a) the aggregate adequacy of advisory organization loss-costs;
(b) State Fund loss adjustment expense;
(c) production and acquisition expense;
(d) investment yield on underwriting cash flow;
(e) net credits or debits attributable to underwriting programs;
(f) the desired target level of contribution to surplus; and
(g) the risk characteristics of policyholders assigned to each applicable rate tier as provided for in Rule 2

(2) The advisory or rating organization loss-costs used by the board shall be the latest filed or prior filed loss-costs, as determined by the board, at the time the board determines the loss-cost multiplier.

(3) Using processes, procedures, formulas, and factors certified by the consulting actuary as being consistent with generally accepted actuarial principles, State Fund staff shall conduct an analysis of the adequacy of the advisory or rating organization's filed loss-costs, by classification. State Fund staff shall present the conclusions of this analysis to the board along with recommendations, if any, to establish loss-costs for classifications which differ from the advisory or rating organization loss-costs as provided for in (2). The determination whether to establish loss-costs for a classification which differ from the advisory or rating organization loss-costs shall consider factors such as, but not limited to:

(a) indications based on State Fund loss experience;
(b) indications based on other rating sources;
(c) the ability of State Fund to appropriately underwrite affected policies;
(d) the amount of payroll written or potentially written by State Fund in the affected classification;
(e) volatility of rates; and
(h) other relevant underwriting and actuarial judgments.

4. OVERALL RATE LEVEL

(1) In order to determine the aggregate premium to be charged to new and renewal policies for the policy year that begins on the next July 1, the State Fund actuary shall evaluate the adequacy of the projected overall rate level for the rate year of State Fund. The projected overall rate level must be sufficient to cover:

(a) the value of claims, as determined by actuarial analysis, expected to be incurred as a direct result of covered accidents during the following policy year of State Fund;

(b) operational and administrative expenses, claims adjustment expense related to covered claims, and other expenses required to operate State Fund for the policy year; and

(c) an amount sufficient to maintain appropriate contingency reserves and policyholder surplus.

(2) In determining the projected revenue requirements for the following State Fund policy year, the State Fund actuary shall consider:

(a) the present financial condition of State Fund;

(b) trends in the number and cost of accidents;

(c) investment yield on underwriting cash flow;

(d) recent court decisions that may affect the liability of State Fund;

(e) legislative changes in the statutory benefit scheme;

(f) factors relating to maintenance of the policy base of State Fund;

(g) the anticipated changes in covered payroll during the policy year for which the premium rates will be in effect; and

(h) other factors considered relevant in recommending an accurate projection of an overall rate level adjustment.

5. MINIMUM LOSS BASED PREMIUM

(1) State Fund, subject to the approval of the State Fund board of directors, may establish each policy year and charge a minimum loss based premium to a policy with an effective date between July 1 and June 30 inclusive, in order to cover the risk of loss for coverage of small employers.

(2) The minimum loss based premium may be derived by establishing a minimum yearly payroll. The minimum loss based premium shall be determined by multiplying the minimum yearly payroll by the rate of the governing classification of the policy. The board may adopt an amount that the minimum loss based premium may not be below, and may adopt an amount that the minimum loss based premium may not exceed.

(3) Minimum loss based premium may be established as a flat dollar amount.

6. CONSTRUCTION INDUSTRY PREMIUM CREDIT PROGRAM

(1) State Fund shall each policy year offer a program which provides a premium credit to insureds in the construction industry who pay their workers' wages equal to or in excess of 1.168 times the state's average weekly wage.

(2) To become eligible for the program, the insured must meet all of the following criteria:

(a) maintain accurate individual employee records of the total hours worked and payroll by class code and make those records available for verification and audit;

(i) If a payroll audit period includes all or a portion of a policy period to which a construction credit applies, the survey period may also be audited to determine the proper credit for the payroll audit period even though the survey period may be more than three years prior.

(ii) If the verification or audit reveals hourly records are not available, the insured is disqualified from the program.

(iii) If the insured fails to make the records available within a reasonable period of time after contact, the insured is disqualified from the program.

