Study of Oregon's
Assigned Risk Plan
for
Workers' Compensation Insurance

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Executive Summary

Oregon law requires Oregon employers to provide workers' compensation coverage for the protection of their workers who may be injured on the job. Some employers are unable to obtain workers' compensation insurance coverage in the voluntary market, particularly new and small businesses without experience. To enable these employers to obtain their required coverage, Oregon (like many other states) has established an assigned risk plan. The Department of Consumer and Business Services (DCBS) oversees the assigned risk plan and the National Council on Compensation Insurance (NCCI) administers the plan on behalf of the department.

The department studied the assigned risk plan in 2006 to determine whether it is serving the purposes for which it was established and whether any changes are needed. The key findings of the study are:

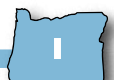
- Assigned risk plan employers typically fall into slightly higher hazard classifications and have less known workers' compensation experience when compared with the voluntary market, and there is a greater proportion of small employers in the assigned risk plan. However, the characteristics of employers in the voluntary market and the assigned risk plan are more similar than they are different.

- Placement in the assigned risk plan occurs for predictable reasons, such as being a new business, having small premium (indication of small business size), nature of business, poor loss experience, and poor payment history. However, a large share of employers in the assigned risk plan reported that they did not know why they were placed in the plan.

- In 2005, about half of employers in the plan had been in the plan 12 months or less, indicating that a large share of employers stay in the plan for a relatively short period of time. A small share of plan employers (13 percent) had been in the plan for more than 36 months. These employers have more known loss and payment experience and fall in higher hazard classifications. These employers likely need more help obtaining voluntary market coverage.

- Approximately 73 percent of employers in the plan have a small premium (less than $2,500). The plan acts as an incubator for many new and small businesses to obtain mandatory workers' compensation insurance while developing enough experience to obtain voluntary market coverage.

- The assigned risk plan has not been collecting sufficient premium from participants to cover the losses and expenses. All insurers writing in the voluntary market subsidize the deficiencies. This currently amounts to about 1.4 percent of the voluntary market premium. Currently, no part of a deficit can be charged to assigned risk plan employers. Although the study could not precisely identify which employers are driving losses in the plan, it is likely that taking some actions relating to plan pricing will help reduce future losses.



Based on the study findings, the assigned risk plan is working well and does not need major changes. However, there is potential for improvement. The department recommends the following actions, which will fine-tune plan operations, help assigned risk plan employers obtain voluntary market coverage, and keep employers from entering the plan.

Recommendations: Improve assigned risk plan operations and pricing.

- Oregon law currently prohibits a surcharge on the assigned risk plan, meaning that only voluntary market employers can be charged for plan losses in a given year. If the assigned risk plan employers could also be charged for some, or all, of plan losses, there would be a diminished need to rely on the voluntary market subsidies to cover plan deficiencies. The department is proposing legislation (HB 2250) to remove the statutory prohibition on the surcharge and allow the director discretion to use this pricing tool.

- The plan's servicing carriers are rewarded for effectively managing assigned risk plan accounts and claims. Carriers with the lowest performance pay a "penalty" to NCCI, which NCCI uses in turn to reward better-performing carriers. Because there are only two servicing carriers in Oregon, the result of this program is a transfer of funds between the two insurers. An alternative benchmark for this incentive should be evaluated.

- If an employer is unable to obtain voluntary market coverage due to past failures to comply with workers' compensation insurance requirements, it is nevertheless eligible for two discounts (credits) on its assigned risk plan premium. These credits are intended to make coverage more affordable for new and small businesses, and should not be used to "reward" businesses that did not previously obtain required coverage. The two credits should be eliminated for noncomplying employers entering the plan for the first time.

Recommendations: Help assigned risk plan employers obtain voluntary market coverage where possible.

- Employers receive notice about assigned risk plan coverage in their plan application and the insurance binder. However, many employers in the plan report that they did not know they had plan coverage. Other ways of notifying employers about the impact of plan placement should be evaluated to encourage employers to actively seek voluntary market coverage.

- Employers that have spent a long time in the plan or have poor loss experience may need assistance with workplace safety efforts. There should be a focused Oregon OSHA and servicing carrier consultation effort for these plan employers. The employers should also be offered Workers' Compensation Division reemployment consultation services to develop a return-to-work program. A targeted effort should help improve workplace safety, over time improving employers' loss experience and making them more attractive to the voluntary market.

- A new loss-sensitive pricing program for the assigned risk plan has been developed to address large employers that may remain in the plan despite the fact they could probably obtain voluntary market coverage. This plan — which takes actual losses into consideration for pricing — took effect Jan. 1, 2007. The impact of this new program should be monitored to determine if it results in larger employers moving out of the assigned risk plan into the voluntary market.

Recommendations: Improve incentives and programs that may keep employers from entering the plan.

- The Voluntary Coverage Assistance Program (VCAP) is a pilot program for employers applying to the assigned risk plan. The program matches employers with voluntary market insurers, preventing them from entering the assigned risk plan. The VCAP is showing early success. If the pilot program continues to be effective, the program should be made permanent.

- Some insurers, such as SAIF Corporation, have established a pricing tier to accommodate high-risk employers that might otherwise be forced into the assigned risk plan. The pricing tier also qualifies some existing assigned risk customers for voluntary market coverage. This pricing model should be monitored to determine whether it continues to be a successful method of encouraging voluntary market coverage.

- The current producer/agent commission structure does not encourage agents to actively seek voluntary market coverage for assigned risk plan employers. Other ways to motivate more active agent participation to help employers move to the voluntary market should be evaluated.

- The incentive provided to insurers to move employers out of the assigned risk plan is structured to have the greatest impact on employers with premiums below $5,000 or above $15,000. This incentive's structure should be studied further to determine how it can be better tailored to meet the needs of employers with premiums between these amounts.

- Voluntary market insurers are generally not allowed to charge rates higher than the assigned risk plan, but higher rates may be approved on a case-by-case basis if the employer agrees. In these cases the voluntary market coverage, even at the higher rate, may be less expensive for the employer than the assigned risk plan because the plan may include additional charges based on loss experience. Insurers should be allowed to file pricing tiers greater than the assigned risk plan for specific groups (primarily larger employers) to help keep employers out of the plan and eliminate the need for individual rate approvals.

Background

Oregon law requires Oregon employers with subject employees to have workers' compensation insurance, either from a private insurance carrier, SAIF Corporation, or through self-insurance. Workers' compensation insurance protects workers by paying for medical treatment and lost wages and protects employers by shielding them from liability lawsuits that might result from work-related injuries or illnesses.

Some employers, however, are unable to obtain workers' compensation insurance coverage in the voluntary market, particularly new and small business with no known experience. That is where the assigned risk plan comes in — it provides insurance for employers that are otherwise unable to obtain coverage.

The assigned risk plan is overseen by the Department of Consumer and Business Services (DCBS). Giving employers an option for workers' compensation insurance helps the department fulfill its mission of protecting consumers and workers while supporting a positive business climate in the state.

The 2005 Legislature discussed the characteristics of employers in the assigned risk plan, the plan structure, and carrier participation in the plan. Although no specific legislation was enacted, DCBS committed to further study these issues and provide a report to the governor and the 2007 Legislative Assembly.

The Oregon Workers' Compensation Insurance Plan, frequently called the assigned risk plan, provides coverage to employers that are otherwise eligible for workers' compensation insurance but cannot obtain it in the voluntary insurance market. An employer can apply for plan coverage if the employer is unable to obtain an offer of workers' compensation insurance from an Oregon workers' compensation insurer.[1] The employer can be denied plan insurance for specific reasons outlined in administrative rules, described in more detail later in this report. Typically, employers that get assigned risk plan coverage are new and small businesses, have unusual or difficult-to-price risks, or have historically poor loss experience, poor payment history, or did not comply with workers' compensation laws. Chart 1 illustrates the size of the assigned risk plan in recent years.

[1] For purposes of this report, the term "insurer" or "insurers" includes all authorized workers' compensation insurers and SAIF Corporation, unless specifically noted otherwise.

Chart 1: Oregon assigned risk plan characteristics

Policy year	Assigned risk plan premium	Share of total market (based on premium)[2]	Number of assigned risk plan policies	Share of total market (based on policies)[3]
2001	$25,453,450	4.9%	8,316	11.6%
2002	$41,441,614	7.4%	10,958	14.8%
2003	$52,037,448	9.5%	12,421	16.8%
2004	$50,654,006	8.5%	12,761	16.8%
2005	$54,302,346	8.2%	13,054	16.0%

Source: National Council on Compensation Insurance (NCCI)

The law requires all workers' compensation insurers to accept their equitable portion of assigned risk plan costs, based on each insurer's share of the workers' compensation insurance market.[4] There are 421 insurers authorized to write workers' compensation insurance in Oregon. In 2005, 172 insurers had Oregon written premium.

In recent years, the cost to administer the plan and pay claim costs exceeded premiums collected from plan employers. These operating losses are spread among all insurers with Oregon workers' compensation written premium. Employers in the voluntary market ultimately pay these costs, since insurers include assigned risk plan operating losses in their premium rate filings with the Oregon Insurance Division. ***See Chart 2.***

Chart 2: Oregon assigned risk plan operating losses by policy year

Policy year	Assigned risk plan operating losses	Losses as percentage of assigned risk plan written premium	Losses as percentage of voluntary market written premium
2001	($1,756,550)	6.2%	0.4%
2002	($6,386,576)	13.4%	1.3%
2003	($2,877,889)	5.2%	0.6%
2004	($7,486,000)	13.4%	1.3%
2005	($8,124,000)	13.9%	1.4%

Source: NCCI, policy year financial results through fourth quarter 2005 (operating losses as of March 26, 2006). Plan operating losses are estimated and recalculated on an annual basis.

[2] Share of total market is based upon written premiums from the insurers' filed financial statements and does not include any estimated self-insurer premium.

[3] See prior footnote

[4] Oregon Revised Statutes (ORS) 656.730

Servicing Carriers

The National Council on Compensation Insurance (NCCI) administers the assigned risk plan for Oregon according to administrative rules.[5] NCCI processes applications for coverage, collects premiums, and randomly assigns employers to specific servicing carriers for coverage. NCCI uses a competitive bidding process to select the servicing carriers for the plan, subject to the approval of the director of the Department of Consumer and Business Services. There are currently two servicing carriers: Liberty Northwest Insurance Company and SAIF Corporation. There have been as many as six servicing carriers and as few as two carriers in the history of the plan. Both SAIF and Liberty Northwest (or Liberty Mutual) have been servicing carriers since the inception of the plan (1980). Servicing carriers currently receive on average 24.78 percent of plan premium for expenses such as claims handling, policy administration, and loss control consultations.

The Oregon plan's current servicing carriers are domestic Oregon insurers. This allows the Workers' Compensation Division and the Insurance Division to have direct oversight of the servicing carriers to ensure proper treatment of Oregon's employers and injured employees. In addition, NCCI as plan administrator monitors day-to-day plan operations and regularly audits servicing carriers to ensure they are complying with the performance standards approved by the director. Both servicing carriers have met or exceeded the audit standards.

NCCI can override the random assignment and consider the employer's prior coverage, special requirements, and premium size to ensure the employer has its coverage requirements met. For example, an employer with multi-state operations may request a servicing carrier that can provide coverage in the other states. Liberty Northwest affiliates are licensed in all states and act as assigned risk plan servicing carriers in 16 other states. SAIF can provide insurance only in Oregon.

Study Methodology

The study team included representatives from the DCBS Insurance Division, Information Management Division, Small Business Ombudsman, and Workers' Compensation Division. The study team used NCCI employer data at year-end 2005 to analyze the characteristics of current plan employers. The team also conducted a statistically valid survey of current plan employers. With the assistance of NCCI, the team surveyed a sample of new plan applicants in early 2006 to conduct a point-in-time analysis of the types of employers applying for plan coverage. The team also interviewed the two servicing carriers and some of the top producer/agents to gain their insights into the operation of the plan. A description of the surveys is in Appendix A.

[5] Oregon Administrative Rules (OAR) 836-043

Employer Initial Placement in the Plan

Insurers in the voluntary market may deny coverage to employers for various reasons. Each insurer evaluates an applicant employer based on the insurer's underwriting standards. Factors may include size of premium, whether the prospective insured is a new or small employer, the nature of the business, claims history, or whether the employer has known payment problems or workers' compensation compliance problems. Once an employer has requested at least one quote and been denied coverage from the voluntary market, it is eligible to apply for assigned risk plan coverage, with some limited exceptions.[6]

The surveys conducted for this study affirmed the commonly cited reasons employers obtain plan coverage. Employers, servicing carriers, and producer/agents consistently cited the reasons of new business, primarily small premium (indication of a small business), nature of business, poor loss experience, and poor payment history.

