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## Spotlight

### AUDIT REQUIREMENTS FOR DUAL WAGE CLASSIFICATION

In California, some construction and erection operations are divided into two separate classifications based on the employee's hourly wage rate. For instance, workers engaged in the installation of an automatic sprinkler system whose rate of pay is less than \$27.00 per hour are assignable to Classification 5185, *Automatic Sprinkler Installation - within buildings - less than \$27.00*. Workers whose rate of pay equals or exceeds \$27.00 per hour are assignable to Classification 5186, *Automatic Sprinkler Installation - within buildings - equals or exceeds \$27.00*.

To clarify the regular hourly wage and record keeping requirements for assigning these "dual wage" classifications, the WCIRB proposed changes to the *California Workers' Compensation Uniform Statistical Reporting Plan - 1995* (USRP) in August of 2007. These changes were adopted by the Insurance Commissioner after a public hearing and became effective January 1, 2008. Since insurers are now performing audits on policies incepting on or after January 1, 2008, the WCIRB is providing additional guidance regarding the USRP requirements.

#### Recordkeeping Requirements in Existing Law

The Department of Industrial Relations (DIR) Industrial Welfare Commission Order No. 16-2001 requires that all construction employers maintain precise records of hours worked each day for each employee, including daily start and stop times. Meal periods during which all operations cease and authorized rest periods need not be recorded. The changes made to the USRP effective January 1, 2008 clarify that employers must produce records verifying the number of actual hours worked as well as actual time cards or time sheets that document the daily start and stop times for each employee. The USRP regulations are consistent with DIR Order No. 16-2001 and do not impose additional recordkeeping requirements on construction industry policyholders.

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Assignment of the high wage classification to any employee (other than a salaried employee) is contingent on a reconciliation of the number of hours worked against actual time cards or time sheets that document the daily start and stop times for each employee. For salaried employees, the regular hourly wage is determined by dividing the total annual remuneration by 2,000 hours. If an employee is salaried for less than twelve months, the regular hourly wage for the salaried period is calculated on a prorated basis.

While employers in the construction industry are required to maintain timecards detailing the time each employee starts work at the beginning of the day and stops work at the end of the day, DIR Order No. 16-2001 provides that meal periods during which all of the employer's operations cease need not be recorded. Therefore, if the employees' unpaid meal breaks are not recorded and if the employer's operations cease for a uniform meal period, then the total hours worked may be adjusted as necessary to reflect the non-paid time in order to determine the regular hourly wage. This level of documentation is also sufficient to meet the recordkeeping requirements in the USRP for assignment of the high wage classifications.

The WCIRB prepared a standard form Policyholder Notice (PN 04 99 06 Payroll Record Requirements for Dual Wage Construction or Erection Classifications) that insurers may use to notify employers of the USRP recordkeeping requirements for dual wage classification assignments. This notice is advisory only and insurers are therefore not obligated or required to use it.

For more information about the *Standard Classification System*, see Part 3—Standard Classification System in the USRP which is available in the [California Regulations](#) section of the website. For a list of construction and erection classifications, visit the [Classification Information](#) section of the website.

Information concerning DIR Order No. 16-2001 is available on the DIR website at <http://www.dir.ca.gov/IWC/IWCArticle16.pdf>.

#### Dual Wage Examples

As used in the following examples, the terms *time card*, *time sheet*, and *time book* refer to original source documents that are used by an employer to document an employee's start and stop times throughout the workday and the total hours worked each day.

1. **The employer keeps detailed time cards, time sheets or time book entries only for high wage employees.**

This arrangement is not inconsistent with the rules in the USRP which require verification of detailed original time cards or time book entries to substantiate the high wage employees. Since any employees for whom such records are not maintained would be assigned to the low wage classification anyway, this type of recordkeeping is sufficient for purposes of making a dual wage classification assignment.

2. **The employer keeps time cards, time sheets or time book entries with only the daily start**

**and stop times - but not the in and out times for meal periods.**

Although the USRP requires original records showing the employees' start and stop times throughout the workday, under certain circumstances, employers are not required to record unpaid meal periods. This practice is compliant with DIR Order No. 16-2001 when the meal period represents a time in which all of the employer's job site operations cease for a uniform break period. Therefore, if the employees' unpaid meal break is not recorded and if the employer's operations ceased for a uniform meal period, then the total hours worked may be adjusted as necessary to reflect the non-paid time in order to determine the regular hourly wage.

3. **The employer keeps time cards, time sheets or time book entries with only the total hours worked, not the start and stop times.**

The USRP requires original time cards or time book entries that record the time each employee started and ended each work period throughout the workday and the total hours worked each day (see Part 3, Section IV, Rule 2a (3)). Therefore, if there is no documentation showing the employee's start and stop times, the employee must be assigned to the low wage classification.

4. **The employer keeps time cards with only the total hours worked, not the start and stop times. However, the employer also maintains separate daily time sheets or time book entries that show the start and stop time for each employee.**

The USRP requires original records showing the employees' start and stop times throughout the work day. If the time cards, in conjunction with the daily time sheets or time book entries, represent original source documentation of: (1) the total hours the employee worked each day and (2) the time the employee started and ended each work period throughout the workday, then the auditor may determine that the start and stop times are sufficiently documented to validate the hours worked for the purposes of making a dual wage classification assignment.

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