(iv) If the application of the insured was originally disapproved based on criteria (2)(c) or (2)(d) but otherwise qualified and a subsequent verification or audit results in adjustments which determine the insured actually met those criteria, a credit will be applied retroactively.

(b) apply for the premium credit program and submit the completed and signed application form to State Fund no later than seven calendar days after the stated due date on the application form;

(c) have paid an average hourly wage equal to or in excess of 1.168 times the state's average weekly wage as published by the Department of Labor and Industry for each state of Montana fiscal year; and

(d) have at least 50% of the manual premium during the survey period attributable to one or more of the eligible construction class codes.

(3) The construction codes eligible for the construction industry premium credit program are those listed in the NCCI Basic Manual, Montana Construction Premium Credit Program, Applicable Contracting Classifications, and filed with the Montana Commissioner of Securities and Insurance.

(4) The credit percentages will be those filed with the Commissioner of Insurance as approved by the board.

(5) Procedures and processes for the premium credit program are:

(a) State Fund will provide an application form to insureds who are assigned one or more of the construction codes listed in (3);

(b) The insured must sign the application, report total payroll and hours worked by class code (both construction and non-construction) for the survey period and return the form by the stated due date. Following are the only allowed exceptions to reporting total payroll and/or actual hours worked:

(i) The premium portion of overtime wages must be excluded.

(ii) In the absence of specific hourly records for salaried employees, the insured must report total payroll and an assumed 40 hours per week.

(iii) In the absence of specific hourly records for covered corporate officers, or managers of a limited liability company, the insured must report total payroll, subject to the officer minimum and maximum payroll reporting requirements in effect for the survey period, and an assumed 40 hours per week.

(iv) If specific hourly records are maintained for covered corporate officers, or managers of a limited liability company the insured must report those hours and total payroll, subject to the officer minimum and maximum payroll reporting requirements in effect for the survey period.

(v) Covered owners must report an assumed 40 hours per week and payroll (wages) equal to their elected coverage level in effect for the survey period.

(c) State Fund will determine whether the insured meets the criteria, approve or disapprove the application and notify the insured of approval or disapproval;

(i) If approved, the notice will include the premium credit factor.

(ii) If disapproved the notice will specify the reason(s) for disapproval.

(d) State Fund will calculate the premium credit factor of each insured based on the information reported for the survey period. State Fund reserves the right to verify or audit the records of the insured before and/or after the premium credit factor is calculated to verify the information submitted and to adjust the premium credit factor accordingly if necessary;

(e) The premium credit factor will be calculated as follows using the information for the survey period provided by the insured or as adjusted by verification or audit:

(i) The average hourly wage will be calculated for each of the construction and non-construction class codes by dividing payroll by the number of hours worked.

(ii) The manual premium will be calculated for each construction and non-construction class code by multiplying the payroll, divided by 100, times the manual class code rate in effect for the insured during the survey period.

(iii) The manual premium for each construction class code will be multiplied by the appropriate credit percentage to determine the construction credit dollar amount and these amounts will be totaled for the survey period.

(iv) The total of the construction credit dollar amounts will be divided by total manual premium and the result will be subtracted from 1.0000 to arrive at the premium credit factor.

(6) The following definitions apply to the construction industry premium credit program:

(a) "Policy period" means the period beginning on the effective date of the policy and ending on the expiration date of the policy.

(b) "Premium credit factor" means the factor as calculated in (5)(e). This factor will be applied to the insured's total standard premium for that policy period.

(c) "Survey period" means the third calendar quarter, July 1 through September 30, preceding the program year to which the premium credit factor will apply. Program year as used in this Rule means July 1 through June 30. If the insured did not engage in operations for the complete usual survey period (July 1 through September 30), then the last complete quarter prior to the policy effective date shall be used or if there was no complete quarter of operations prior to the policy effective date, the first complete quarter after the policy effective date shall be used.