Other reasons included cancellation of a voluntary market policy related to poor payment history, being a noncomplying employer, the plan is lowest cost option, and ease of placement in the plan.

For employers applying to the plan in early 2006, one of the top reasons cited for requesting plan coverage was the employer did not comply with workers' compensation insurance requirements. This accounted for about 10 percent of the applications to the plan during the one-month period surveyed. Many producers/agents surveyed also said failure to comply with workers' compensation insurance coverage requirements was a common reason for being in the plan. In addition, the NCCI data for employers with 2005 assigned risk plan coverage showed that 4 percent of employers had failed to satisfy terms of their workers' compensation coverage at year-end, such as audit requirements or payment issues.[7]

Servicing carriers and producers/agents both pointed out that there are often multiple reasons employers must obtain plan coverage, and that these reasons are often related. For example, cancellation in the voluntary market could be due to poor loss experience, nature of the business, or payment issues.

The survey of employers and new applicants showed that many employers with plan coverage do not understand why they initially were placed in the assigned risk plan. When asked why the employer was initially placed in the assigned risk plan, the most frequent response was "do not know" (27 percent). Eight percent of new applicants provided a "do not know" answer to a similar question. A number of employers said they were unaware they are in the assigned risk plan, with responses such as "I am not in the plan, I have coverage with Liberty Northwest." Some of this misunderstanding can be explained by the relatively high use of agents to obtain insurance coverage. About 70 percent of current assigned risk plan employers reported using an agent, as did 87 percent of applicants applying for plan coverage in early 2006. Although plan applicants are provided some notice about plan coverage on the application form and in the insurance binder, the misunderstanding may also be explained in part by the fact that the employer has a policy from a specific insurer and not from the "assigned risk plan."

[6] ORS 656.730 and OAR 836-043-0024. An employer is not eligible to apply for plan coverage if it is in bankruptcy; has failed to meet reasonable health and safety requirements; or has outstanding workers' compensation insurance premium obligations.

[7] Insurers report this percentage is higher, but employers can correct failures throughout the year in order to maintain coverage. At year-end, all but 4 percent of employers had satisfied their policy requirements.

Characteristics of Employers Currently in the Plan

The study evaluated NCCI data about the entire population of employers that had assigned risk plan coverage in calendar year 2005 (13,072 policies in force[8]). The 2005 data for 64,478[9] voluntary market policies were used for comparison.

Plan Demographics

As demonstrated in Chart 3, the plan experienced some change in the employer demographics over the past few years. Employers with no prior coverage have been growing as a percentage of the plan participants. At the same time, the percentage of employers with prior assigned risk plan coverage was relatively low but has increased in recent years.

Chart 3: Assigned risk plan employers — Source of prior coverage by policy year

	2001	2002	2003	2004	2005
Employers with no prior coverage	59%	60%	65%	66%	66%
Employers with prior voluntary coverage	32%	33%	26%	23%	21%
Employers with prior assigned risk plan coverage	9%	7%	9%	11%	13%

Source: NCCI, based on number of policies in each category

Size of Employer

Small employers (premium less than $2,500 per year) make up the vast majority of the policies in both the voluntary market and the assigned risk plan, but are a greater proportion of assigned risk plan employers (***see Chart 4***). Seventy-three percent of the policyholders in the assigned risk plan have an annual premium size less than $2,500, with an average premium of $696.[10] In the voluntary market, 61 percent have small premium, with an average premium of $847. The data illustrates that small premium employers in the voluntary market do not have significantly higher premiums than those in the assigned risk plan.

[8] The number of assigned risk plan employers in the sample data set (13,072) differs slightly from the number reported earlier in Chart 1 of this report (13,054). This small difference is explained by insurer reporting delays and the date the sample data set was produced (June 2006). NCCI data is reported by policy. Some large policies may include multiple employers. The term "employer" is used throughout this report since the majority of policies are single employer policies.

[9] See footnote 8

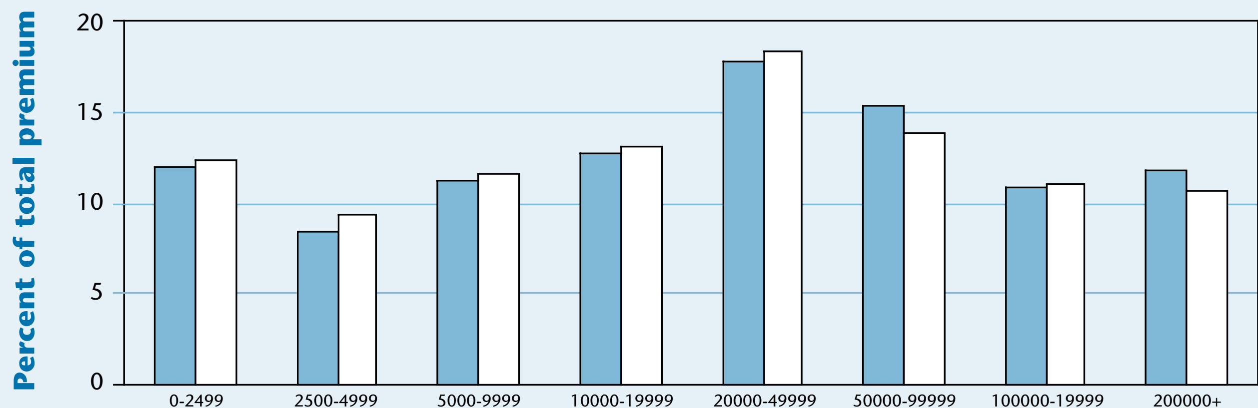
[10] The average premium does not include expense constants or consider minimum premiums.

Chart 4: Employers with small premium

	Voluntary market 2005		Assigned risk plan 2005	
	Number	Percent of total	Number	Percent of total
Total policies	64,478		13,072	
Policies with premium less than $2,500	39,624	61.2%	9,496	72.6%

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

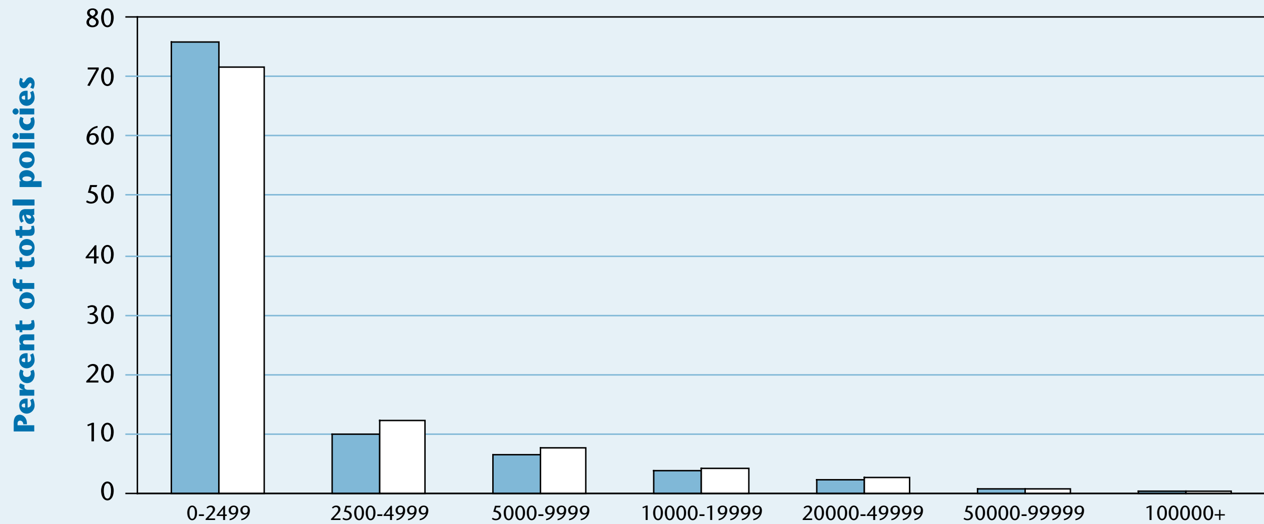
Chart 5: Distribution of size by employer (by premium, 2005)



	0-2499	2500-4999	5000-9999	10000-19999	20000-49999	50000-99999	100000-19999	200000+
Oregon	11.9	8.4	11.2	12.8	17.8	15.3	10.8	11.8
Nationwide	12.3	9.4	11.5	13.0	18.4	13.9	11.0	10.6

Although small employers with small premium make up the majority of policies, they are a very small percentage of total premium, as is illustrated in Charts 5 and 6. This characteristic is similar to assigned risk plans nationwide.

Chart 6: Distribution of size by employer (by policies, 2005)



	0-2499	2500-4999	5000-9999	10000-19999	20000-49999	50000-99999	100000+
Oregon	75.9	9.8	6.6	3.9	2.4	0.9	0.4
Nationwide	71.4	12.4	7.7	4.3	2.8	0.9	0.5

Known Workers' Compensation Insurance Experience

Insurers look to any known performance in the workers' compensation market when determining whether to cover an employer. Through NCCI, Oregon has a mandatory process to determine employers' experience rating modification. New employers with no experience or employers with less than $2,500 premium are not eligible for experience rating.

The experience rating modification is intended to accurately price an employer's workers' compensation coverage. The calculation compares the employer's actual past claims experience to a model that represents the average claims experience for the employer's classification. If the employer's experience is less than average, it gets a rating lower than 1. If it is greater than average, the rating is higher than 1. This rating affects the cost of the employer's workers' compensation insurance — the higher the experience modification, the more expensive the insurance.

Fewer employers in the assigned risk plan have an experience rating modification compared to employers in the voluntary market. This is not an unexpected finding, given that many employers in the assigned risk plan are new businesses (have no experience) or have small premium (not eligible for an experience rating modification). ***See Chart 7.*** However, there is also a large share of voluntary market employers without an experience rating modification.

Chart 7: Experience rating modification

	Voluntary market 2005		Assigned risk plan 2005	
	Number	Percent of total	Number	Percent of total
No experience modification	39,450	61.2%	10,425	79.8%
Experience modification less than or equal to 1	17,885	27.7%	1,460	11.2%
Experience modification greater than 1	7,143	11.1%	1,187	9.1%
Total policies	**64,478**		**13,072**	

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

For employers without an experience rating modification, the distribution of employers with premium less than $2,500 (the threshold amount to have an experience rating modification) and more than $2,500 is nearly the same for both the assigned risk plan and the voluntary market. If insurers were focusing primarily on lack of employer experience, we would expect that the distribution would reflect that focus. The data instead illustrates that insurers have underwriting guidelines that allow them to write employers with small premium and no experience rating modification in the voluntary market. ***See Chart 8.***

Chart 8: No experience rating modification by premium size

	Voluntary market 2005		Assigned risk plan 2005	
	Number	Percent of total	Number	Percent of total
No experience modification	39,450		10,425	
Premium < $2,500	34,846	88.3%	8,826	84.7%
Premium > $2,500	4,604	11.7%	1,599	15.3%

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

The study examined the characteristics of employers in the assigned risk plan for more than 36 months. About 22 percent of these employers have good experience rating modifications (1 or less). Despite this indicator of favorable loss experience, there may be other reasons the voluntary market has not insured them, such as poor payment history, high hazard classifications, etc.

Geographic Location

The study analyzed the geographic location of employers in the assigned risk plan compared to the voluntary market. Employers are similarly distributed statewide, but a slightly larger share of assigned risk plan employers are in nonmetropolitan areas compared to the voluntary market. A distribution of employers by county and metropolitan area is in Appendix B.

Classifications

Employers pay workers' compensation insurance premiums based on the type of work done (classification) by their employees. There are 622 NCCI classification codes.[11] An employer can have one or many classifications associated with its business.[12] The top 10 classifications for the assigned risk plan and the voluntary market are listed in Chart 9. These top 10 classifications account for 43 percent of all assigned risk plan policies and 46 percent of all voluntary market policies.

The assigned risk plan and voluntary market have similar classification characteristics. Eight of the assigned risk plan classifications are also in the voluntary market's top 10 classifications. Unique to the assigned risk plan's top 10 classifications are logging and trucking. Unique to the voluntary market's top 10 classifications are auto servicing/repair shops and farming.

[11] The 622 NCCI classification codes include federal and other special classifications. 523 classifications are in use in the Oregon market.

