



September 2, 2014

DCRB CIRCULAR NO. 899

To All Members of the DCRB:

**RE: REVISIONS TO WORKERS COMPENSATION & EMPLOYERS LIABILITY INSURANCE FORMS
EFFECTIVE JANUARY 1, 2015 FOR NEW AND RENEWAL POLICIES
DCRB FILING NO. 1402**

The Delaware Compensation Rating Bureau (DCRB) has filed and the Insurance Commissioner has approved revisions to workers compensation and employers liability insurance forms, effective January 1, 2015 with respect to new and renewal policies, which will keep Delaware's approved language in conformance with prevailing countrywide usage.

These revisions are based on the National Council on Compensation Insurance, Inc. (NCCI) Circular – Countrywide – Item P-1411, Revision to Forms Manual of Workers Compensation and Employers Liability Insurance, which NCCI had recommended for adoption in Delaware. After reviewing the variety of changes NCCI proposed countrywide, the DCRB revisions, as approved by the Insurance Commissioner, are wording and other editorial changes to the Workers Compensation and Employers Liability Insurance Policy (WC 00 00 00B becoming WC 00 00 00C upon revision) and the Information Page Notes (WC 00 00 01A becoming WC 00 00 01B upon revision). In addition, revisions were made to *three currently-approved endorsements*, which will maintain consistency with those forms as published by NCCI.

The Delaware Basic Manual amendments to Section 3 – Endorsements are outlined below:

- WC 00 01 02 A – Federal Coal Mine Safety & Health Act Coverage Endorsement. Upon revision this endorsement will be designated and named as follows: WC 00 01 02 B – Federal Mine Safety and Health Act Coverage Endorsement
- WC 00 01 09 B – Outer Continental Shelf Lands Act Coverage Endorsement. Upon revision this endorsement will be designated and named as follows: WC 00 01 09 C – Outer Continental Shelf Lands Act Coverage Endorsement
- WC 00 02 01 A – Maritime Coverage Endorsement. Upon revision this endorsement will be designated and named as follows: WC 00 02 01 B – Maritime Coverage Endorsement

Copies of those endorsements, with deleted wording bracketed and new wording underlined, are attached to this circular for reference. The Workers Compensation and Employers Liability Policy and Information Page Notes are not replicated in the Delaware Basic Manual and are available from NCCI (www.ncci.com).

Questions concerning these changes should be directed to the Betty Ann Campbell, Director – Rating Rules & Policy Information at 215-320-4425 or bcampbell@dcrb.com.

Timothy L. Wisecarver
President

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Attachments

Remember to visit our website at www.dcrb.com for more information about this and other topics

Workers Compensation and Employers Liability Insurance Policy

WC 00 01 02 AB

FEDERAL COAL MINE SAFETY AND HEALTH ACT COVERAGE ENDORSEMENT

This endorsement applies only to work in a state shown in the Schedule and subject to the Federal Coal Mine Safety and Health Act (30 U.S.C. Sections 801 et seq. and 901-944-945). Part One (Workers Compensation Insurance) applies to that work as though that state were shown in item 3.A. of the Information Page.

The definition of workers compensation law includes the Federal Coal Mine Safety and Health Act (30 U.S.C. Sections 801 et seq. and 901-944-945) and any amendment to that law that is in effect during the policy period.

Part One (Workers Compensation Insurance), section A.2., How This Insurance Applies, is replaced by the following:

Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period or, when the last exposure occurred prior to July 1, 1973, a claim based on that disease must be first filed against you during the policy period shown in item 2 of the Information Page.

Schedule

State

- Note 1:** Use this endorsement when the policy is to cover exposures subject to the Federal Coal Mine Safety and Health.
- Note 2:** Federal Black Lung workers compensation insurance is provided in a state (including monopolistic state fund states) by naming the state in the Schedule.
- Note 3:** If this endorsement is used with a policy that does not provide any state workers insurance, the insurer may enter the words "no coverage", or "none", or the equivalent, in item 3.A. of the Information Page.

Workers Compensation and Employers Liability Insurance Policy

WC 00 01 09 BC

OUTER CONTINENTAL SHELF LANDS ACT COVERAGE ENDORSEMENT

This endorsement applies only to the work described in Item 4 of the Information Page or in the Schedule as subject to the Outer Continental Shelf Lands Act. The policy will apply to that work as though the location shown in the Schedule were a state named in Item 3.A. of the Information Page.

General Section C. **Workers' Compensation Law** is replaced by the following:

C. Workers Compensation Law

Workers' Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Outer Continental Shelf Lands Act (43 U.S.C. Sections 1331 ~~et seq.~~ ~~1356-a~~). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide non-occupational disability benefits.

Part Two (Employers Liability Insurance), C. Exclusions., exclusion 8, does not apply to work subject to the Outer Continental Shelf Lands Act.

Schedule

Description and Location of Work

Workers Compensation and Employers Liability Insurance Policy

WC 00 02 01AB

MARITIME COVERAGE ENDORSEMENT

This endorsement changes how insurance provided by Part Two (Employers Liability Insurance) applies to bodily injury to a master or member of the crew of any vessel.

A. **How This Insurance Applies** is replaced by the following:

A. **How This Insurance Applies**

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to work described in item 1 of the Schedule of the Maritime Coverage Endorsement.
3. The bodily injury must occur in the territorial limits of, or in the operation of a vessel sailing directly between the ports of the continental United States of America, Alaska, Hawaii or Canada.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
6. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

C. **Exclusions** is changed by removing exclusion 10 and by adding exclusions 13 and 14.

This insurance does not cover:

13. ~~B~~odily injury covered by a Protection and Indemnity Policy or similar policy issued to you or for your benefit. This exclusion applies even if the other policy does not apply because of another insurance clause, deductible or limitation of liability clause, or any similar clause.
14. Your duty or obligation to provide transportation, wages, maintenance, and cure. This exclusion does not apply if a premium entry is shown in Item 2 of the Schedule, except that punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law are excluded even if a premium is paid for transportation, wages, maintenance, and cure coverage.

D. **We Will Defend** is changed by adding the following statement:

We will treat a suit or other action in rem against a vessel owned or chartered by you as a suit against you.

G. **Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in the Schedule. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident –each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

WC 00 02 01 AB

(Cont'd)

- 2. Bodily Injury by Disease. The limit shown for "bodily injury by disease –aggregate" is the most we will pay for all damages covered by this insurance because of bodily injury by disease to one or more employees. The limit applies separately to bodily injury by disease arising out of work in each state shown in Item 3.A of the Information Page. Bodily injury by disease will be deemed to occur in the state of the vessel's home port.

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

- 3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this Insurance.

Schedule

- 1. Description of work:

- 2. Transportation, Wages, Maintenance and Cure Premium \$

Exclusion: This insurance does not cover punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law even if a premium is paid for transportation, wages, maintenance, and cure coverage.

- 3. Limits of Liability

Bodily injury by Accident \$ _____ each accident

Bodily injury by Disease \$ _____ aggregate