



Minnesota Workers' Compensation
Insurers Association, Inc.
7701 France Avenue South • Suite 450
Minneapolis, MN 55435-3200

July 10, 2008

ALL ASSOCIATION MEMBERS

Circular Letter 08-1532

RE: NCCI Item P-1406 — Withdrawal of Endorsement WC 00 01 13 A and Revisions to Endorsements WC 00 04 21 B & WC 00 04 22

The Minnesota Department of Commerce has approved the above filing to become effective 12:01 a.m., September 1, 2008, for new and renewal policies in the State of Minnesota.

The purpose for the above filing item is to withdraw Endorsement WC 00 01 13 A and adopt Endorsement WC 00 04 22 A in Minnesota.

In January, NCCI Item P-1405 — Terrorism Risk Insurance Program Reauthorization Act of 2007 was filed and approved to accommodate changes in the terrorism statutes. To implement these changes in Minnesota, Endorsement WC 00 01 13 A was renamed the *Terrorism Risk Insurance Program Reauthorization Endorsement* and approved for use with explanatory instructions for Minnesota added in the 'notes' section at the bottom of the endorsement. In addition, carriers were provided with specially suggested policy disclosure language for Minnesota.

As a result of feedback NCCI has received from the industry, the National Council has withdrawn Endorsement WC 00 01 13 A and incorporated its current disclosure language into a revised and renamed Endorsement WC 00 04 22 A. Currently, Endorsement WC 00 04 22 does not apply in Minnesota. After reviewing Item P-1406, MWCIA staff has agreed that it would be in the best interest of our membership if we filed Item P-1406 to withdraw Endorsement WC 00 01 13 A and adopt Endorsement WC 00 04 22 A. One of MWCIA's goals is to assist member carriers whenever possible through the standardization of workers' compensation forms.

As part of Item P-1406, NCCI also filed changes affecting Endorsement WC 00 04 21 B. Please note, however, that these changes are not included in MWCIA's filing of Item P-1406 as this endorsement does not apply in Minnesota.

Please note that it is still imperative for carriers who write workers' compensation insurance in Minnesota to take whatever steps are necessary to assure that Minnesota premium charges for TRIPRA coverage are clearly identified as 'Terrorism' using code 9740 under Item 4 of the policy information page or in the Schedule on Endorsement WC 00 04 22 A.

ATTENTION ALL RATE FILING STAFF:

NCCI contracted with the industry expert EQECAT to develop a model for evaluating and estimating the impact of the Terrorism Risk Insurance Program Reauthorization Act of 2007. MWCIA's Actuarial staff has been provided the results of EQECAT's work and will use this data to provide our member carriers with information regarding the development of terrorism premium for Minnesota as part of MWCIA's upcoming 2009 Ratemaking Report.

Item P-1406 Exhibits I, III, and IV illustrate the changes necessary to the **Minnesota Forms Manual** to implement Item P-1406 in Minnesota. To view copies of all currently approved forms and endorsements for Minnesota, please visit MWCIA's website at www.mwcia.org and select **MN Forms Manual** under the drop-down menu for "Minnesota Manuals" on the left-hand side of our homepage. A copy of National Council's original background memo for Item P-1406 is also attached for your convenience.

Should you have any questions concerning the implementation of Item P-1406 in Minnesota, please contact our Member & Customer Service staff at 952.897.1737 (Option 1) or by emailing underwriting@mwcia.org.

A NOTICE TO MEMBERSHIP: Pursuant to Minn. R. Part 2705.3200, the Manual forms and/or endorsements included in this filing also do **not** require independent filing by our members.



TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT

This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007.

Definitions

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

"Act" means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments thereto resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2007.

"Act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

"Insured Loss" means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.

"Insurer deductible" means: for a period beginning on January 1, 2008 and ending on December 31, 2014, an amount equal to 20% of our direct earned premiums, over the calendar year immediately preceding the applicable Program Year.

"Program Year" refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.

Limitation of Liability

The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a Program Year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of the Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

Policyholder Disclosure Notice

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses exceeds \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.

EXHIBIT I

2. Notwithstanding item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceeds \$100,000,000,000.
3. The premiums charged for the coverage for Insured Losses under this policy are included in the amounts shown in Item 4 of the Information Page or in the Schedules in the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) and the Foreign Terrorism Premium Endorsement (WC 00 04 22), attached to this policy.

Note:

Minnesota has not approved Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement WC 00 04 21 because premiums charged for these risks are included in the carriers filed rates. For multi-state policies which include a jurisdiction where the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement has been filed and is a part of the policy, the reference to the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement in paragraph 3 of the Policyholder Disclosure Notice may be necessary. For Minnesota exposure only policies, this reference to the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement **may** be removed.

TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE-ENDORSEMENT

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007. It serves to notify you of certain limitations under the Act and that your insurance carrier is charging premium for losses that may occur in the event of an Act of Terrorism.

Your policy provides coverage for workers' compensation losses caused by Acts of Terrorism, including workers' compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations.

Definitions

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

"Act" means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments thereto resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2007.