[12] For purposes of this study, the classification with the most premium ("governing class") was used to determine the number of policies in each classification.

Chart 9: Top classifications by number of policies (sorted by assigned risk plan rank)

Employees engaged in	Class	Assigned risk plan rank	Voluntary market rank
Clerical office duties (primarily)	8810	1	1
Operation of a restaurant	9079	2	2
Carpentry work for the construction of private residences	5645	3	8
Work as outside salespersons, collectors, or messengers for businesses	8742	4	9
Work in a physician's office including doctors, nurses, and clerical staff	8832	5	3
Management and maintenance of buildings such as office complexes, apartment buildings, and shopping establishments	9015	6	7
Professional staffing of colleges and schools	8868	7	6
Logging or lumbering industry for harvesting of timber	2702	8	34
Selling merchandise in retail stores	8017	9	4
Hauling of general merchandise for others	7219	10	17
Operation of gas and service stations	8380	12	5
Raising field crops such as corn, hay, and oats	37	17	10

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

Hazard Groups

The NCCI currently categorizes all workers' compensation classifications into four hazard groups, known as groups I – IV. Hazard groups are used to quantify loss severity and volatility for classifications of similar nature. Hazard Group I is considered the least hazardous, and Hazard Group IV is the most hazardous. Hazard groups are used to develop rating factors for use in pricing certain voluntary market employers with $25,000 or more in annual premium.

The study used hazard groups to help analyze the demographics of the assigned risk plan and voluntary market employers to determine if there were any remarkable differences in the makeup of hazard groups between the two populations. ***See Chart 10.***

Chart 10: Hazard group classification

Hazard group	Voluntary market 2005		Assigned risk plan 2005	
	Number	Percent of total	Number	Percent of total
I	1,103	1.7%	171	1.3%
II	34,795	54.0%	6,057	46.3%
III	28,319	43.9%	6,679	51.1%
IV	215	0.3%	141	1.1%
Not classified	46	0.1%	24	0.2%
Total	**64,478**		**13,072**	

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

Chart 11: Hazard group by experience rating modification

Hazard group	Exp. rating	Voluntary market 2005		Assigned risk plan 2005	
		Number	Percent of total	Number	Percent of total
I		1,103		171	
	No Mod	655	59.4%	123	71.9%
	Mod <= 1	236	21.4%	24	14.0%
	Mod > 1	212	19.2%	24	14.0%
II		34,795		6,057	
	No Mod	22,671	65.2%	4,945	81.6%
	Mod <= 1	8,282	23.8%	534	8.8%
	Mod > 1	3,842	11.0%	578	9.5%
III		28,319		6,679	
	No Mod	16,038	56.6%	5,251	78.6%
	Mod <= 1	9,237	32.6%	859	12.9%
	Mod > 1	3,044	10.7%	569	8.5%
IV		215		141	
	No Mod	70	32.6%	87	61.7%
	Mod <= 1	102	47.4%	38	27.0%
	Mod > 1	43	20.0%	16	11.3%

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

There is a larger share of assigned risk plan employers in higher hazard groups compared to the share in the voluntary market. Additional data analysis shows that there is a greater share of assigned risk plan employers with no experience modification in higher hazard groups than in the voluntary market. This indicates that being an employer in a higher hazard group means the voluntary market is less likely to insure it, even if it has no adverse experience. ***See Chart 11.***

Industry Groups

NCCI uses five industry groups to aid in the ratemaking process: manufacturing, construction, office and clerical, goods and services, and miscellaneous. Each of the 523 Oregon classifications is placed into one of these five industry groups with other similar occupations based upon the general nature of the business. The annual ratemaking process begins with determination of the overall rate change indication for all classifications combined. The rate change is then allocated to each of these five industry groups. Each group may do better or worse than the overall indication based upon the experience of that industry group. Based on an evaluation of rate changes for the past five years, there are no identifiable trends (either favorable or unfavorable) by industry group. No industry group has had only rate increases or decreases over the period reviewed.

The study used industry groups to help analyze the demographics of the assigned risk plan and voluntary market to determine if there were any remarkable differences in the makeup of industry groups between the two populations. The assigned risk plan and the voluntary market have different populations based on industry group category. ***See Chart 12.***

Chart 12: Industry group

	Voluntary market 2005		Assigned risk plan 2005	
	Number	Percent of total	Number	Percent of total
1 – Manufacturing	5,184	8.0%	710	5.4%
2 – Construction	10,529	16.3%	2,805	21.5%
3 – Office and clerical	18,117	28.1%	3,805	29.1%
4 – Goods and service	27,222	42.2%	4,204	32.2%
5 – Miscellaneous[13]	3,380	5.2%	1,524	11.7%
Total	**64,478**		**13,072**	

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

[13] Miscellaneous Industry Group category includes about 70 classifications, including certain aircraft operators, police, fire, government entities, municipalities, and many others.

Why Employers Remain in the Plan

Duration in the Assigned Risk Plan

There is no minimum or maximum time limit for an employer to remain in the assigned risk plan as long as the employer pays premiums and complies with all reporting and auditing requirements. In 2005, about half of employers had spent 12 months or less in the plan. Since 13 percent of employers had been in the plan for three years or longer, the average duration for all employers was about 20 months.

Employers in the plan for more than 36 months tend to fall in higher hazard groups than those in the plan for shorter durations. This illustrates that being in a higher hazard classification contributes to difficulty in obtaining voluntary market coverage. ***See Chart 13.***

Chart 13: Hazard group by duration in plan

Hazard group	Assigned risk plan 2005 Less than 36 months in plan		Assigned risk plan 2005 More than 36 months in plan	
	Number	Percent of total	Number	Percent of total
I	575	5.1%	135	8.0%
II	2,514	22.1%	291	17.1%
III	3,327	29.3%	478	28.2%
IV	3,594	31.6%	610	35.9%
Total	**11,374**		**1,698**	

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

Employers in the plan for more than 36 months are also more likely to have an experience rating modification and they are more likely to have an experience rating modification that is worse than average (***see Chart 14***).

The survey asked employers with three or more years of plan coverage why they remain in the plan. Employers responded "do not know" (37 percent), small premium (23 percent), no offers in the voluntary market (12 percent), nature of business (10 percent), and lowest cost option (8 percent).[14]

[14] Employers were able to select multiple reasons on this survey question, so totals do not equal 100 percent.

Chart 14: Experience rating modification by duration in plan

	Assigned risk plan 2005 Less than 36 months in plan		Assigned risk plan 2005 More than 36 months in plan	
	Number	Percent of total	Number	Percent of total
No experience modification rating	9,464	83.2%	961	56.6%
Experience modification <= 1	1,082	9.5%	378	22.3%
Experience modification > 1	828	7.3%	359	21.1%
Total	**11,374**		**1,698**	

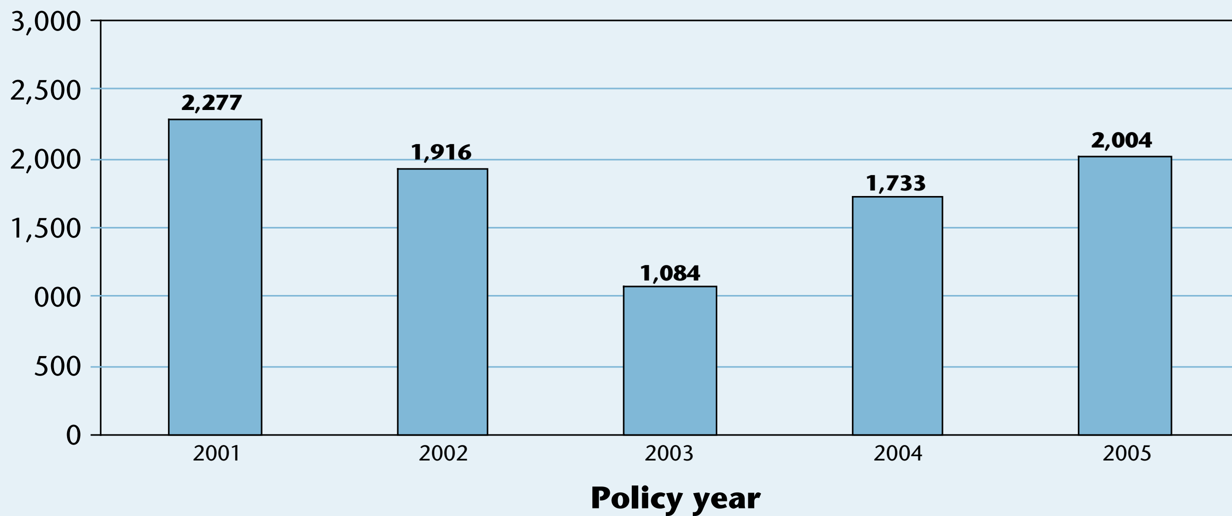
Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

Incentives to Move to the Voluntary Market

There are incentives, called take-out credits, for insurers to take employers out of the assigned risk plan and into the voluntary market. Each participating insurer is eligible to receive a credit in the form of a reduction in the insurer's premium base on which the assessment is made to subsidize the plan in years where the plan premiums do not cover all losses and expenses. The insurer's premium base is reduced if the employer remains insured in the voluntary market for at least one full year. The take-out credit is available for up to three years.

If the insurer removes an employer with premium less than $5,000, the insurer's premium base is reduced by three times the employer's annual premium (a 3 to 1 ratio). For employers with premium greater than $5,000, the insurer receives a reduction in premium base equal to the amount of the employer's premium (1 to 1 ratio). For example, if an insurer removes a $1,500 policy from assigned risk plan coverage, the base premium on which the insurer is assessed for plan losses is reduced by $4,500. For removing an employer with premium of $6,000, the insurer's premium base is reduced by $6,000. Chart 15 on page 17 shows the number of policies subject to the take-out credit for the past five years.[15]

[15] Take-out credit is available for three years. Policies credited in a particular year do not correspond to the initial year the policy was removed from plan coverage.



There are no similar incentives for producer/agents to help employers get out of the plan. Agents do receive a commission for placing employers in the plan that is on a sliding scale, ***see Chart 16***. Agents also receive this commission at each policy renewal period. This agent commission is set by administrative rule.[16]

Chart 16: Agent commission for assigned risk plan

Premium size	Commission
First $1,000	5%
Next $4,000	3%
Next $95,000	2%
Excess of $100,000	1%

For example, on a $2,500 premium policy, the agent receives $95 in commission — 5 percent of the first $1,000 ($50) and 3 percent of the next $1,500 ($45).

Producer/agent commissions in the voluntary market range from 5 percent to 7 percent, depending on the insurer and premium size. These commission rates are not subject to regulation. The difference between the commissions does not appear to offer significant incentive to move employers from the plan to the voluntary market.

There are some credits available to employers that may, in the short term, make it less expensive to stay in the plan. ***See discussion on page 23***, regarding plan discounts. In addition, minimum premiums for some classifications are actually lower in the assigned risk plan than the voluntary market (***see discussion on page 22***).