7. EMPLOYER’S LIABILITY - LIMITS AND RATES

State Fund may, upon approval of the board, provide employer’s liability insurance as part of the workers' compensation policy for employers insured by State Fund. The board shall approve the terms and conditions of employer’s liability coverage including, but not limited to, the limits of liability.

8. MEDICAL DEDUCTIBLE

(1) State Fund must offer a medical deductible plan.

(2) To qualify for the plan, an insured must:

(a) file an application provided by State Fund. The application must be received by State Fund within 30 days of the effective date of the policy and must be approved by State Fund;

(b) have estimated annual premium for the policy period that equals or exceeds the chosen deductible amount.

9. VOLUME DISCOUNT

(1) State Fund may establish each policy year a percentage reduction of premium for policies with effective dates between each July 1 and June 30 inclusive, based on premium volume.

(2) State Fund may provide a group volume discount to a group as provided by 39-71-433, MCA.

10. OPTIONAL DEDUCTIBLE PLANS

(1) State Fund may offer an insured an optional deductible plan for benefits payable under the Workers' Compensation Act.

(2) The board shall establish deductible plans for each policy year. The board shall determine the factors, multipliers, ratios or other formula components for the plan.

(3) Except as provided in (4), to qualify for a plan an insured must meet the following conditions:

(a) be selected by State Fund pursuant to criteria established by the board, and be provided a written proposal for State Fund optional deductible plan;

(b) the insured shall have an annual estimated earned premium that equals or exceeds the deductible level chosen or such annual estimated earned premium as established by the board;

(c) file an endorsement form provided by State Fund; and

(d) the endorsement is approved by State Fund for the plan chosen by the employer.

(4) The insured may be disqualified or terminated at any time from participation in a plan because of a poor payment history with State Fund; as a result of a credit investigation, or review of relevant financial information which demonstrates the employer is not sufficiently financially stable to be responsible for the payment of the reasonably anticipated deductible amounts. As a condition of approval or continuation in a plan, State Fund may require security including, but not limited to, surety bond, cash deposit or guarantee sufficient to meet the reasonably anticipated obligations of the insured for the policy period.

(5) The plan shall provide for penalty for early termination of the plan by an insured.

11. RETROSPECTIVE RATING AND GROUP RETENTION PLANS

(1) State Fund may offer an insured, or a group, a retrospective rating plan for coverage under the Workers' Compensation Act.

(2) The board shall establish retrospective rating plans for each policy year utilizing the methods and formulas published by the National Council on Compensation Insurance in the Retrospective Rating Manual. The board shall determine the factors, multipliers, ratios, or other formula components for the plan. The board may establish a group retrospective rating plan utilizing the methods, formulas, factors, multipliers, ratios, or other formula components as determined by the board.

(3) To qualify for participation in a plan, the insured or group shall:

(a) be selected by State Fund pursuant to criteria established by the board, and be provided a written proposal for a State Fund retrospective rating plan;

(b) execute an agreement with State Fund; and

(c) have an annual estimated insured or group earned premium that equals or exceeds an amount determined by the board.

(4) The insured, group, or group member may be disqualified from participation in a plan because of a poor payment history with State Fund, as a result of a credit investigation or review of relevant financial information which demonstrates the employer, group, or group member is not sufficiently financially stable to be responsible for the payment of any retrospective rating adjustment. As

a condition of approval State Fund may require security including, but not limited to, surety bond, cash deposit or guarantee sufficient to meet the reasonably anticipated obligations of the employer for the policy period.

(5) The plan shall provide a penalty for early termination of the plan by an insured. The plan may provide a penalty for early termination of the plan by a group.

12. EXPENSE CONSTANT

(1) State Fund may assess an expense constant on all new and renewal policies. The amount of the charge shall be determined annually by the board for the policy year, and may be in addition to any other charge, premium or loss based premium.

(2) The expense constant is included in the total minimum premium charged if the expense constant plus premium is less than the total minimum premium established by the board for the policy year.

(3) The expense constant includes, but is not limited to, expense components for issuing, maintaining and servicing policies, which are common to all policies regardless of premium size.