"Act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

"Insured Loss" means any loss resulting from an act of terrorism (and, except for Pennsylvania, including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.

"Insurer Deductible" means, for a period beginning on January 1, 2008, and ending on December 31, 2014, an amount equal to 20% of our direct earned premiums, over the calendar year immediately preceding the applicable Program Year.

"Program Year" refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.

Limitation of Liability

The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a Program Year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of the Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

Policyholder Disclosure Notice

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses exceeds \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.
2. Notwithstanding item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceeds \$100,000,000,000.
3. The premium charge for the coverage your policy provides for Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

ScheduleStateRatePremium

EXHIBIT IV

INDEX MINNESOTA FORMS MANUAL

The following forms and endorsements in this Minnesota Forms Manual have been approved by the Minnesota Commerce Department and are available for use in Minnesota.

- Introduction
- Workers' Compensation and Employers Liability Insurance Policy Rules
- WC 00 00 00 A Workers Compensation and Employers Liability Insurance Policy
- WC 00 01 01 A Defense Base Act Coverage Endorsement
- WC 00 01 04 A Federal Employers' Liability Act Coverage Endorsement
- WC 00 01 06 A Longshore and Harbor Workers' Compensation Act Coverage Endt.
- WC 00 01 08 A Nonappropriated Fund Instrumentalities Act Coverage Endorsement
- WC 00 01 09 A Outer Continental Shelf Lands Act Coverage Endorsement
- WC 00 01 11 Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement
- ~~• WC 00 01 13 A Terrorism Risk Insurance Program Reauthorization Act Endorsement~~
- WC 00 02 01 A Maritime Coverage Endorsement
- WC 00 02 03 Voluntary Compensation Maritime Coverage Endorsement
- WC 00 02 04 Limited Maritime Coverage Endorsement
- WC 00 03 01 A Alternate Employer Endorsement
- WC 00 03 02 Designated Workplaces Exclusion Endorsement
- WC 00 03 03 C Employers Liability Coverage Endorsement
- WC 00 03 04 Insurance Company as Insured Endorsement
- WC 00 03 05 Joint Venture as Insured Endorsement
- WC 00 03 09 B Rural Utilities Service Endorsement
- WC 00 03 10 Sole Proprietors, Partners, Officers and Others Coverage Endorsement
- WC 00 03 11 A Voluntary Compensation and Employers Liability Coverage Endt.
- WC 00 03 13 Waiver of Our Right to Recover from Others Endorsement
- WC 00 04 01 A Aircraft Premium Endorsement
- WC 00 04 03 Experience Rating Modification Factor Endorsement
- WC 00 04 05 Policy Period Endorsement
- WC 00 04 06 A Premium Discount Endorsement

- WC 00 04 09 Premium Determination Endorsement — Former Self-Insurers 1
- WC 00 04 10 Premium Determination Endorsement — Former Self-Insurers 2
- WC 00 04 12 Contingent Experience Rating Modification Factor Endorsement
- WC 00 04 14 Notification of Change in Ownership Endorsement
- WC 00 04 19 Premium Due Date Endorsement
- WC 00 04 22 A Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement
- WC 00 05 03 A Retrospective Premium Endorsement — One Year Plan
- WC 00 05 04 A Retrospective Premium Endorsement — Three Year Plan
- WC 00 05 05 A Retrospective Premium Endorsement — Long-Term Construction Project
- WC 00 05 08 Retrospective Premium Endorsement Aviation Exclusion
- WC 00 05 09 A Retrospective Premium Endorsement Changes
- WC 00 05 10 Retrospective Premium Endorsement Non-Ratable Catastrophe Element or Surcharge
- WC 00 05 11 Retrospective Premium Endorsement Short Form
- WC 00 05 12 A Retrospective Premium Endorsement One Year Plan — Multiple Lines
- WC 00 05 13 A Retrospective Premium Endorsement Three Year Plan — Multiple Lines
- WC 00 05 14 A Retrospective Premium Endorsement Long Term Construction Project — Multiple Lines
- WC 00 05 15 Retrospective Premium Endorsement Flexibility Options
- WC 00 06 03 Benefits Deductible Endorsement
- WC 89 06 09 B Policy Termination/Cancellation/Reinstatement Notice
- WC 22 00 00 A Minnesota Amendatory Endorsement
- WC 22 00 01 Information Page
- WC 22 03 01 Minnesota Compliance with Applicable Trade Sanction Laws
- WC 22 03 02 Minnesota Independent Contractors Coverage Endorsement
- WC 22 03 03 Minnesota Third Degree of Kindred Family Member Exclusion Endt.
- WC 22 03 04 Minnesota Employee Leasing Endorsement
- WC 22 03 05 Minnesota Exclusion of Coverage for Leased Employees Endorsement
- WC 22 04 01 Minnesota Contracting Premium Adjustment Program Endorsement
- WC 22 04 02 Minnesota Anniversary Rating Date Endorsement