[16] OAR 836-043-0086

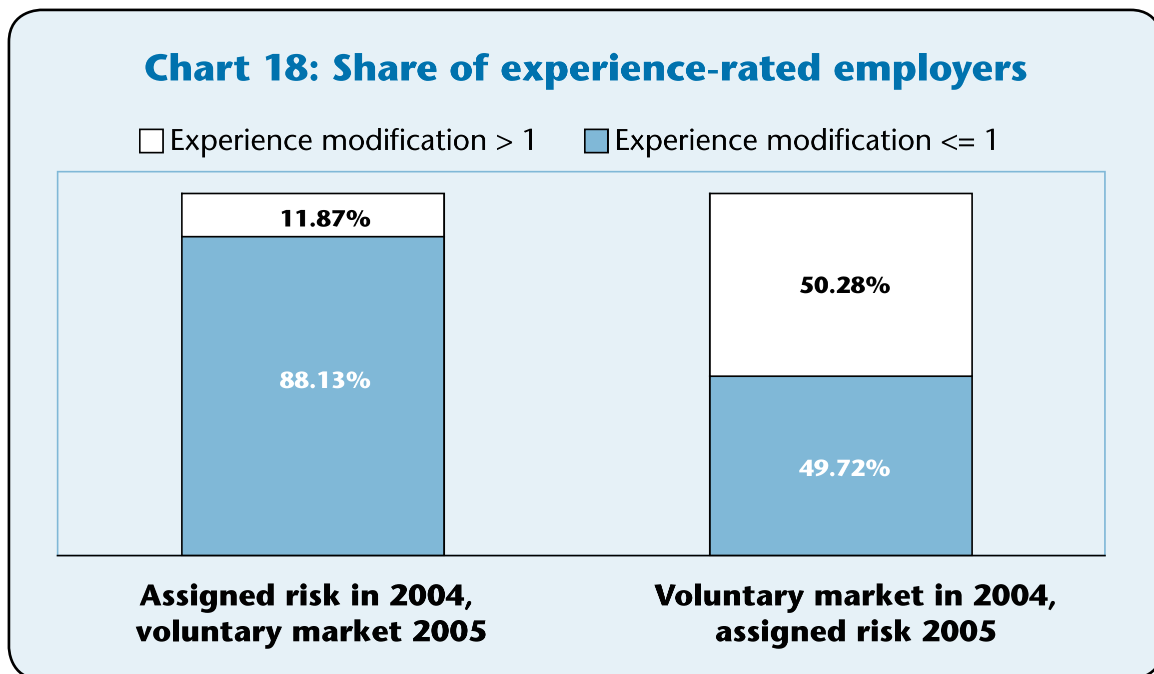
Chart 17: Experience rating modification characteristics of employers in 2005, by type of coverage

	Assigned risk plan in 2004, voluntary market in 2005		Voluntary market in 2004, assigned risk plan in 2005	
	Number	Percent of total	Number	Percent of total
No experience rating modification	848	55.7%	678	55.9%
Mod <= 1	594	39.0%	266	21.9%
Mod > 1	80	5.3%	269	22.2%
Total	**1,522**		**1,213**	

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

Employer Movement Between Assigned Risk Plan and Voluntary Market in 2005

The data provided by NCCI showed employers' prior coverage, either voluntary market or assigned risk plan coverage. Of those reporting the source of prior coverage, 1,522 assigned risk plan employers obtained new voluntary market coverage in 2005 and 1,213 voluntary market employers obtained new assigned risk plan coverage in 2005. ***See Chart 17.***



Assigned risk plan employers that moved to the voluntary market in 2005 have different characteristics than employers that remained in the plan or employers in the voluntary market as a whole. For example, of those employers that moved to voluntary coverage, a larger share had an experience rating modification below 1, indicating better-than-expected loss experience (***see Chart 17***).

Of employers that had 2004 assigned risk plan coverage that reported moving to the voluntary market in 2005, employers had new coverage with SAIF Corporation (1,038 policies, $11.9 million premium), Commerce and Industry Insurance Company (132 policies, $4.9 million premium), and Truck Insurance Company (69 policies, $373,341 premium). The remainder of the employers (283 policies, $4.4 million premium) were written by 26 insurers and two self-insured employer trusts.

A greater share of new assigned risk plan employers that had prior voluntary market coverage had worse-than-average experience (an experience rating modification greater than 1). It is likely that experience contributed to these employers moving in or out of the assigned risk plan. Of employers with experience ratings that moved into the assigned risk plan, half of them had worse-than-average experience (***see Chart 18***). Of those employers with experience ratings that moved into the voluntary market, 88 percent had better-than-average experience.

Workplace Safety and Risk Management

Oregon OSHA administrative rules[17] require workers' compensation insurers to offer safety and loss-prevention programs to covered employers that have 10 or more employees. Insurers are required to notify employers annually about the availability of these services. Oregon OSHA administrative rules specify the minimum information required in the notice. Insurers are required to respond to requests from employers for loss-prevention services no later than 30 days after the request, or as soon as possible if there is an imminent danger hazard.

By contract with NCCI, servicing carriers must meet the Oregon OSHA standards and treat their voluntary market and assigned risk plan employers the same with regard to these services. NCCI audits servicing carriers to ensure their compliance. Both servicing carriers indicated in their survey responses that they comply with the NCCI requirements.

As part of their contract with NCCI, servicing carriers are required to handle assigned risk plan claims according to the law and in an efficient manner. The Paid Loss Incentive Program was established in 1992 and is intended to reward assigned risk plan servicing carriers for having loss ratios lower than the average of all servicing carriers in the plan. The carriers with the lowest performance pay a "penalty" to NCCI, which NCCI uses in turn to reward better performing carriers. In other states, the NCCI contract compares carrier performance to a state average. In Oregon, the Paid Loss Incentive Program has deviated from the national program and compares the lowest paid-loss ratios of the servicing carriers in Oregon, and not to the average performance or another performance threshold.

[17] OAR Chapter 437

Producer/agents are not required to provide loss-prevention services, but more than half of the agents surveyed said they provide some type of consultative services (loss control, on-site inspections, claims review).

About 25 percent of employers in the assigned risk plan said they have been offered consultation services to help analyze and improve safety in their workplaces. Only 7 percent said they have been offered other types of services such as record keeping, return-to-work, or claim management services. It was not clear whether the low reported rate of consultation offers was due to misunderstanding of information provided by insurers or whether insurers were not required to offer the services to the employer in the first place (because there are so many small businesses with fewer than 10 employees). It may be that the "offer" is included with a variety of items included with a policy that an employer may not interpret as a specific offer of help in these areas.

Producer/Agents and the Assigned Risk Plan

Both the employer survey and the new applicants survey indicated that producer/agents are heavily involved in the placement of employers in the assigned risk plan. Of current assigned risk plan employers surveyed, 69.7 percent have a producer/agent that helps them with workers' compensation insurance. In the survey of new plan applicants, 87 percent had a producer/agent.

As mentioned above, agents receive a commission for placing employers in the plan that is on a sliding scale, ranging from 5 percent for the first $1,000 of premium to 1 percent of premium above $100,000. ***See Chart 16 on page 17***. Agents receive the same commission regardless if it is a new plan applicant or a renewal.

Producer/agent commissions in the voluntary market range from 5 percent to 7 percent, depending on the insurer and premium size. When asked if the commission for the assigned risk plan is adequate, 10 of 11 agents said "no." There are no additional agent incentives for moving an employer from the assigned risk plan to the voluntary market, other than the commissions achieved for the policy.

Plan Structure and Pricing

Workers' compensation law[18] establishes the assigned risk plan, requires all insurers to accept their equitable portion of plan costs, and allows tiered rating plans. Insurance statutes[19] outline the ratemaking process for the assigned risk plan. A statute also prohibits surcharging the plan, meaning that the regulator can only charge plan losses to the voluntary market. Administrative rules[20] further detail the ratemaking process.

[18] ORS 656.730
[19] ORS Chapter 737
[20] OAR Chapter 836

Premium Calculation

Each Oregon employer is classified under one or more of 523 unique workers' compensation classifications. Each classification has a rate component that represents the dollars paid for lost-time benefits as well as dollars paid for medical treatment. The portion of the rate that represents these benefit costs is called a loss cost or pure premium rate. Because each of the 523 classifications is unique in the frequency and severity of losses, a unique loss cost is created for each classification. Generally, a lower rate indicates a lower hazard classification, and a higher rate a higher hazard classification. The director of DCBS approves the loss costs. The loss cost for each classification is the same for every insurer in the voluntary market and for the assigned risk plan.

The rest of the rate component is made up of expenses that account for acquisition, policy maintenance, taxes, claims adjustment, general expenses, and profits and contingencies. This portion of the rate is called the loss cost multiplier (LCM). Each licensed workers' compensation carrier in Oregon files one or more loss cost multipliers to account for their costs of doing business over and above the loss cost. DCBS approves these multipliers. A carrier with more than one loss cost multiplier will use its preferred or lower LCM for risks with better-than-expected losses and use higher multipliers for average or non-preferred risks. The Insurance Division does not allow a voluntary market LCM to exceed the assigned risk plan LCM. In the assigned risk plan, NCCI files the LCM for the plan, which only reflects expenses. The 2006 LCM is 1.639 times pure premium, the same as the highest loss cost multiplier allowed in the voluntary market.

Of the 172 workers' compensation insurers writing premium in Oregon, 27 have a loss cost multiplier equal to the assigned risk plan. These insurers write about 5 percent of the market. So, while the assigned risk plan LCM acts as a cap on the voluntary market, more than 95 percent of premium is written by insurers with a LCM less than 1.639. The average loss cost multiplier for the voluntary market is 1.30. This means that the cap does not significantly influence pricing competition in the voluntary market.

The result of these two factors (loss cost and loss cost multiplier) determines the base on which the insurer determines an employer's workers' compensation premium. Insurers then consider and adjust the employer's premium by any discounts, the employer's experience modification, and other factors. If the resulting premium is less than the minimum premium for that classification, the insurer increases the premium to the minimum (***see discussion on page 22***, about minimum premiums). Appendix C provides sample assigned risk plan premium calculations.

Insurers can also then add a flat amount (called an expense constant, a maximum of $180) that reflects the fixed costs for processing an insurance policy. The plan expense constant was last changed in 1995 and is the maximum amount the voluntary market can use. Some insurers have indicated the amount of the expense constant should be reviewed.

As discussed above, the top 10 classifications in the assigned risk plan are similar to the voluntary market. The assigned risk plan rates for these classifications range from $0.28 to $44.70 (per $100 payroll). ***See Chart 19.***

Chart 19: Assigned risk plan rates, by underwriting classification type

Employees engaged in	Class	Assigned risk plan rate per $100 payroll
Clerical office duties (primarily)	8810	$0.28
Operation of a restaurant	9079	$2.57
Carpentry work for the construction of private residences	5645	$20.88
Work as outside salespersons, collectors, or messengers for businesses	8742	$0.46
Work in a physician's office including doctors, nurses, and clerical staff	8832	$0.62
Management and maintenance of buildings such as office complexes, apartment buildings, and shopping establishments	9015	$4.45
Professional staffing of colleges and schools	8868	$0.56
Logging or lumbering industry for harvesting of timber	2702	$44.70
Selling merchandise in retail stores	8017	$2.02
Hauling of general merchandise for others	7219	$14.23
Operation of gas and service stations	8380	$4.87
Raising field crops such as corn, hay, and oats	37	$8.60

Source: NCCI, assigned risk policies (April 7, 2006) and voluntary policies (April 10, 2006)

As is true in the voluntary market, there is a wide variety of classifications in the assigned risk plan and a wide range of rates associated with those classifications. This indicates that the classification loss costs are not a deciding factor in determining whether an employer is placed in the assigned risk plan or the voluntary market. Employers in classifications with higher rates are not necessarily going into the assigned risk plan just because of their classification and loss cost, but for other reasons specific to the employer (such as loss experience, new business, etc.).

Minimum Premiums

Minimum premiums are individually set for each classification. In simple terms, the minimum premium is the lowest amount for which an insurer will issue coverage for a one-year period. The minimum premium is set to cover an insurer's administrative expenses plus a provision for estimated losses. Minimum premiums in the assigned risk plan range from $199 to $500.

Minimum premiums primarily affect employers in two situations. In the first scenario, an employer may be thinking about hiring an employee part time or on an infrequent basis. Because the employer has no payroll on which to base a premium, an insurer will charge a minimum amount to cover possible expenses. These are called "if any" policies. "If any" policies are important because they encourage employers to obtain coverage for potential risks at an affordable price.

Employers that have very low payroll or fall in a classification with a low premium rate may also be affected by the minimum premium. The employer pays either the minimum premium or its payroll-based premium, whichever is greater.

The minimum premium is determined for each classification in the plan by applying a formula based on expected costs for that class. For public policy reasons, the highest minimum premium that can be charged in the assigned risk plan is set at $500. Without the $500 cap, employers in higher risk classifications would be burdened with substantially higher minimum premiums.

The minimum premium for some classifications in the assigned risk plan can be $150 to $250 less than in the voluntary market. For example, in the clerical classification (8810) the assigned risk plan minimum premium is $216. In the voluntary market, $500 is frequently the minimum premium for this type of risk, so it is less expensive for the employer to have coverage in the assigned risk plan than in the voluntary market. There are 63 classifications that can have an assigned risk plan minimum premium lower than what is charged in the voluntary market. This affects about 11.6 percent of the total assigned risk plan premium (which equals 1,522 employers).

The lower cost in the assigned risk plan benefits employers because they can affordably comply with workers' compensation insurance requirements. Insurers also benefit because they will at least get the minimum premium to cover their expected risk — even when insuring employers whose payroll-based premium falls below the minimum premium.

Plan Credits, Discounts, and Charges

After premiums are established, there are some assigned risk plan discounts and credits available to help the newest and smallest employers obtain affordable insurance coverage. There are also other types of credits and charges that are intended to reflect the impact of an employer's actual loss experience on the plan.

