



March 9, 2015

**DCRB CIRCULAR NO. 905**

To All Members of the DCRB:

Re: **APPROVAL OF DCRB FILING NO. 1405 EFFECTIVE JANUARY 1, 2015**

**Revisions to Sections 3, 5 and 6**

The Delaware Insurance Commissioner has approved DCRB Filing No. 1405 **effective as of 12:01 a.m., January 1, 2015** with respect to new and renewal business only.

These revisions are intended to make the Manual clearer and less ambiguous. These revisions clarify endorsement procedures and update Section 3 Endorsements by removing endorsements that are to be filed with the Delaware Insurance Department directly. This filing also contains changes to Sections 5 and 6 of the Basic Manual for the exclusion of Fraudulent Losses from determination of Experience Modifications and Merit Rating Adjustments

**(1) Deletion of the “Amendatory Endorsement”**  
**Section 3, WC 00 03 18 – Amendatory Endorsement**

**(2) Discontinuation of all Retrospective Rating Endorsement Forms**  
**Section 3, Retrospective Rating Plans**

Carriers must file their retrospective rating plan endorsements with the Delaware Department of Insurance for approval.

**(3) Section 5, Experience Rating Plan**  
**Section V, Tabulation of Experience**

**7. Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases[Provided, however that]:

- (a) [in cases]where loss values are included or excluded through mistake other than error of judgment, or
- (b) where a claim is declared non-compensable (see note below), or
- (c) where the claimant or carrier has recovered in an action against a third party[it shall be permissible to submit a revised reporting requesting adjustment of the affected ratings or ratings, provided such request is made within 24 months of the expiration of the period to which the experience modification applied.], or
- (d) where a claim should have been reported with Catastrophe Code No. 48, or

(e) where a claim or a portion of a claim is ruled or officially declared fraudulent,

it shall be permissible to submit a revised reporting requesting adjustment of the affected ratings or ratings, provided such request is made within 24 months of the expiration of the period to which the experience modification applied.

If a case is expected to be open longer than 24 months, upon written application, properly filed with the DCRB[Bureau] by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the experience modification applied. Such application shall give notice to the DCRB[Bureau] that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB[Bureau's] files for the risk involved will be preserved.

Remainder of rule remains unchanged

**(4) Section 6, Merit Rating Plan  
Section V, Tabulation of Experience**

**6. Revision of Losses.** It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates, except in cases[Provided, however that]:

(a) [in cases]where loss values are included or excluded through mistake other than error of judgment, or

(b) where a claim is declared non-compensable (see note below), or

(c) where the claimant or carrier has recovered in an action against a third party, or

(d) where a claim should have been reported with Catastrophe Code No. 48, or

(e) where a claim or a portion of a claim is ruled or officially declared fraudulent,

it[It] shall be permissible to submit a revised reporting requesting adjustment of the affected Merit Rating Plan adjustment or adjustments, provided such request is made within 24 months of the expiration of the period to which the merit rating applied.

If a case is expected to be open longer than 24 months, upon written application, properly filed with the DCRB[Bureau] by the insured, a further extension of 24 months may be granted, provided such request is made within 24 months of the expiration of the period to which the merit rating applied. Such application shall give notice to the DCRB[Bureau] that one of the allowable conditions (see above) for loss revision is still pending a final decision. In this event, the DCRB[Bureau] files for the risk involved will be preserved.

Remainder of rule remains unchanged

**(5) Revising language in Section 3 of the Basic Manual to reflect that members are no longer required to send a specimen endorsement copy to the DCRB. References to "Bureau" are replaced with DCRB references**

**ENDORSEMENTS  
General Information  
(Regarding standard policy, information page and endorsements)**

*GENERAL ENDORSEMENT NOTES*

1. Insurance carriers may use their own attachment clause and method of execution on each endorsement. The execution clause of endorsements issued subsequent to the policy must include at a minimum the following information: policy number, endorsement, effective date, name of the insurer and insured, and premium (if applicable). Multi-company groups must show the name or the five-digit National Council on Compensation Insurance, Inc. (NCCI) carrier code of the member of the group providing the insurance.
2. THE PAGES WHICH APPEAR HEREIN INCLUDE COPYRIGHTED MATERIAL FROM THE NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC. USED WITH ITS PERMISSION. All rights reserved.

DELAWARE FORMS HAVE BEEN COPYRIGHTED BY THE DELAWARE COMPENSATION RATING BUREAU INC.[OR THE PENNSYLVANIA COMPENSATION RATING BUREAU.]