(4) State Fund may cancel an insured’s policy for failure to pay an expense constant.

13. DIVIDEND DEFINITIONS

The following definitions apply to Rule 14:

(1) "Dividend factors" means the percentage multiplied times premium to arrive at the dividend amount payable to an eligible policyholder.

(2) "Dividend year" means the period of time between July 1 and the succeeding June 30.

(3) "Incurred losses" means:

(a) losses as reflected on the first report of the unit statistical reports including any corrections to the first report as provided to the National Council on Compensation Insurance (NCCI) for the dividend year; or

(b) incurred losses for the dividend year on a date, or on various dates based on policy period such that eligible policyholder losses are captured at equivalent maturities, as selected by the State Fund board of directors.

(4) "Individual loss sensitive dividend" means dividends authorized pursuant to 39-71-2323, MCA, declared by the board as an amount not to exceed the approved dividend amount, and distributed based upon a table of dividend factors.

(5) "Insurance charge" means an actuarially determined loss component associated with the probability of exceeding an expected range of loss.

(6) "Loss ratios" means incurred losses divided by premium for the dividend year.

(7) "Premium" means payroll times the manual rate for each classification code, times premium modifiers, minus volume discount for the dividend year and any premium adjustment pursuant to a rating plan. The premium utilized for dividend calculation purposes shall be the premium on a date selected by State Fund board of directors and the premium utilized is not subject to change thereafter.

(8) "Table of dividend factors" means a dividend distribution table created for each dividend year pursuant to Rule 14.

<u>14. INDIVIDUAL LOSS SENSITIVE DIVIDEND DISTRIBUTION PLAN</u>

(1) Upon declaration of a dividend by the State Fund board of directors (board), the following factors and procedures shall be utilized to determine the entitlement of a State Fund policyholder to an individual loss sensitive dividend. The dividend shall be declared as an amount not to exceed the approved dividend amount, to aid distribution of the declared dividend among policyholders through the table of dividend factors.

(2) Distribution of dividends to individual policyholders shall be based on a table of dividend factors as approved by the board, subject to the certification by the State Fund independent consulting actuary pursuant to (4). The table of dividend factors shall be constructed with one axis based on increments of policyholder premium size in the dividend year and the other axis based on increments of policyholder loss ratios from the dividend year.

(3) Dividend factors shall be based on an actuarial determination of policyholders' proportionate contribution to the operating results of State Fund during the dividend year. The proportionate contribution of the policyholder shall be determined by taking into consideration factors such as, but not limited to, the following: incurred losses, loss development, credibility of incurred loss ratios, provision for excess losses, loss adjustment expenses, other expenses including differences in expense levels by premium segment, rate adequacy by premium segment, actuarially determined insurance charges, and future investment income on premiums paid.

(4) The independent actuary shall certify that the approved table of dividend factors, to include the increments of policyholder premium size and loss ratios, is consistent with (3) and generally accepted actuarial principles.

(5) To be eligible for a dividend a policyholder must have six continuous months of coverage with the State Fund in the policy period that is new or renewed within the dividend year.

(6) Individual retrospectively rated policies that have not reached a final premium determination as of the dividend valuation date and optional deductible policies are not eligible for a dividend declared by the board under this rule.

(7) The board may set a minimum amount below which a dividend shall not be payable to an individual policyholder.

(8) A dividend will be issued as a warrant to a policyholder, unless (8)(a) through (8)(c) exist. The dividend will be applied to the account, unless an exception is made by the board of directors for a warrant to be issued, if the following situations exist:

(a) a current policy has a past-due premium or other debt pending;

(b) a canceled policy with an existing obligation owed the State Fund, including a past-due premium or an outstanding payroll report; or

(c) a current policy when the dividend amount is above the minimum amount established pursuant to (7) but below an amount as established by the board.

(9) If a dispute under the policy arising from the dividend year exists and remains unresolved at the time the dividend is declared, the dividend amount will be withheld and not applied to the account or a warrant issued until such time as outstanding issues with State Fund are resolved.