

Marine Industry Rules: Chapter 4123-20

4123-20-01 Application for subscription to the marine industry fund.

(A) Any employer doing business in the state of Ohio and having, by reason of operations within the territorial boundaries of this state, exposure to liability under the "United States Longshoremen's and Harbor Workers' Compensation Act," 33 U.S.C. section 901 et seq., may make application to the marine industry fund created by section 4131.13 of the Revised Code.

(B) An employer wishing to subscribe to the marine industry fund shall complete an application for subscription, which shall be provided by the bureau of workers' compensation. No disposition shall be made of any such application until the same is complete, and no such application shall be deemed complete until all information requested by the bureau in connection therewith is supplied. The bureau shall have the right to make reasonable inspections of an applicant's place of business, and of any records which may be pertinent to such applicant's application for subscription at any time prior to reaching a decision regarding an application for subscription.

(C) In determining whether to accept or reject an application for subscription to the marine industry fund, the administrator of workers' compensation shall consider the following criteria, which are set out by way of illustration and not by way of limitation:

(1) The applicant's history with respect to Ohio workers' compensation, including compliance with applicable laws and rules, payment of premiums and assessments, safety record, and experience ratings; and

(2) The applicant's history with respect to Longshoremen's Act insurance, including the names of prior carriers, record of payment of premiums, record of cooperation with carriers in the processing of claims, safety record, and experience rating.

The administrator has the authority, in the administrator's discretion, to accept or reject an application for subscription to the marine industry fund. The decision of the administrator shall be final.

R.C. 119.032 review dates: 01/17/2008 and 01/01/2013

Promulgated Under: 119.03

Statutory Authority: 4121.121, 4121.12

Rule Amplifies: 4131.13, 4131.14

Prior Effective Dates: 3/23/81, 12/18/89 (Emer.), 2/22/90

Subscription to the marine industry fund.

- (A) An employer whose application for subscription to the marine industry fund has been approved by the administrator of workers' compensation as provided in rule 4123-20-01 of the Administrative Code shall be issued a marine industry fund insurance policy upon payment of the initial premium required for such policy.
- (B) Coverage under a marine industry fund insurance policy shall not be effective until the initial prepaid premium is received by the bureau of workers' compensation. ~~All policies of insurance issued by the marine industry fund shall be for a term of one year from the date of issue, provided, however, that a policy may be issued for a term of less than one year if it is established that the applicant has need of marine industry fund coverage only for the duration of a specific contract or operation.~~
- (C) Any policy of insurance issued by the marine industry fund shall expire at midnight on the expiration date stated on the face of such policy. Beginning July 1, 2012, that date shall be either the last day of February or August thirty-first. Any such policy may be renewed by payment of the renewal premium. Payment of a renewal premium prior to ~~within sixty days after~~ the stated expiration date shall be effective to continue the coverage of the insured without lapse.
- (D) Payment of a renewal premium ~~received more than sixty days~~ after the expiration date shall be ineffective to continue the coverage of the insured employer without lapse. If an insured employer tenders payment of a renewal premium ~~more than sixty days~~ after the stated expiration date, the administrator may, in the administrator's discretion, reinstate the coverage of such employer as of the date of receipt of payment or require the employer to submit a new application for subscription to the marine industry fund. In no event shall retroactive coverage be granted with respect to any period when the coverage of an insured employer has lapsed.

Premium payment.

- (A) Except as otherwise provided in this rule, premiums for marine industry fund insurance coverage shall be payable in advance, in semiannual installments, at a rate determined by the administrator of workers' compensation, subject to the approval of the bureau of workers' compensation board of directors. The amount of prepaid premium for any six-month period shall be determined by applying the rates and manuals in use by the marine industry fund for such period to the estimated payroll of the insured for a period of eight months. ~~The due dates of semiannual premium installments applicable to any marine industry fund insurance policy shall be determined with reference to the original date of issuance of such policy.~~
- (B) The initial premium required for the issuance of a new marine industry fund insurance policy shall be a sum equal to the estimated premium obligation for a period of eight months. Payment of the initial premium shall secure to the insured coverage for a the remainder of the six month policy period ~~of six months~~ from the date of issuance of the policy plus a two month adjustment period.
- (C) ~~Renewal~~ Beginning July 1, 2012, renewal premiums shall be due and payable ~~thirty days after the expiration of the last period for which prepaid premium has been submitted.~~ not later than August thirty-first (for the January 1 to June 30 period) and the last day of February (for the July 1 to December 31 period). The premium required to renew a marine industry fund insurance policy shall be the prepaid premium for the next-renewal period, determined in accordance with the provisions of paragraph (A) of this rule.
- (D) All prepaid premiums shall be subject to adjustment at or after the close of the period with respect to which such prepaid premium was submitted. Adjustments shall be based on the employer's report of his actual payroll for the period, or upon audit findings reported by the authorized agents of the marine industry fund. In the event that adjustment of the prepaid premium reveals that the insured has overpaid his premium for the period being adjusted, the insured shall be entitled to reduce his renewal premium by the amount of such overpayment. Should the adjustment reveal that the prepaid premium was less than the premium obligation based on actual payroll for the period being adjusted, the additional premium found to be owing shall be added to the renewal premium, or shall be billed to the employer.