Generally, premiums for assigned risk plan policyholders are more expensive than premiums paid by employers who find insurance in the voluntary market. However, because some plan policyholders can receive credits, their premium can be less than the employer would pay in the voluntary market. Other employers in the assigned risk plan are charged extra because of their experience rating.

Non-experience-rated premium credit. Employers that do not have an experience rating may be eligible for a credit of 11 percent of premium up to $500. This credit is available the entire time the employer remains in the plan. The credit was introduced July 1, 1990, and is unique to the Oregon assigned risk plan. The total amount of this credit in 2004 was $897,843.

New small employer credit. New and small employers in the plan are eligible for a two-year credit of 15 percent of premium. The credit is available for the first two years of coverage if the employer has never before been a subject employer, has not inherited experience from a former owner of the business, and has premium greater than the classification minimum but less than $2,500 after the application of the non-experience-rated premium credit. This credit is unique to the Oregon assigned risk plan. The total amount of the new small employer credit in 2004 was $89,746.

Premium discount. Insurers typically reduce expenses for large premium risks because there is relatively less insurer expense in issuing and servicing large policies. The discount is designed to distribute the cost of workers' compensation insurance equitably among risks of all sizes, so that larger policies pay no more than their fair share of loss costs and insurance company expenses. The discounts used for assigned risk plan employers are less than for the voluntary market, allowing more premium to remain in the plan to pay for loss costs.

Experience rating. As explained above, an insurer may consider an employer's actual workers' compensation experience when determining its premium. The experience modification calculation compares the employer's actual past claims experience to a model that represents the average claim experience for the employer's classification. If the employer's experience is less than average, it gets a rating lower than 1. If it is greater than average, the rating is higher than 1. This is a mandatory factor in calculating an employer's premium in both the assigned risk plan and the voluntary market.

Merit rating. Some employers have premium too low to be eligible for an experience rating but have had coverage long enough to determine their experience. These employers are subject to the merit rating plan. The plan rewards employers that have no lost-time claims in a specified time frame with a 10 percent credit. Employers with two or more lost-time claims are charged a 10 percent debit. The debit or credit is limited to a $500 maximum. This rating system is also used in the voluntary market.

Simplified Assigned Risk Adjustment Program (SARAP). This program is mandatory for all assigned risk plan employers that are eligible for experience rating modification. The SARAP is operated through NCCI and is designed to make the assigned risk plan more self-supporting. The adjustment is based upon the employer's claim experience and provides a maximum charge of 49 percent or a maximum discount of 5 percent.

Evaluation of Credits

Two of the credits (non-experience-rated premium credit and new small employer credit) are periodically evaluated by NCCI to determine the balance between the credit amount and the actual loss experience of the employer receiving the credit. The most recent study by NCCI showed that employers receiving these two credits are being subsidized in part by the plan. The purpose of these credits is to make insurance more affordable to the newest and smallest businesses, and to that extent the credits appear to be serving that purpose.

Plan Funding and Voluntary Market Subsidy

Funding

Administrative rules require the assigned risk plan to be maintained as close to self-funding as possible, requiring no more than a reasonable subsidy of the voluntary insured employers. All workers' compensation insurers share any plan gains or losses. Most insurers include assigned risk plan gains and losses in rates for the voluntary market. This means that all voluntary market employers bear the cost of the operation of the plan.

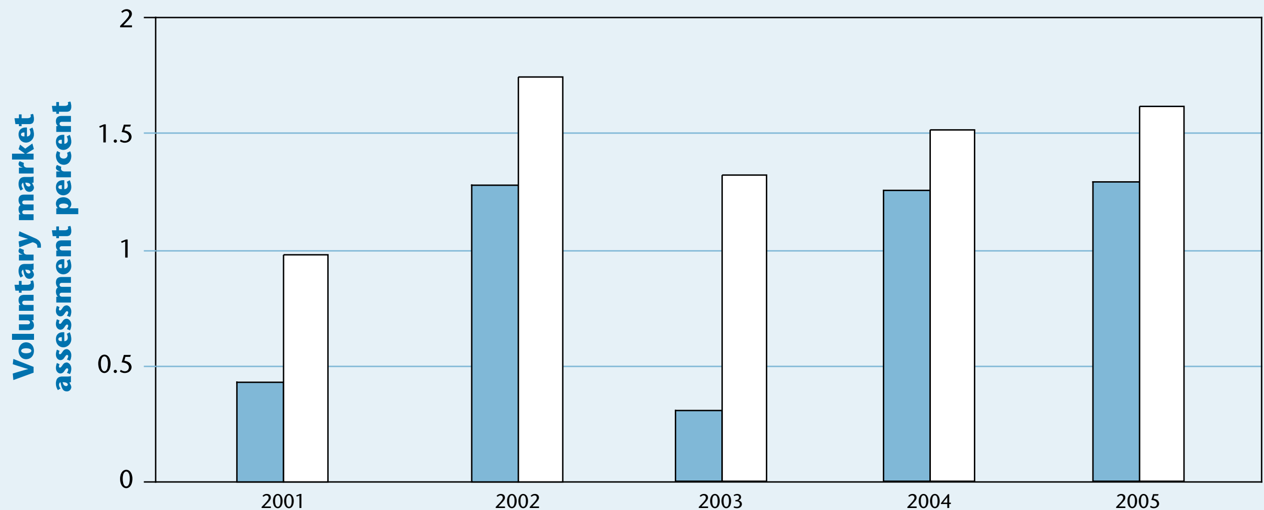
Chart 20 shows the estimated net operating gains and losses and the gain or loss as a percentage of voluntary market written premium.

Chart 20: Assigned risk plan gain/loss

Policy year	Gain or (loss)	Percentage of voluntary market written premium	
		Oregon	All plan states
2001	(1,756,550)	-0.4%	-1.0%
2002	(6,386,576)	-1.3%	-1.8%
2003	(2,877,889)	-0.6%	-1.5%
2004	(7,486,000)	-1.3%	-1.8%
2005	(8,124,000)	-1.4%	-1.8%

Source: NCCI, policy year financial results through fourth quarter 2005 (March 26, 2006)

As demonstrated in Chart 21, Oregon's voluntary market has subsidized the Oregon plan reasonably close to national market experience.



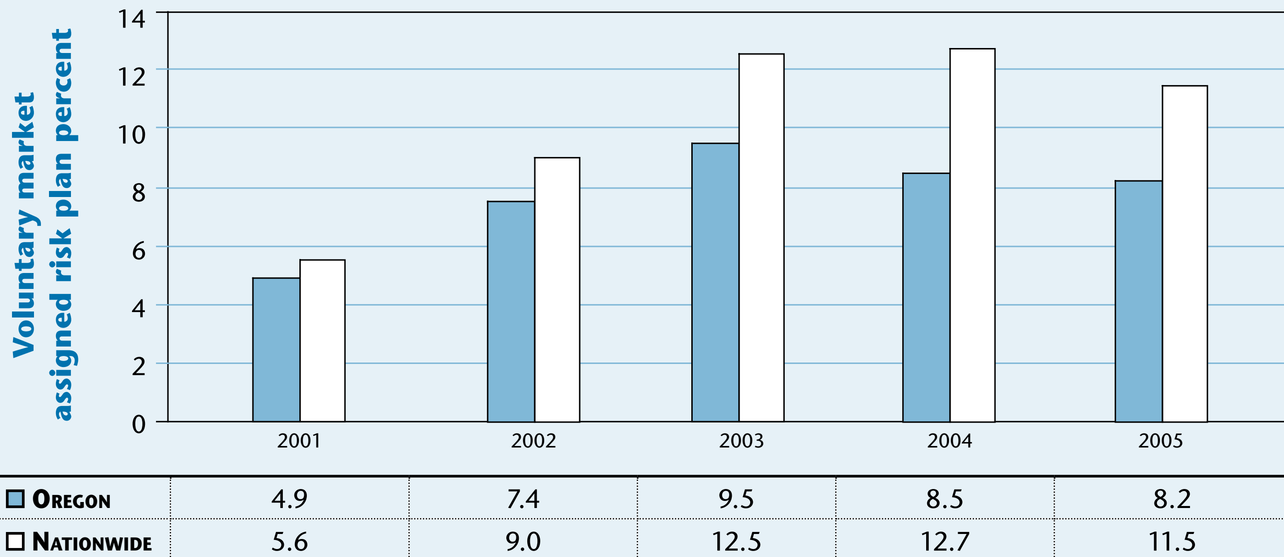
	2001	2002	2003	2004	2005
Oregon	0.41	1.25	0.31	1.21	1.26
Nationwide	0.96	1.74	1.30	1.53	1.64

Factors Affecting Voluntary Market Subsidy

In Oregon, the assigned risk plan has grown both in policy volume as well as a percentage of the voluntary market, although the most recent figures for 2005 show a small decline in the percentage of assigned risk plan policies. However, the growth of the Oregon residual market has been somewhat slower than the NCCI market nationally, as demonstrated in Chart 22.

The plan has a consistent influx of new employers, particularly as Oregon's economy has fostered an increasing number of new businesses and expansion of existing businesses. As these new employers develop experience while in the plan, insurers can better judge their behavior and are more likely to insure them in the voluntary market. The average duration of an employer in the assigned risk plan is currently about 20 months.

Typically employers with better loss experience are removed from the plan more quickly than employers with worse experience. As discussed earlier, experience-rated assigned risk plan employers that moved to voluntary market coverage in 2005 generally had a good experience rating (***see Chart 17 on page 18***). Conversely, experience-rated employers that moved from the voluntary market to the assigned risk plan in 2005 had worse experience than the voluntary market as a whole. This would generally shift the makeup of the plan to be higher risk on average than the voluntary market. The study of NCCI data supports that this indeed happens.



	2001	2002	2003	2004	2005
Oregon	4.9	7.4	9.5	8.5	8.2
Nationwide	5.6	9.0	12.5	12.7	11.5

Some segments of the assigned risk plan benefit from the voluntary market subsidy. Based on the credit study conducted by NCCI, new and small employers benefit because their actual losses exceed the amount they pay in premiums, after credits are applied.

In some cases, employers with large premiums may choose to remain in the assigned risk plan even though they may be able to obtain voluntary market coverage. In these isolated cases, the voluntary market quote would use a loss sensitive rating mechanism that could trigger larger premiums than the employer would pay in the assigned risk plan if its claims costs are high. These loss sensitive plans tend to reward employers that work to provide a safe workplace and have lower claims costs, and conversely increase premiums for employers that may not actively manage claims costs and incur losses that are higher than expected. In this scenario, the assigned risk employer may choose the stability of guaranteed cost pricing in the assigned risk plan versus the variable pricing that a voluntary market loss sensitive plan may offer.

Starting Jan. 1, 2007, the assigned risk plan will implement a mandatory loss sensitive pricing structure similar to the voluntary market. It is likely that some of the larger assigned risk employers will move to the voluntary market before the implementation of this pricing program. A similar program implemented in Maine substantially reduced the number of large premium risks in its assigned risk plan.

There is a group of assigned risk plan employers that likely pay a more accurate share of the cost required to cover them. Experience-rated employers that qualify for the Simplified Assigned Risk Adjustment Program (SARAP) are paying rates that most closely relate to their actual experience.

Although the study could not precisely identify which employers are driving losses in the plan, the data available suggests that loss sensitive pricing for large employers and SARAP adjustments should reduce future losses in the plan.

Key Findings and Public Policy Considerations

How Employers are Initially Placed in the Plan

Key Findings

- Surveys affirmed that employers end up in the plan for many reasons, the most common being: new business, small business, nature of business, poor loss experience, and poor payment history.
- The study identified other reasons for placement in the plan: lowest cost option, canceled in the voluntary market, ease of placement in the plan, and being identified as a noncomplying employer.
- 27 percent of employers did not know why they were placed in the plan, and many were unaware they were in the plan.
- 70 percent of surveyed employers used a producer/agent and 87 percent of new applicants used an agent.

Public Policy Considerations

Generally there were no surprising reasons for assigned risk plan placement, and it appears that the insurance market behavior is in line with reasonable business practices. Many employers rely on agents to purchase their workers' compensation insurance and are not personally involved with insurance decisions.

A large share of employers in the assigned risk plan do not know why they were placed in the plan. However, it is in the best interest of the employer to know they are in the plan and actively seek voluntary coverage unless there is an economic incentive to stay in the plan.

