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COMMISSIONER



STATE OF DELAWARE
DEPARTMENT OF INSURANCE

DOMESTIC/FOREIGN INSURERS BULLETIN NO. 64

TO: **ALL INSURANCE COMPANIES DOING BUSINESS IN DELAWARE**

RE: **DELAWARE WORKERS' COMPENSATION WORKPLACE SAFETY PROGRAM**

DATED: July 15, 2013

REVISED: July 16, 2026 and November 2, 2026

The Delaware Department of Insurance ("Department") is revising and reissuing this Bulletin to remind carriers doing business in Delaware of their obligations under 19 *Del. C*. Ch. 23 and 18 Del. Admin. Code 802, and to incorporate updates enacted through Senate Bill 248 of the 153rd General Assembly ("SB 248"). SB 248 amends the Workplace Safety Program ("WPS"), revises the credit formula used to determine workers' compensation premium credits, and enables eligible employers to access up to 12% in premium savings, effective for credit determinations communicated on or after December 1, 2026.

To support effective administration of the WPS, the Department requests that carriers continue to participate in an annual WPS survey, as described in this Bulletin.

This reissuance is also prompted by instances in which carriers have not ensured that their inspection procedures have been recertified on a biannual basis as required under 19 *Del. C.* § 2379. The Bulletin reinforces statutory obligations and promotes continued compliance to ensure that all carrier-established inspection procedures remain current and properly certified.

BACKGROUND

Legislation enacted in 2013 strengthened Delaware's workers' compensation system and implemented key changes affecting eligibility for WPS premium credits, including:

- Requiring more rigorous inquiries into past workplace injuries before awarding a WPS premium credit
- Allowing the option of substituting carrier-performed safety inspections that are at least as rigorous as those performed by the Department
- Requiring employers to comply with their "back to work" responsibilities for injured employees before becoming eligible for the WPS premium credit

Senate Bill 306 ("SB 306"), enacted on July 17, 2024, adjusted WPS parameters and resulted in the Delaware Compensation Rating Bureau filing a new Experience Rating Plan. This change unintentionally reduced allowable premium discounts for certain employers, which was not the legislation's intent. Nevertheless, most employers with lower-than-average claim costs

continue to benefit from reductions in their experience modification factors, and, taken together, the WPS credit and experience modification savings have generally maintained premium relief for employers with favorable loss histories.

To address the unintended effects of SB 306, the General Assembly enacted SB 248 on June 10, 2026. SB 248 further amends 19 *Del. C.* § 2379 by revising the statutory WPS credit formula from:

20% x (1-C)
to
40% x (1-C)

Where **C** is the employer's credibility factor under the Delaware Experience Rating Plan. SB 248 ensures employers can again access the full premium savings the General Assembly intended, with a maximum credit of 12%.

SB 248 Implementation

Effective for WPS credit determinations communicated on or after **December 1, 2026**:

- Use of **40% x (1-C)** formula
- The revised formula applies to workers' compensation policies effective **August 1, 2027, or later**
- The maximum permissible workplace safety premium credit is 12%

The Department intends to amend **18 Del. Admin. Code 802** accordingly.

Compliance Requirements – 18 Del. Admin. Code 802

- **Inspector Qualification Requirements**

  Carriers adopting their own inspection procedures must include a list of their inspectors' qualifications in their **biannual** report to the Department for certification. Training must be appropriate for the types of premises being inspected. At a minimum, inspectors should possess current training such as:
  - OSHA 10 and/or 30-Hour General Industry Training
  - OSHA 10 and/or 30-Hour Construction Training
  - OSHA Hazard Communication Standard Training
  - Any applicable industry-specific training (e.g., OSHA Maritime, Industrial Hygienist, NIOSH Environmental Health Safety, Trenching and Shoring, Confined Space Training)

- **Inspection Requirements**
  In addition to hazard recognition based on a physical walk-through of Delaware premises, the carrier's inspection procedures must include a review of the following employer-provided data:
  - Workplace injury history for the past three (3) years
  - The specific nature and outcome of injuries

- Any fines or findings resulting from the workplace injuries
- A list of possible assignments for injured workers
- Any safety measures taken by the employer

➢ **Recertification of Inspection Procedures**

- Pursuant to 18 Del. Admin. Code 802-7.2.2, carriers that provide their own inspection procedures are required to have those procedures recertified on a biannual basis. As required under 18 Del. Admin. Code 802, these inspection procedures must be **at least as rigorous** as those conducted by the Department.
- The Department interprets "biannually" to mean **two submissions per year**, due **by June 30** and **December 31**

➢ **Additional Requirements for New Applicants**

For employers applying for the WPS for the first time, the Department requires two inspections:

- One announced inspection
- One unannounced inspection

The unannounced inspection must be completed **no later than the expiration date of the policy** to which any workplace safety credit will apply. This confirms the employer's initial workplace safety certification.

➢ **Recommended Inspection Timeline**

The Department recommends that WPS inspections be completed, and corresponding reports submitted **no later than four (4) months before renewal**. This promotes efficient review and helps ensure employers do not experience delays in certification.

➢ **Explanation of Eligibility Determination**

Written report(s) submitted by carriers must explain in detail how the information reviewed did or did not impact the employer's eligibility for a workplace safety credit. This explanation must accompany all carrier-submitted inspection reports used in support of a WPS determination.

ANNUAL WPS SURVEY REQUEST TO CARRIERS

To support effective program administration, the Department requests that all workers' compensation carriers authorized to write in Delaware submit an annual confirmation indicating whether the carrier offers WPS-compliant inspections. Survey responses should be emailed to survey@delaware.gov by **June 1** each year. The email subject line must read **"WPS Survey."**

Each email should include:

- Each workers' compensation carrier in the group
- The carrier's NAIC number
- A **YES/NO** indicating whether the carrier offers WPS-compliant inspections

This survey request is for administrative purposes only and does **not** create any new inspection obligations for carriers.

SUBMISSION INSTRUCTIONS

All inspection procedure certifications and carrier inspection findings must be emailed to safety@delaware.gov.

Questions about this Bulletin should be emailed to safety@delaware.gov.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



Trinidad Navarro
Delaware Insurance Commissioner

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.