4123-20-04 **Payroll reporting.**

- (A) All employers insured by the marine industry fund shall, at such intervals as may be required by the fund, submit payroll reports showing the number of persons employed in occupations covered by the marine industry fund insurance policy and the total payroll allocable to each manual classification in use by the marine industry fund and applicable to the insured.
- (B) ~~Thirty days prior to the expiration of the then-current coverage period~~ In July and January of each year, the marine industry fund shall mail the insured a report form. The insured shall return such form, together with any adjustment premiums and renewal premiums then due, to the fund ~~within thirty days after the closing of the reporting period~~ no later than August thirty-first and not later than the last day of February, for the respective payroll periods. Such report shall include a statement of the insured's actual payroll allocable to each appropriate manual classification for the prior six months, and an estimate of the insured's anticipated payroll for the ensuing eight months, and such other information as shall be required by the fund.
- (C) The payroll reports provided for in paragraph (B) of this rule shall be used as the basis for adjustment of premiums paid for the prior period, and for determination of the prepaid premium for the ensuing period. No provision of this rule shall be construed to limit in any way the right of the fund to audit the payroll records of the insured or to make adjustments based on the findings of such audits.
- (D) In the event that the actual payroll for any six-month reporting period is greater than ninety per cent of the eight-month estimated payroll, the insured employer shall be subject to a penalty in the sum of ten per cent of the total premium due for such six-month period. The penalty provided for herein shall not apply, if the insured employer shall promptly notify the marine industry fund of any increase in payroll expenditures beyond the level of previously reported estimated payroll, and submit payment of additional premium to cover such increased payroll, prior to the end of the six-month reporting period.
- (E) Pursuant to section 4131.14 of the Revised Code, for all payroll periods beginning July 1, 2012, if the employer estimates no payroll or calculates estimated premium of less than the minimum administrative charge for the reporting period, the employer shall pay a minimum annual non-refundable administrative charge at a rate of fifty dollars each six months or one hundred dollars annually.

4123-20-05 Payroll to be reported.

(A) When completing the payroll reports required pursuant to rule 4123-20-04 of the Administrative Code, an insured shall report to the marine industry fund all remuneration earned by such employees of the insured as engaged in activities constituting "maritime employment" within the meaning of the "Longshoremen's and Harbor Workers' Compensation Act." As used in this rule the term "remuneration" means all compensation for personal services paid under a contract of hire, oral or written, express or implied. "Remuneration" shall include, but shall not be limited to salaries or hourly wages paid by cash or check.

(B) In the case of an employee who spends some time performing duties in "maritime employment" and some time performing duties of a non-maritime nature, only the remuneration of such employee's maritime employment shall be reported to the marine industry fund for premium purposes.

(C) The entire remuneration of officers of a corporation shall be reported to the marine industry fund. In the case of a corporate officer who is a shareholder of the insured, the payment of a bona fide dividend on the shares owned by such officer shall not be deemed to constitute remuneration for purposes of this rule, nor shall any other payment made to such officer solely on account of his ownership of shares of the insured.

(D) A sole proprietor shall not be considered to be an employee of the enterprise, and the remuneration of a sole proprietor shall not be reported to the marine industry fund. This provision shall not be construed so as to relieve a sole proprietor from the obligation to report the remuneration earned by his employees.

(E) The remuneration of partners shall be reported to the marine industry fund. This provision shall not be construed so as to relieve a partnership from the obligation to report the remuneration earned by employees of the partnership.

(F) The remuneration of employees whose duties are exclusively of a non-maritime character shall not be reported to the marine industry fund.

R.C. 119.032 review dates: 01/17/2008 and 01/01/2013

Promulgated Under: 119.03

Statutory Authority: 4121.12, 4121.121

Rule Amplifies: 4131.13, 4131.14

Prior Effective Dates: 3/23/81, 12/18/89 (Emer.), 2/22/90

4123-20-06 Audits and inspections.

(A) At any time during the term of any marine industry fund insurance policy, and for a period of two years after the termination of any such policy, the marine industry fund or its authorized agents shall have the right to make reasonable inspections of the insured's place of business, and any records, payrolls, books of account, ledgers, or contracts which reflect upon the payroll expenditures of the insured, or the allocation of such payroll expenditures to the appropriate manual classifications.

(B) Refusal on the part of the insured to permit reasonable audits and inspections, or willful interference by the insured with the authorized agents of the marine industry fund carrying out any audit or inspection, shall be sufficient reason for cancellation of the marine industry fund coverage of the insured.

(C) If the findings of any audit or inspection reveal a discrepancy in the amount of premium paid by the insured for any period, the fund shall have the right to adjust the account of the insured in accordance with the audit findings.

R.C. 119.032 review dates: 01/17/2008 and 01/01/2013

Promulgated Under: 119.03

Statutory Authority: 4121.12, 4121.121

Rule Amplifies: 4131.13, 4131.14

Prior Effective Dates: 3/23/81, 12/18/89 (Emer.), 2/22/90

4123-20-07 Controversion of claims.

(A) The marine industry fund is authorized under regulations promulgated by the United States department of labor to act as an insurance carrier with respect to liabilities created by the provisions of the “Longshoremen’s and Harbor Workers’ Compensation Act.” The marine industry fund, in such capacity, is recognized under applicable provisions of the governing federal law and regulations, as a party in interest to all proceedings regarding claims filed against employers insured by the fund.

(B) All notices of injury received from employers insured by the marine industry fund, and all notices of claims received from the department of labor shall be promptly reviewed by the marine industry fund. The administrator of workers’ compensation or the administrator’s designee shall be authorized to file notices of controversion in the name of the marine industry fund, in all cases wherein such action is warranted by the facts of the case or the law applicable to such facts. In the event that a notice of controversion is filed, the administrator or designee is authorized to represent, or cause to be represented, the interest of the marine industry fund in all proceedings pertinent to a controverted claim.

R.C. 119.032 review dates: 01/17/2008 and 01/01/2013

Promulgated Under: 119.03

Statutory Authority: 4121.12, 4121.121

Rule Amplifies: 4131.13, 4131.14

Prior Effective Dates: 3/23/81, 12/18/89 (Emer.), 2/22/90