



October 20, 2004

BUREAU CIRCULAR NO. 788

To All Members of the Bureau:

Re: **ADDITIONAL INFORMATION**
BUREAU FILING NO. 0404
EFFECTIVE DECEMBER 1, 2004

MANUAL REVISIONS, FORMS AND ENDORSEMENTS

The October 18, 2004 approval of Bureau Filing No. 0404 **effective December 1, 2004** includes the following Manual revisions and endorsements not mentioned in Bureau Circular No. 786 of October 18, 2004.

Manual Revisions

Revisions to Section 1, Rule II

This revision to the citation of farm, domestic and casual labor payrolls qualifying for compulsory coverage is due to an amendment to Section 2307 of the Delaware Workers' Compensation Act. The changes are shown below with new wording underlined and deleted wording bracketed:

SECTION 1

Rule II – EXPLANATION OF COVERAGES AND METHOD OF INSURING

B. Coverage Requirements

1. Compulsory as to all employments:

Exceptions: Farm Labor, domestic servants, casual workers earning less than ~~[\$300.00]~~ \$750.00 in three months from one household. Elective as to state and certain counties, cities and towns. Refer to Sections 2307 and 2309 of the Delaware Workers Compensation Law.

Revisions to Section 2 – Subclassification

This language is being added to the Manual to bring it into alignment with existing law in response to H. B. 430, which was signed on July 12, 2004. The new language is shown below:

SECTION 2

CLASSIFICATION – NUMERICAL AND GROUP ARRANGEMENT

SUBCLASSIFICATION – CARRIER OPTION

House Bill 430 of 2004 (amending §2607, Title 18 of the Delaware Code) permits an insurer to develop a subclassification or subclassifications to the Bureau's classification system as approved by the Insurance Commissioner. The developing insurer shall file any such subclassification or subclassifications with the Bureau and the Insurance Commissioner at least thirty (30) days prior to the proposed effective date for such subclassification or subclassifications. The insurer's filing shall demonstrate that exposure and loss data produced under any proposed subclassification or subclassifications can be reported to the Bureau consistent with the Bureau's uniform classification system and Statistical Plan. The Insurance Commissioner must disapprove any subclassification filing for which such demonstration is not satisfactorily made.

Form

Agreement by Executive Officer(s) Not To Be Subject To The Delaware Workers' Compensation Law

The Partners, Officers and Other Exclusions Endorsement, WC 00 03 08, is routinely requested by employers applying for coverage through the Delaware Insurance Plan. Delaware does not have an "agreement or application" for an officer to complete prior to preparing this endorsement, although individual voluntary market carriers may have their own exemption forms. To provide a standard form to better document exclusion elections, a new agreement form has been approved and is attached to this circular.

Endorsements

Employers Liability Coverage Endorsement - WC 00 03 03 C

The Bureau has adopted National Council on Compensation Insurance, Inc. (NCCI) Item Filing No. P-1389, which is a countrywide revision for the above referenced endorsement to remove the exclusion of "bodily injury to any member of the flying crew of any aircraft," which will maintain consistency with industry standards. The revised endorsement is attached to this circular.

Federal Employers Liability Act Coverage – WC 00 01 04 A

Also a part of the same NCCI item filing referenced above, this revised endorsement adds clarifying language to specify that the policy exclusion of FELA coverage no longer applies. A copy is attached to this circular.

Any questions concerning this circular may be addressed to Betty Ann Campbell, Director – Rating Rules & Policy Reporting, at Extension 4425 or bcampbell@dcrb.com or Bruce E. Decker, Senior Vice President, at Extension 4411 or bdecker@dcrb.com.

Timothy L. Wisecarver
President

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Attachments

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

EMPLOYERS LIABILITY COVERAGE ENDORSEMENT

This endorsement applies only to work in the states shown in the Schedule.

- A. Part One (Workers Compensation Insurance) does not apply to work in the state shown in the Schedule.
- B. Part Two (Employers Liability Insurance) applies to work in states shown in the Schedule as though they were shown in Item 3.A. of the Information Page.
- C. Part Two (Employers Liability Insurance), C. Exclusions is changed by adding these exclusions.

This insurance does not cover:

- 13. bodily injury to an employee when you are deprived of common law defenses or are subject to penalty because of your failure to secure your obligations under the workers compensation law of any state shown in the Schedule or otherwise fail to comply with that law.

Schedule

States

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequently to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium \$

Insurance Company

Countersigned By _____

FEDERAL EMPLOYERS' LIABILITY ACT COVERAGE ENDORSEMENT

This endorsement applies only to work subject to the Federal Employers' Liability Act (45 USC Sections 51-60) and any amendment to that Act that is in effect during the policy period.

G. Limits of Liability of Part Two (Employers Liability Insurance) is replaced by the following:

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 for bodily injury by accident.

- 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 or in the Schedule.

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

If any state is named in Item 2 of the Schedule, Part Two (Employers Liability Insurance) applies in that state to work subject to the Federal Employers' Liability Act as though that state were listed in Item 3.A. of the Information Page. Part One (Workers Compensation Insurance) does not apply in a state shown in the Schedule.

Part Two (Employers Liability Insurance), C. Exclusions. Exclusion 9, does not apply to work subject to the Federal Employer's Liability Act.

Schedule

- 1. Limits of liability
 - Bodily Injury by Accident \$ _____ each accident
 - Bodily Injury by Disease \$ _____ aggregate
- 2. State

Note 1: The federal Employers Liability Act makes an interstate railroad liable for bodily injuries sustained by an employee. That liability of the railroad is insured by Part Two (Employers Liability Insurance) unless specifically excluded by Federal Employers Liability Act Exclusion.

Note 2: Use this endorsement when providing Federal Employers Liability Act coverage under Program I or II of Rule XIII of the Basic Manual.

Note 3: Item 2 of the Schedule may be used to extend FELA coverage to a state not listed in item 3.A. of the Information Page.