Some of the main reasons for being placed in the plan are being a new or small employer with no known workers' compensation insurance experience. A new program operated by NCCI may help facilitate more voluntary market coverage. The Voluntary Coverage Assistance Program (VCAP) is an Internet-based application that helps agents and employers find voluntary workers' compensation insurance coverage before entering the assigned risk plan. The tool matches participating insurers' underwriting criteria with the characteristics of employers applying to the assigned risk plan. Much like a dating service, eligible matched candidates are presented to the participating insurers, who within 72 hours decide whether to bind and issue coverage. This program will help keep employers out of the assigned risk plan and offer more attractive premiums when compared with assigned risk rates.

The VCAP started as a pilot project in Oregon effective July 1, 2006. In the first five months of operation (July 2006 through November 2006), 2,319 assigned risk plan applications were reviewed under the VCAP. Of these, 1,232 employers were matched to one of the five participating voluntary market insurers.[21] A total of 256 confirmed voluntary market offers were actually made, amounting to 13.5 percent in premium savings for employers ($598 average savings per applicant).

There are some voluntary market pricing mechanisms that may help keep employers out of the assigned risk plan. For example, SAIF Corporation established a fifth pricing tier in 2004 to eliminate pressure on nonrenewals that might otherwise be forced into the assigned risk plan and to qualify some existing assigned risk customers for voluntary coverage with SAIF. In 2005, 192 policies were in Tier 5.

Characteristics of Employers Currently in the Plan

Key Findings

- Employers with no prior coverage have been growing as a percentage of the plan participants, at the same time that the percentage of employers with prior assigned risk coverage has dropped.

- Small employers make up the vast majority of the policies in both the voluntary market and the assigned risk plan, and there is a greater proportion of small employers in the assigned risk plan. Small employer policies make up a very small percentage of total premium, both in the voluntary market and in the plan.

- The average small employer plan premium is not much different between the voluntary market and the assigned risk plan.

- A smaller share of assigned risk plan employers have an experience rating modification compared to the voluntary market. Sixty-one percent of voluntary market employers do not have an experience rating modification, compared to about 80 percent in assigned risk plan.

- A slightly larger share of assigned risk plan employers are in nonmetropolitan areas compared to the voluntary market.

- The top 10 classifications in the assigned risk plan and voluntary market are similar, with the exception of logging and trucking (in assigned risk plan) and auto repair shops and farms (voluntary market).

- There is a larger share of assigned risk plan employers in higher hazard groups compared to the share in the voluntary market. The voluntary market is less likely to insure employers in higher hazard groups even if they have no adverse experience.

- The assigned risk plan and the voluntary market have different populations based on industry group category.

[21] The current participating insurers are SAIF Corporation, Westport, American Home Assurance, Employers Reinsurance, and Star Net. Some insurers are currently in the application process to participate in the pilot.

Public Policy Considerations

The voluntary market and the assigned risk plan are more similar than they are different. Where there are differences — such as hazard group, classifications, experience modifications, and premium size — they are areas where we would expect the voluntary market to be more cautious.

The study showed that some common perceptions about the assigned risk plan are not accurate. For example, the perception is that the voluntary market will not cover small or non-experience-rated employers. The study data showed that although a smaller percentage of these employers are written in the voluntary market, they are still the majority of employers in the voluntary market. It was also believed that small employer premiums in the voluntary market are significantly larger than for small employers in the plan. The study showed the average small employer premium in the plan is only $150 less than the voluntary market's small employer average premium. Some concern has been expressed that there are more rural employers in the assigned risk plan, just because they are located in a rural area. Study data showed that there is a very small difference in the geographic distribution of employers between the assigned risk plan and voluntary market.

When evaluating the top 10 classifications in the assigned risk plan and the voluntary market, the data showed there was substantial overlap between the two. Eight of the assigned risk plan's top 10 classifications are also in the voluntary market's top 10. This means that classification alone is not a determining factor in whether an employer is placed in the assigned risk plan.

Although the classification characteristics are not that different between the assigned risk plan and voluntary market, there is a difference when looking at hazard groups. A greater share of assigned risk plan employers fall in higher hazard groups.

Overall, the characteristics of employers in the assigned risk plan indicate that the market is behaving in a rational manner. As expected, new ventures and higher hazard risks make up a higher share of the plan compared to the voluntary market.

Why Employers Remain in the Plan

Key Findings

- About half of employers have been in the plan for 12 months or less, although about 13 percent have been in the plan for more than 36 months.

- More employers in the plan for more than 36 months fall in higher hazard classifications than those in the plan for shorter durations. These employers are also more likely to be experience rated.

- There is a specific incentive (take-out credit) for insurers to take employers out of the plan, but there are no comparable incentives for producer/agents or employers.

- For employers that moved into the plan in 2005, it is likely that poor experience contributed to losing voluntary market coverage. For employers that moved out, a larger share had a better-than-expected loss experience.
- Employer credits and discounts affect duration in the plan.

Public Policy Considerations

There is no limit on the amount of time an employer can stay in the assigned risk plan, but half of employers in 2005 were in the plan for 12 months or less. However, there is a group of plan employers that have been in the plan for more than 36 months and they tend to fall in higher hazard classifications. These employers have more known loss and payment experience. These are the main factors that affect whether the voluntary market is likely to write coverage.

Some employers may pay less in the plan than in the voluntary market. This may dampen the motivation to seek voluntary market coverage. There are areas of the plan structure and pricing that may need adjustment to address this issue. In addition, employers also may not know or understand that they have plan coverage.

Based on the evaluation of employers that had experience ratings and that moved in or out of the plan in 2005, it is clear that having a good experience rating is a significant factor in moving out of the plan. Some insurers also indicated that recent favorable loss experience is also a consideration in taking employers out of the plan.

There are no current specific incentives for employers or agents to help move employers out of the plan. Producer/agents receive commission for placing employers in the assigned risk plan, as well as when moving an employer to the voluntary market. The difference between these two commissions is likely not motivation enough to encourage more active agent involvement in helping employers move out of the plan.

There is sufficient insurer premium take-out credit for removing employers with premiums of $5,000 or less from plan coverage. The insurer has three times the amount of removed premium taken from the base on which the insurer is assessed for plan losses. However, for employers with premiums of $5,000 or more, the insurer's premium base is reduced by the actual amount of premium removed from plan coverage. For example, the base premium on which the insurer is assessed for plan losses is reduced by $14,997 for a $4,999 premium policy removed from plan coverage. But if the insurer removes a $5,001 policy, the insurer's premium base is reduced by $5,001. The intent of the incentive is to encourage the voluntary market to offer coverage to smaller assigned risk plan employers. However, some consideration should be given to bridge the credit gap for employers in the $5,001 to $15,000 premium range.

Workplace Safety and Risk Management

Key Findings

- Servicing carriers reported that they provide required workplace safety and risk management services.
- Of agents surveyed, half provided some type of consultative services.
- About 25 percent of employers surveyed said they had been offered safety consultative services and 7 percent had been offered other services such as claim management.
- The servicing carrier paid-loss incentive (for performance on handling assigned risk plan claims) compares the performance of the two Oregon servicing carriers to each other but not to another performance threshold.

Public Policy Considerations

Servicing carriers reported providing required workplace safety and risk management services, although employers surveyed indicated a smaller share were "offered" these services. The study could not determine whether the low reported rate of insurer offers was due to misunderstanding of information provided by insurers or whether insurers were not required to offer the services to the employer in the first place (there is no requirement to offer services to businesses with fewer than 10 employees). It may be that the "offer" is included with a variety of items included with a policy that an employer may not interpret as a specific offer of help in these areas. Any changes to this area should consider the cost and benefit of requiring services to even smaller businesses.

As discussed above, employers in the plan for more than 36 months are more likely to fall in higher hazard classifications than those in the plan for shorter durations. These "chronic" assigned risk plan employers likely need assistance with workplace safety and risk management. Oregon OSHA offers consultative services that may be beneficial to this group of employers.

The paid-loss incentive was intended to reward servicing carriers' above-average performance in effectively managing assigned risk plan risks and claims. The incentive currently compares servicing carrier performance to the lowest paid-loss ratio among the Oregon servicing carriers. This system was set up in a time when there were multiple servicing carriers. Because there are currently only two servicing carriers, this results in a transfer of funds between the two insurers and may not be as effective an incentive as comparing their performance to another standard.

Producer/Agents and the Assigned Risk Plan

Key Findings

- Surveys affirmed that agents play a major role in assisting employers getting placement in the assigned risk plan. Seventy percent of surveyed employers have an agent, and 87 percent of the new applicants surveyed indicated that their agent assisted them.

- Of the 11 agents surveyed, 10 said they considered the assigned risk commissions too low.

Public Policy Considerations

Agents play a major role with most employers in the placement of their workers' compensation, because employers rely on agents to purchase their workers' compensation insurance and are not personally involved with insurance decisions. Surveys of employers showed many employers are unaware of the fact that they are being placed in the assigned risk plan. If employers do not know they are in the assigned risk plan, they are unlikely to take steps to gain voluntary market coverage.

Producers/agents have stated that they are not properly compensated for their assigned risk plan clients. Higher commissions would be a simple answer to their concerns; however, this would increase the administrative expense of the assigned risk plan and may increase assessments to voluntary carriers overall. Higher commissions would not likely change agent behavior and help depopulate the assigned risk plan. As discussed above, another possibility includes creating a reward system for agents who actively and successfully move clients from the assigned risk plan to the voluntary market.

Plan Structure and Pricing

Key Findings

- The makeup of the top 10 classifications in the assigned risk plan versus the voluntary market shows remarkable similarity.

- There are 63 classifications that have lower minimum premiums in the assigned risk plan than in most of the voluntary market. This results in the assigned risk plan being a lower cost option than the voluntary market.

- Some premium credits are granted to employers, regardless of the reason for plan placement. This includes employers that are cited as noncomplying.

- The most recent analysis of the new small employer credits and non-experience-rated credits show that employers receiving these credits are being subsidized by the plan.

Public Policy Considerations

The study indicates that the voluntary market writes most classifications, and most employers that are in the assigned risk plan are there for a variety of reasons. This suggests that high loss costs for more hazardous classifications is not the major determinant of whether an employer is placed in the assigned risk market. This also suggests that the voluntary market is relatively healthy and loss costs appear to be adequate.

The assigned risk plan is not collecting sufficient premium from participants to cover the cost of losses and expenses. The deficiencies are allocated to all insurers writing in the voluntary market. The insurers pass these costs of doing business to their insured employers, which pass the cost to the consumers of their goods and services.

There are some pricing mechanisms in the assigned risk plan that could be changed to better reflect actual experience and costs. Although the most recent study of the new and small employer credits determined that the credits are being subsidized by the plan, any adjustment of these pricing mechanisms would need to be weighed against the goals of reducing the cost of doing business for the newest and smallest employers in Oregon, as well as inciting compliance with the requirement to provide workers' compensation coverage. Reducing or eliminating credits or raising minimum premiums would increase the cost of workers' compensation for perhaps the most vulnerable employer populations such as start-ups and small employers, as well as increasing the potential for more employers to become noncompliant.

However, the non-experience-rated premium and new/small employer credits are available to any employer, regardless of the reason they enter the plan. According to the survey of new plan applicants, about 10 percent of employers applying to the plan did not comply with Oregon workers' compensation laws. These employers are currently eligible for both the new small employer credit and the non-experience-rated credit. While employer compliance is essential, it is not good public policy to provide any additional "reward" for obtaining coverage.

Plan Funding and Voluntary Market Subsidy

Key Findings

- The assigned risk plan losses have increased in recent years, although at a slower rate compared to national market experience.
- Economic growth has increased the number of smaller employers in the assigned risk plan.
- Some segments of the assigned risk plan receive a disproportionate benefit from the voluntary market subsidy.

Public Policy Considerations

There is a need to maintain a reasonable market of "last resort" to provide compliance with Oregon's workers' compensation law, protect employers and workers from a litigious tort system when a workplace accident occurs, and to help foster a healthy voluntary insurance market and an overall positive business climate.

There is a cost for providing this market. One issue is whether the cost of providing the assigned risk plan should be spread among assigned risk plan employers alone, to employers in the voluntary market, or allocated in another way.

Oregon's current approach is for the assigned risk plan to pay as much of the cost as possible, but also for the voluntary market at large to subsidize overall plan losses. There are improvements that could be made to achieve a reasonable market for all employers, yet make them accountable for workplace safety and the ultimate health of Oregon workers.

Some large experience-rated employers stay in the plan when voluntary market coverage is possible. A new loss sensitive plan for large employers will take effect for the assigned risk plan on Jan. 1, 2007, and it is expected these employers will either obtain voluntary market coverage or they will have premiums that more accurately reflect their experience.