The license extended to the Delaware Compensation Rating Bureau, Inc. (DCRB) by the NCCI for use of its copyrighted forms permits the DCRB[this Bureau's] members to use such forms provided the form carries the legend "Copyright \_\_\_ National Council on Compensation Insurance, Inc." (with the year to be filled in accordance with the appropriate year of copyright as found in the Forms Manual issued by the NCCI). Any of the standard forms included in this change may be ordered from the National Council on Compensation Insurance, Inc.

The policy and endorsements have been filed on behalf of the members of the DCRB[Bureau] and approved by the Insurance Commissioner. Accordingly, individual filings with the Insurance Department or the Industrial Accident Board are not required if a member carrier uses the standard form filed by the DCRB.[Bureau]. [However, a specimen copy of each approved form prepared by the carrier shall be filed with the Bureau.] Any company which makes other than authorized changes in or additions to such approved DCRB[Bureau] forms must file the forms directly with the Insurance Department, providing a copy of such filing to the Industrial Accident Board and the DCRB[Bureau]. See Endorsements Filing Procedure for specific instructions.

The information page and its notes were also filed and approved as a standard form. The specific form filed was the form copyrighted by the NCCI. It will be seen that some of the notes require modifications to this form for use in Delaware, while other notes give the carrier many options as to items to be included. Use of an information page which includes the Delaware requirements and the exercise of any of the other specified options will be considered an approved form, subject only to filing with the DCRB[Bureau]. Any omission(s) of required items from an information page will require filing of such information page with the Insurance Department, with a copy of such filing to be forwarded to the DCRB[Bureau].

**3. ENDORSEMENT FILING PROCEDURE**

The provisions of each endorsement applicable in Delaware as developed by the appropriate committees of the DCRB[Bureau], will be filed by the DCRB[Bureau] with the Department, for all members who have furnished the President of the DCRB[Bureau] with a Power of Attorney to so file on their behalf.

Individual filing with the Insurance Department will not be required by any member carrier [who has executed the Power of Attorney,]with respect to the provisions of the standard workers compensation policy and endorsements which have been filed by the DCRB[Bureau] and approved[accepted] by the Insurance Department.

It is important to note that the NCCI has copyrighted the policy form, the information page and all of its standard endorsement forms. In addition, the DCRB has copyrighted the Delaware endorsement forms. If any of these documents are used with no modification, they must contain the appropriate copyright legend. If modifications are made to the form and authorized by the appropriate authority, the form must contain the following statement (with the appropriate year of copyright filled in as found in the Forms Manual issued by NCCI): "Includes material of the (appropriate Bureau name) Copyright 20 \_\_\_\_ used with its permission."

Following the approval[acceptance] by the Insurance Department of the provisions of endorsements filed by the DCRB[Bureau], a circular letter will be issued by the DCRB[Bureau] notifying the members of the DCRB[Bureau].

[A specimen copy of each endorsement form, prepared by the carrier, shall be filed with the Bureau, accompanied by a letter certifying to the following:

- (a) That the form of the endorsement is exactly in accord with the form as filed with the Insurance Department.
- (b) That the minimum requirements of the Insurance Department with respect to execution, name of carrier, etc., have been complied with.

When specimen copies of each endorsement form have been placed on file in the Bureau, no further action will be necessary to authorize use of such endorsements by those carriers on whose behalf the filing was made.

It is anticipated that all carriers will avail themselves of this simplified procedure. In the event a carrier chooses not to furnish the President with a Power of Attorney that carrier must continue to file its endorsements with the Insurance Department.]

A new company, which is not yet a member of the DCRB must submit its policy and information page forms directly to the Insurance Department when it applies for its license to write workers compensation insurance.

A carrier wishing to use any form that varies from the standard in any way, must file such form directly with the Insurance Department, with a copy of the filing furnished to the DCRB.

These Manual revisions will be updated on our website ([www.dcrb.com](http://www.dcrb.com)) at a later date.

Questions about these changes should be directed to Betty Ann Campbell, Director – Rating Rules & Policy Reporting Department, at Extension 4425 or [bcampbell@dcrb.com](mailto:bcampbell@dcrb.com).

Timothy L. Wisecarver  
President

TLW/jf  
D Circ

***Remember to visit our web site at [www.dcrb.com](http://www.dcrb.com) for more information about this and other topics.***