

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

DIRECTIVE NO.: 1-2010

TO: ALL PROPERTY AND CASUALTY COMPANIES WITH AUTHORITY TO WRITE WORKERS' COMPENSATION INSURANCE

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: UPSET PAYROLL BASED ON PRODUCTION

DATE: FEBRUARY 11, 2010

The Arkansas Insurance Department has been involved in a project designed to determine whether the upset method of determining workers' compensation premium produces a premium comparable to that produced by using actual payroll. Prior to the mid-90's many loggers were paid by the ton based on delivery to the mill and kept few payroll records. Consequently NCCI filed an "Upset Payroll" filing which was to be used only when actual payroll records were not available.

Since the intent of "upset" is to arrive at a rate that attempts to convert the amount of work done to an estimate of the labor time and payroll necessary to perform that work, it is clear that the conversion can never be accurate for every insured for at least some of the following reasons:

- Logging old growth or hardwood could result in higher production premiums because the logs are heavier and more dense.
- Clear cutting could result in more production than thinning because you cut more trees in a shorter period of time.
- First and second thinning could result in lower premiums because the wood is smaller and weighs less than full growth timber.
- Mechanized logging could cause production to be higher because it is more efficient with fewer employees.
- Including the owner who is actually involved in the cutting and hauling (as opposed to clerical) would make the payroll premium higher.

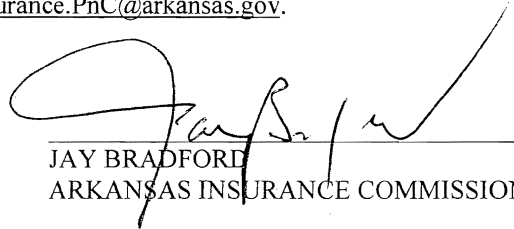
Our first step in this project involved auditing the payroll and production figures for a cross-section of logging operations which are currently being written on an upset basis.

Given the economic conditions in Arkansas and countrywide, coupled with rain and cold which had made it impossible for loggers to work, our timing on researching this issue could not have been worse. It was virtually impossible to get an apples-to-apples comparison under these conditions; consequently, we will suspend our efforts to eliminate the use of upset payroll until such time as the study can be completed, with the following caveat:

1. For all policies currently written on an upset basis, everything renewing on and after January 1, 2010 will be quoted on both an upset basis and a payroll basis.
2. The current upset formula will be used for the quote.
3. The company may file a separate loss cost multiplier for use with upset payroll.

4. A copy of the quote showing calculations by both methods and signed by the insured or their authorized representative indicating their choice of payroll or production method must be kept in the insurer's underwriting file.

The Department retains its concerns about the accuracy of the current factor used to quote on a production basis; however, given current conditions, this Directive will provide interim guidance while we continue to study the issue. Any questions regarding this Directive should be directed to the Property and Casualty Division of the Arkansas Insurance Department at 501-371-2800 or via email at insurance.PnC@arkansas.gov.



JAY BRADFORD
ARKANSAS INSURANCE COMMISSIONER

2-12-10

DATE