Recommendations

Based on the study, the assigned risk plan is working well and does not need major changes. However, there is potential for improvement. The department recommends the following actions, which will fine-tune plan operations, help assigned risk plan employers obtain voluntary market coverage, and keep employers from entering the plan.

Improve assigned risk plan operations and pricing.

1. **Eliminate the statutory prohibition on plan surcharge.** Oregon law prohibits a surcharge on the plan, essentially meaning only the voluntary market employers can be charged for plan losses in any given year. If the assigned risk plan employers could also be charged for some, or all, of plan losses, there would be a diminished need to rely on the voluntary market employer subsidies to cover plan deficiencies. The department has proposed a bill (HB 2250, ***see appendix D***) to implement this recommendation. The concept would not require a surcharge be levied, but would allow the director the flexibility to use this tool if other pricing mechanisms are not successful in addressing plan shortfalls. *A statute change would be required.*

2. **Evaluate an alternative benchmark for the paid-loss incentive.** The current process for rewarding a servicing carrier's effective management of assigned risk plan accounts involves comparing the two servicing carriers' performance to each other. This results in a transfer of funds between the two insurers. This is not likely an effective incentive and an alternative benchmark should be evaluated. *Any change in the paid-loss incentive would require a change to the servicing carrier contract.*

3. **Eliminate non-experience-rated premium credit and new small employer credit for noncomplying employers entering the plan for the first time.** If an employer enters the plan because it has failed to have proper workers' compensation insurance coverage, it is eligible for two credits (non-experience-rated and new small employer). These credits are intended to make coverage more affordable for new and small businesses and should not be used to "reward" businesses that did not previously obtain required coverage. *This would require a rating system filing by NCCI on behalf of the plan.*

Help assigned risk plan employers obtain voluntary market coverage where possible.

4. **Clearly inform employers that they have been placed in the assigned risk plan and that there may be lower cost options through the voluntary market.** Many employers in the plan reported they did not know they had plan coverage. Employers do receive some notice about plan coverage in their plan application and the insurance binder. There may be additional ways to notify employers about the impact of plan placement that may encourage them to more actively seek voluntary market coverage. *This recommendation could be addressed by rule change, through the servicing carrier contract process, or by voluntary agreement with the servicing carriers.*

5. **For employers that remain in the assigned risk plan for more than 36 months, including those with high experience modification ratings, conduct a focused OR-OSHA and servicing carrier safety consultation effort. In addition, offer the same employers Workers' Compensation Division reemployment consultation services to help them develop a return-to-work program.** Employers that have spent a long time in the plan or have poor loss experience are likely in need of assistance with workplace safety efforts. Providing a targeted effort should help improve workplace safety and over time help improve loss experience. This will make employers more attractive to the voluntary market, as well decrease the overall losses of the plan. *This recommendation may require adjustment of the servicing carrier contract.*

6. **Implement the assigned risk plan loss sensitive plan (to be effective Jan. 1, 2007).** This new program was developed to address large assigned risk plan employers that may remain in the plan despite the fact they could probably obtain voluntary market coverage. A loss sensitive plan takes actual losses into consideration for pricing. The impact of this new program should be monitored to determine if it results in larger employers moving out of the assigned risk plan into the voluntary market.

Improve incentives and programs that may keep employers from entering the plan.

7. **Continue the Voluntary Coverage Assistance Program (VCAP) pilot.** The VCAP is keeping employers from entering the plan by matching plan applicants with suitable voluntary market coverage. If this pilot program continues to show effective movement of employers into voluntary coverage, the program should be made permanent. *This recommendation would require an administrative rule change.*

8. **Monitor effectiveness of voluntary market pricing mechanisms for best practices.** Some insurers, such as SAIF Corporation, have established a higher pricing tier to eliminate pressure on nonrenewals that might otherwise be forced into the assigned risk plan. This higher pricing tier also qualifies some existing assigned risk customers for voluntary coverage. Provided this continues to be a successful method of encouraging voluntary market coverage, other voluntary market insurers may wish to consider similar pricing mechanisms.

9. **Develop an economic incentive for producers/agents who move assigned risk plan employers to the voluntary market.** The producer/agent commission structure does not encourage agents to actively seek voluntary market coverage for assigned risk plan employers. In partnership with the industry, DCBS should evaluate other options to help motivate agents to be more active in helping employers move to the voluntary market. *This recommendation will likely require an administrative rule change and extensive stakeholder involvement.*

10. **Analyze insurer premium take-out credit program for larger employers to determine effectiveness.** Currently, the graduated structure of the insurer take-out credit program is such that mid-sized risks ($5,001 to $15,000 premium) are not likely to be a focus. This incentive's structure should be studied further to determine how it can be better tailored to meet the needs of mid-sized employers. *Depending if adjustments are needed, may require an administrative rule change.*

11. **Allow voluntary market insurers to file loss cost multipliers that exceed the assigned risk plan for large employers.** Current interpretation of administrative rules prohibits voluntary market insurers from filing a pricing tier that exceeds the assigned risk plan's loss cost multiplier, effectively capping the voluntary market. However, on a case-by-case basis, voluntary market insurers can request the director of DCBS approve a rate greater than the assigned plan if the employer agrees. In these cases, the voluntary market coverage, even at the higher rate, may be less expensive for the employer than the assigned risk plan because the plan may include additional charges (such as SARAP) based on loss experience. If insurers were allowed to file loss cost multipliers greater than the plan, specifically for larger employers, it would eliminate the need for individual rate approvals and help keep employers out of the plan. *This will require administrative rule changes.*

Appendix A: Summary of Study Surveys

The department conducted four surveys during 2006.

Current Plan Employer Survey

This survey was sent by direct mail to employers in the assigned risk plan in early 2006. A copy of the survey is on pages 39-40. NCCI provided the names and addresses of plan employers with coverage as of September 2005. The survey was sent to a stratified random sample of 771 plan employers in three premium size categories: small (premium less than $2,500); medium ($2,501-200,000); and large (more than $200,000). A cover letter explained the purpose of the survey and provided instructions on how to complete the survey online. A follow-up mailing, approximately one month after the initial mailing, was sent to employers that had not responded to the first mailing. Ultimately, there were 385 usable surveys. The 49.9 percent response rate was sufficient for a statistically valid response.

New Plan Applicant Survey

NCCI surveyed all applications received by the assigned risk plan between Jan. 5, 2006, and Feb. 2, 2006. There were 415 applications in the period. NCCI asked six questions concerning the applicant's premium, classification, reason for placement in the plan, source of prior coverage (voluntary market or plan), and whether an agent submitted the application.

Producer/Agent Survey

NCCI provided a list of the top 17 producers/agents, by both assigned risk premium and number of policies placed in the plan. The list accounted for 13.17 percent of total premium in the assigned risk plan and 7.59 percent of total policies in the plan. The study team contacted each producer/agent via personal visit, phone call, or letter. The survey included questions about reasons for employer placement in the plan, agent activities (number of quotes obtained, insurer appointments, services offered to employers), and opinions about the operation of the plan. There were a total of 11 responses. Although a limited sample size, the responses represent agents who actively market and place workers' compensation insurance and who have a thorough knowledge of the assigned risk plan.

Servicing Carrier Survey

The department surveyed both of the current servicing carriers, Liberty Northwest and SAIF Corporation, about reasons for employer placement in the plan, services offered to employers, and opinions about the operation of the plan.

Workers' Compensation Division

Assigned Risk Pool Employer Survey

Completing this survey will help the department determine whether the assigned risk pool is meeting the needs of Oregon employers. As a result of the survey, the department may make recommendations to improve the effectiveness of the pool. Please respond by February 28, 2006. If you have questions about filling out this survey, please contact David Waki or Jan Bissell at the Small Business Ombudsman's office 503-378-4209.

Identification number from the cover letter ________________________

1. What is your annual workers' compensation insurance premium?

- ❑ Less than $500
- ❑ $501 - $1,000
- ❑ $1,001 - $2,500
- ❑ $2,501 – $10,000
- ❑ $10,001 - $50,000
- ❑ More than $50,000
- ❑ Don't know

2. What is the NCCI classification code with the most premium from your last workers' compensation insurance billing? ______________________________

3. Prior to placement in the assigned risk pool, did your business ask for quotes from:

- ❑ Liberty Northwest
- ❑ SAIF Corporation
- ❑ Other company ______________________________

4. Do you have an insurance agent (producer) that helps you with workers' compensation insurance?

- ❑ Yes
- ❑ No

4a. If **yes**, prior to placement in the assigned risk pool, did your insurance agent ask for quotes from:

- ❑ Liberty Northwest
- ❑ SAIF Corporation
- ❑ Don't know
- ❑ Other company ______________________________

5. How many quotes from the private market did you (and your insurance agent, if applicable) receive before getting insurance from the assigned risk pool? ______________________________

6. Why was your business initially placed in the assigned risk pool? (Check all that apply)

- ❑ Canceled in the voluntary market
- ❑ Small premium (under $2500 per year)
- ❑ Payment plan available in the assigned risk pool
- ❑ Poor loss experience (e.g., multiple claims, high experience modification)
- ❑ Do not know
- ❑ Other ______________________________
- ❑ New business
- ❑ Nature of business
- ❑ Lowest cost option
- ❑ Personal election coverage only
- ❑ "If any" employees policy

7. Do you think your credit rating has anything to do with your placement in the assigned risk pool?
❑ Yes ❑ No ❑ Don't know

7a. If **yes**, have you taken any steps to improve your credit?
❑ Yes ❑ No

8. Have you received consultation services to help analyze and improve safety in your workplace?
❑ Yes ❑ No

8a. If **yes**, from whom?
❑ Insurance agent (producer) ❑ OR-OSHA
❑ Workers' compensation insurer ❑ Other ___________________________

8b. If the consultation suggested improvements, have you implemented the recommendations?
❑ Yes ❑ No ❑ Does not apply

9. Have you been offered other services to help you move out of the assigned risk pool and into the voluntary market (e.g., claim management, return to work, record keeping)?
❑ Yes ❑ No

9a. If **yes**, from whom?
❑ Insurance agent (producer) ❑ OR-OSHA
❑ Workers' compensation insurer ❑ Other ___________________________

9b. If the consultation suggested improvements, have you implemented the recommendations?
❑ Yes ❑ No ❑ Does not apply

10. How long has your business been in the assigned risk pool?
❑ Less than one year
❑ One to two years
❑ Two to three years
❑ More than three years

10a. If **more than three** years, why have you remained in the pool? (Check all that apply)
❑ Lowest cost option
❑ Nature of business
❑ Credit rating
❑ Do not know
❑ Other ___________________________
❑ No offers for coverage from the voluntary market
❑ Payment plan available in the assigned risk pool
❑ Small premium (under $2500 per year)
❑ Poor loss experience (e.g., multiple claims, high experience modification)

11. Has your business previously obtained coverage in the voluntary market?
❑ Yes ❑ No

11a. If **yes**, was your business in the assigned risk pool prior to that?
❑ Yes ❑ No

12. Who filled out this survey?
❑ Owner ❑ Accountant/bookkeeper
❑ Risk or safety manager ❑ Payroll or accounting service
❑ Insurance agent (producer) ❑ Other ___________________________

13. Optional contact information (name, phone number): ____

If you have additional comments about the assigned risk pool, please include them on a separate sheet.