- WC 22 06 00 Minnesota Policy Change Endorsement
- WC 22 06 01 D Minnesota Cancellation and Nonrenewal Endorsement
- WC 22 06 02 Minnesota Policy Information Page Endorsement Insured's Name
- WC 22 06 03 Minnesota Policy Information Page Endorsement Policy Number
- WC 22 06 04 Minnesota Policy Information Page Endorsement Effective Date
- WC 22 06 05 Minnesota Policy Information Page Endorsement Expiration Date
- WC 22 06 06 Minnesota Policy Information Page Endorsement —
Insured's Mailing Address
- WC 22 06 07 Minnesota Policy Information Page Endorsement —
Experience Modification
- WC 22 06 08 Minnesota Policy Information Page Endorsement Producer's Name
- WC 22 06 09 Minnesota Policy Information Page Endorsement —
Change in Workplace of Insured
- WC 22 06 10 Minnesota Policy Information Page Endorsement—
Insured's Legal Status
- WC 22 06 11 Minnesota Policy Information Page Endorsement Add States
- WC 22 06 12 Minnesota Policy Information Page Endorsement Employer Limits
- WC 22 06 13 Minnesota Policy Information Page Endorsement Change in State
- WC 22 06 14 Minnesota Policy Information Page Endorsement —
Endorsement Numbers
- WC 22 06 15 A Minnesota Policy Information Page Endorsement —
Class, Rate, Other Change
- WC 22 06 16 A Minnesota Policy Information Page Endorsement —
Interim Adjustment of Premium
- WC 22 06 17 Minnesota Policy Information Page Endorsement —
Carrier Servicing Office
- WC 22 06 18 Minnesota Policy Information Page Endorsement —
Interstate/Intrastate Risk ID Number
- WC 22 06 19 Minnesota Policy Information Page Endorsement Carrier Number
- WC 22 06 20 Minnesota Entity Address Schedule

FILING MEMORANDUM

**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

(To be effective 12:01 a.m. on September 1, 2008 applicable to new and renewal policies.)

PURPOSE

This item withdraws the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A), and updates the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B), and the Foreign Terrorism Premium Endorsement (WC 00 04 22) to reflect certain changes required to address losses from “terrorism” and “catastrophes (other than certified acts of terrorism).”

BACKGROUND

In response to the Terrorism Risk Insurance Act of 2002 (“TRIA” or the “Act”) and the Terrorism Risk Insurance Extension Act of 2005 (“TRIEA”), NCCI filed items B-1383, B-1393, B-1398, P-1392, and P-1404, which implemented variations of a TRIA Disclosure Endorsement, Foreign Terrorism Premium Endorsement, and Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement. At the time these endorsements were created, it was determined that two separate endorsements were necessary for foreign and domestic terrorism because the Act’s definition of terrorism did not include domestic terrorism.

Congress has now (December 26, 2007) enacted the Terrorism Risk Insurance Program Reauthorization Act of 2007 (“TRIPRA”), which amends the definition of “act of terrorism” to include domestic terrorism. Due to the short time frame for compliance, NCCI filed Items B-1405 and P-1405 in response to TRIPRA, to update the rule reference and disclosure requirements in the TRIA Disclosure Endorsement and the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement.

After receiving feedback from the industry and upon further review, it has been determined that both domestic and foreign terrorism should be reflected in the same endorsement. In addition, the information contained in the disclosure endorsement should be incorporated in the terrorism premium endorsement. These changes will allow carriers to provide only one TRIPRA endorsement.

Accordingly, this item will remove acts of domestic terrorism from the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement and include them in the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (formerly the Foreign Terrorism Premium Endorsement). Secondly, the disclosure endorsement will be eliminated and the information will be incorporated in the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement. Finally, the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement will be renamed the Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement

PROPOSAL

It is proposed that:

1. The Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A) be withdrawn and the disclosure information be included on the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (formerly the Foreign Terrorism Premium Endorsement) (WC 00 04 22 A)

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FILING MEMORANDUM

ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22

2. The Foreign Terrorism Premium Endorsement (WC 00 04 22) be revised to:
 - a. Change the title of the endorsement to “Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement”
 - b. Remove references to foreign terrorism,
 - c. Incorporate the information from the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A)
3. The Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) be revised to:
 - a. Change the title of the endorsement to “Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement”
 - b. Remove references to domestic terrorism, and
 - c. Revise the definition of “catastrophe,” and
 - d. Add the definition of “noncertified act of terrorism”

Additionally, this item is being filed in conjunction with Item B-1407—Terrorism and Catastrophe (Other Than Certified Acts of Terrorism), which proposes that, effective September 1, 2008, changes be made to the manual rules, statistical code labels, miscellaneous value labels, and miscellaneous values for terrorism to reflect that acts of terrorism now include domestic terrorism. This item and Item B-1407 should be adopted concurrently.

IMPACT

There is no change in premium as a result of this item.

IMPLEMENTATION

The attached exhibits outline the changes required to the Terrorism Risk Insurance Program Reauthorization Act Endorsement, the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement, and the Foreign Terrorism Premium, which will be located in NCCI’s *Forms Manual of Workers Compensation and Employers Liability Insurance*.

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