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Appendix B

Geographic location of assigned risk plan employers and voluntary market employers

County	Assigned risk	Assigned risk percent	Voluntary market	Voluntary percent
Baker	93	0.7%	395	0.6%
Benton	250	1.9%	1,181	1.8%
Clackamas	1,151	8.8%	5607	8.7%
Clatsop	109	0.8%	880	1.4%
Columbia	107	0.8%	572	0.9%
Coos	244	1.9%	1,333	2.1%
Crook	75	0.6%	351	0.5%
Curry	79	0.6%	525	0.8%
Deschutes	717	5.5%	3,328	5.2%
Douglas	360	2.8%	1,702	2.6%
Gilliam	14	0.1%	67	0.1%
Grant	50	0.4%	187	0.3%
Harney	49	0.4%	162	0.3%
Hood River	93	0.7%	695	1.1%
Jackson	776	5.9%	3,368	5.2%
Jefferson	50	0.4%	244	0.4%
Josephine	321	2.5%	1315	2.0%
Klamath	266	2.0%	1,113	1.7%
Lake	49	0.4%	204	0.3%
Lane	939	7.2%	5,451	8.5%
Lincoln	161	1.2%	887	1.4%
Linn	258	2.0%	1,568	2.4%
Malheur	117	0.9%	624	1.0%
Marion	915	7.0%	4,837	7.5%
Morrow	48	0.4%	176	0.3%
Multnomah	2,312	17.7%	12,294	19.1%
Polk	159	1.2%	805	1.2%
Sherman	19	0.1%	61	0.1%
Tillamook	70	0.5%	542	0.8%
Umatilla	184	1.4%	1,146	1.8%
Union	91	0.7%	521	0.8%
Wallowa	77	0.6%	267	0.4%
Wasco	101	0.8%	514	0.8%
Washington	1,252	9.6%	6,653	10.3%
Wheeler	9	0.1%	36	0.1%
Yamhill	263	2.0%	1,362	2.1%
2-Out of State	1,184	9.1%	3,381	5.2%
3-Canada	41	0.3%	80	0.1%
4-Invalid Oregon ZIP	18	0.1%	44	0.1%
Total	**13,071**	**100.0%**	**64,478**	**100.0%**

Metro counties (per Employment Dept.)	Assigned risk	Assigned risk percent	Voluntary market	Voluntary percent
Benton	250	1.9%	1,181	1.8%
Clackamas	1,151	8.8%	5,607	8.7%
Columbia	107	0.8%	572	0.9%
Deschutes	717	5.5%	3,328	5.2%
Jackson	776	5.9%	3,368	5.2%
Lane	939	7.2%	5,451	8.5%
Marion	915	7.0%	4,837	7.5%
Multnomah	2,312	17.7%	12,294	19.1%
Polk	159	1.2%	805	1.2%
Washington	1,252	9.6%	6,653	10.3%
Yamhill	263	2.0%	1,362	2.1%
Metro totals	**8,841**	**67.6%**	**45,458**	**70.5%**

	Assigned risk	Assigned risk percent	Voluntary market	Voluntary percent
Nonmetro (rural) counties	2,987	22.9%	15,515	24.1%
2-Out of State	1,184	9.1%	3,381	5.2%
3-Canada	41	0.3%	80	0.1%
4-Invalid Oregon ZIP	18	0.1%	44	0.1%
Total	**13,071**	**100.0%**	**64,478**	**100.0%**

Appendix C

Assigned Risk Plan Premium Calculation Examples

Note: The following are simplified premium calculations for sample employers using 2006 assigned risk plan rates. Individual employers may experience different results depending on their insurer, amount of payroll, and whether they have multiple classifications in their business.

Example Employer #1: Employer is in outside sales (class 8742). The employer has no experience rating modification factor, so it qualifies for the non-experience-rated credit. Employer also qualifies for new/small credit.

Scenario A: Employer buys an "if any" policy because it might hire an employee.

Step	Calculation
Step 1: Calculate premium based on payroll.	Estimated payroll = $0 Assigned risk rate for class 8742 = $0.46 Payroll/100 * Rate (0/100 * .46)........................... $0
Step 2: Deduct credits, if applicable (no credits in this example because there is no payroll). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct credits (none in this example) .... $0 Add expense constant .... $180 Calculated premium $180
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 8742 ($239). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes. **Note:** If there is ultimately no payroll, then the minimum premium adjusts to the lowest minimum premium in the assigned risk plan ($216) and the employer is refunded the difference ($23).	Estimated annual premium............................ **$239**

Scenario B: Employer hires one employee for the year at $10,000 per year.

Step	Calculation
Step 1: Calculate premium based on payroll.	Estimated payroll = $10,000 Assigned risk rate for class 8742 = $0.46 Payroll/100 * Rate (10,000/100 * 0.46) $46.00
Step 2: Deduct credits, if applicable (in this case, both the non-experience-rated credit and new/small credit). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct non-experience credit (11%) (46 * .11 = -$5.06)..$40.94 Then deduct new/small credit (15%) (40.94 * .15 = -$6.14) ....$34.80 Add expense constant .... $180.00 Calculated premium $214.80
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 8742 ($239). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes.	Estimated annual premium after raising to minimum premium for class 8742 ($239)...................................... **$239.00**

Scenario C: Employer hires three employees at $24,000 per employee per year.

Step	Calculation
Step 1: Calculate premium based on actual payroll.	Estimated payroll = $72,000 Assigned risk rate for class 8742= $0.46 Payroll/100 * Rate (72000/100 * 0.46) $331.20
Step 2: Deduct credits, if applicable (in this case, both the non-experience-rated credit and new/small credit). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct non-experience credit (11%) (331.20 * .11 = -$36.43) .... $294.77 Then deduct new/small credit (15%) (294.77 * .15 = -$44.22)..............................$250.55 Add expense constant .... $180.00 Calculated premium $430.55
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 8742 ($239). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes.	Premium after credits ($430.55) exceeds the minimum premium for the class ($239), so no adjustment necessary. Estimated annual premium........................ **$430.55**

Example Employer #2: Employer is in carpentry for private residence construction (class 5645). The employer has no experience rating modification factor, so it qualifies for the non-experience-rated credit. Employer also qualifies for new/small credit.

Scenario A: Employer buys an "if any" policy because it might hire an employee.

Step	Calculation
Step 1: Calculate premium based on payroll.	Estimated payroll = $0 Assigned risk rate for class 5645 = $20.88 Payroll/100 * Rate (0/100 * 20.88)........................ $0
Step 2: Deduct credits, if applicable (no credits in this example because there is no payroll). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct credits (none in this example) .... $0 Add expense constant ($180) .... $180 Calculated premium $180
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 5645 ($500). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes. **Note:** If there is ultimately no payroll, then the minimum premium adjusts to the lowest minimum premium in the assigned risk plan ($216) and the employer is refunded the difference ($284).	Estimated annual premium............................ **$500**

Scenario B: Employer hires an employee for one year at $1,000 for the year.

Step	Calculation
Step 1: Calculate premium based on payroll.	Estimated payroll = $1,000 Assigned risk rate for class 5645 = $20.88 Payroll/100 * Rate (1000/100 * 20.88) $208.80
Step 2: Deduct credits, if applicable (in this case, both the non-experience-rated credit and new/small credit). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct non-experience credit (11%) (208.80 * .11 = -$22.97) .... $185.83 Then deduct new/small credit (15%) (185.83 * .15 = -$27.87) .... $157.96 Add expense constant .... $180.00 Calculated premium $337.96
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 5645 ($500). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes.	Estimated annual premium after raising to minimum premium for class 5645 ($500) **$500.00**

Scenario C: Employer hires an employee for one year at $5,000 for the year.

Step	Calculation
Step 1: Calculate premium based on actual payroll.	Estimated payroll = $5,000 Assigned risk rate for class 5645= $20.88 Payroll/100 * Rate (5000/100 * 20.88)...... $1,044.00
Step 2: Deduct credits, if applicable (in this case, both the non-experience-rated credit and new/small credit). Add the expense constant (a flat fee added to each policy to account for processing costs).	Deduct non-experience credit (11%) (1044 * .11 = -$114.84) .... $929.16 Then deduct new/small credit (15%) (929.16 * .15 = -$139.37)............................. $789.79 Add expense constant .... $180.00 Calculated premium $969.79
Step 3: Compare the calculated premium to the minimum premium for the assigned risk plan classification 5645 ($500). If calculated estimated annual premium is lower than the minimum premium, adjust upward to minimum premium. The amount could change if amount of payroll changes.	Premium after credits ($969.79) exceeds the minimum premium for the class ($500), so no adjustment necessary. Estimated annual premium....................... **$969.79**

Appendix D: HB 2250

LC 788
44000/021
11/2/06 (CJC/ps)

D R A F T

SUMMARY

Allows imposition of surcharge on workers' compensation rating plan for assigned risk pool.

1 **A BILL FOR AN ACT**

2 Relating to surcharge on workers' compensation rating plan for assigned risk
3 pool; amending ORS 737.322.
4 **Be It Enacted by the People of the State of Oregon:**
5 **SECTION 1.** ORS 737.322 is amended to read:
6 737.322. Notwithstanding any other provision of this chapter:
7 [*(1) The Director of the Department of Consumer and Business Services*
8 *shall not approve any workers' compensation rate filing for an assigned risk*
9 *pool that provides for any surcharge. As used in this subsection, a*
10 *"surcharge" does not include a modification pursuant to an experience rating*
11 *plan approved by the director.*]
12 [*(2)*] **(1)** The Director **of the Department of Consumer and Business**
13 **Services** shall adopt rules providing for approval of workers' compensation
14 rating plans that include provisions allowing for reasonable retroactive ap-
15 plication of experience rating modification factors. Nothing in this sub-
16 section affects retrospective rating plans.
17 [*(3)*] **(2)** If the director disapproves a workers' compensation rate or rating
18 plan and the insurer or rating organization requests a hearing before the
19 director, the burden of proof is upon the insurer or rating organization to
20 prove that the filing meets the requirements of this chapter.
21 [*(4)*] **(3)** If the director holds a hearing on an order disapproving a work-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 ers' compensation rate, rating plan or rating system, the insurer or rating
2 or advisory organization filing or using the rate, rating plan or rating system
3 shall pay to the director the just and legitimate costs of the hearing, in-
4 cluding actual necessary expenses.
5

Glossary

Agent. ***See producer.***

Assigned risk plan. A workers' compensation insurance plan that provides coverage to employers that are otherwise eligible for workers' compensation insurance but cannot obtain it in the voluntary insurance market.

Classification. A grouping that indicates the type of work done by employees of a firm. There are 622 NCCI classification codes. Oregon uses 523 of these classifications. An employer can have one or many classifications associated with its business.

Expense constant. A flat amount added to premium that reflects the fixed costs for processing an insurance policy. In Oregon, the maximum expense constant is $180.

Experience rating modification. A calculation that compares an employer's actual past claims experience to a model that represents the average claim experience for the employer's classification. If the employer's experience is less than average, it gets a rating lower than 1. If it is greater than average, the rating is higher than 1.

Guaranteed cost program. A pricing program where premiums paid are a set amount regardless of actual losses.

Loss. The economic cost of a contingent event (such as a workplace accident) that has taken place, as specified by the terms of a contract.

Loss cost. The portion of a premium rate that represents the dollars paid for lost-time benefits as well as dollars paid for medical treatment. There is a loss cost for each of the 523 classifications to reflect the unique frequency and severity of losses in each classification. The director of DCBS approves the loss cost rate. The loss cost for each classification is the same for every insurer in the voluntary market and for the assigned risk plan. ***Also called pure premium.***

Loss cost multiplier (LCM). A component of the premium rate that accounts for insurer expenses relating to acquisition, taxes, claims adjustment, general expenses, profit, and contingencies. Each licensed workers' compensation carrier in Oregon files one or more loss cost multipliers to account for their costs of doing business over and above the loss cost. NCCI files the loss cost multiplier for the assigned risk plan. DCBS approves these multipliers. ***Also called load factor.***

Loss sensitive program. A pricing program where premiums are ultimately determined by a calculation that uses actual losses incurred during the policy period, made after a policy has expired. Typically these types of plans are designed for larger risks that generate more than $200,000 or more in annual standard premium.

Minimum premium. The smallest amount for which a policy may be written for a one-year period, intended to ensure that the amount collected in premium is sufficient to cover estimated potential losses.

NCCI. The National Council on Compensation Insurance (NCCI). NCCI administers the assigned risk plan for Oregon.

Plan assessment. The amount of assigned risk plan gains or losses shared by all workers' compensation insurers.

Premium. The price of an insurance policy.

Producer. A person licensed by the state of Oregon to sell insurance products. ***Also called agent.***

Rate. The cost of a unit of insurance, usually per $100 of payroll. Rates include the insurer's or assigned risk plan's loss cost multiplier.

Retrospective rating. A method of adjusting the final premium for a risk, subject to an agreed-upon maximum and minimum limit based on the employer's actual loss experience occurring during the policy period. It is typically available to large commercial insurance buyers. ***See loss sensitive program.***

Risk. The chance of loss, or the person or entity that is insured.

SAIF Corporation. A not-for-profit public corporation that provides workers' compensation insurance to Oregon employers.

Servicing carrier. An insurer selected by NCCI (subject to DCBS approval) that provides workers' compensation policy coverage to an assigned risk plan employer.

Tier rating. Insurers may file multiple loss cost multipliers. Insurers use their lowest or most competitive tier for the better and most potentially profitable risks and apply higher tiers to average or less than average risks.

Voluntary market. The competitive workers' compensation insurance industry.

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