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May 5, 2000

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Workers Compensation Insurance

**Item B-1366 - Revisions to Admiralty and Federal
Employers' Liability Act Classifications**

The Bureau has adopted and the North Carolina Commissioner of Insurance has approved proposals to (a) increase the standard limit of liability under Part Two-Employers' Liability Insurance for Admiralty Law (Maritime) or Federal Employers' Liability Act (FELA), (b) modify the ratemaking methodology of the admiralty classifications and (c) change the manner in which assigned risk rates and voluntary loss costs for FELA classifications are displayed in the Basic Manual.

The attached Filing Memorandum describes the changes which have been approved to become effective July 1, 2000, applicable to new and renewal business only.

Very truly yours,

Jerry G. Hamrick

Workers Compensation Manager

JGH:dg

Enclosure

C-00-9

FILING MEMORANDUM

ITEM B-1366-REVISIONS TO ADMIRALTY AND FEDERAL EMPLOYERS' LIABILITY ACT CLASSIFICATIONS

(To be effective 12:01 a.m. on July 1, 2000, applicable to new and renewal business only.)

PURPOSE

This item has three purposes. One purpose of this filing is to increase the standard limit of liability under Part Two-Employers' Liability Insurance for Admiralty Law (Maritime) or Federal Employers' Liability Act (FELA) insurance to Bodily Injury by Accident, \$100,000 each accident and Bodily Injury by Disease, \$100,000 aggregate.

The second purpose is to modify the ratemaking methodology for the admiralty classifications so that the assigned risk rates and voluntary loss costs for these

classifications are based upon their own experience.

The third purpose is to change the manner in which the assigned risk rates and voluntary loss costs for FELA classifications are displayed in the *Basic Manual for Workers Compensation and Employers Liability Insurance*.

BACKGROUND

In 1975, National Item B-1101 revised the standard limit of liability applicable to the admiralty and FELA classifications. That filing revised the standard limit from \$5,000 per person/\$10,000 per accident to the current limit of Bodily Injury by Accident, \$25,000 each accident and Bodily Injury by Disease, \$25,000 aggregate. The standard limit of liability for employers liability claims for the industrial classifications has been increased several times over the same period and currently is set at Bodily Injury by Accident, \$100,000 each accident, Bodily Injury by Disease, \$100,000 each employee, Bodily Injury by Disease, \$500,000 policy limit. These standard limit amounts for admiralty and FELA coverages have been in effect for twenty-four years. At one time these limits were consistent with the standard limits for employers liability. It is felt that it would be appropriate to increase the standard limits for admiralty/FELA, making them more consistent with the current standard limits for employers liability.

The experience of an admiralty classification code is not used in determining the rate/loss cost for that particular code. Rather, the rates/loss costs for the various admiralty classification codes are calculated using methodologies in which the rates/loss costs of other "related" codes are used to determine base rates/loss costs to which factors are then applied to develop the rates/loss costs for each of the three coverage options available (Program I, Program II-State Act, and Program II-USL&HW Act). Item B-1101 established the current ratemaking procedure for the maritime classifications.

The ratemaking methodology for the admiralty classifications, which would be put in place by this filing, would allow the use of actual admiralty data. This would tailor the basis of premium to be reflective of the emerged experience of these classifications. Specific rates/loss costs for each admiralty code would be determined based upon their own experience and published in the state rate/loss cost pages.

Currently, the rates/loss costs for the FELA classifications are notated on the rates/loss costs pages as being A-rates. However, the A-rates notated for the FELA classifications are not conventional A-rates. The method in which rates/loss costs are determined for the FELA classifications is unlike the traditional A-rated class code, where each risk in a state utilizing that code has a different rate/loss cost depending upon the individual risk exposures.

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In contrast to the "traditional A-rate", the rates/loss costs for the FELA codes are not determined on an individual risk basis but rather are determined using a methodology similar to that currently used for the admiralty classifications. The rates for the FELA classification codes are calculated using the rates/loss costs of other "related" codes with factors being applied to determine the rates for each of the three coverage options available (Program I, Program II-State Act, and Program II-USL&HW Act). Due to the current methodology utilized, all risks subject to a particular FELA class code in a state are subject to the same rate/loss cost. However, no specific rates/loss costs are shown for these codes in the state loss cost/rate pages.

Our records indicate that there are a very limited number of risks assigned to the FELA classification codes. Due to this limited number of risks, no ratemaking methodology change is being proposed for the FELA classifications as insufficient experience exists to develop credible rates/loss costs. However, as Item B-1323 eliminated A-rates in the majority of the states and as the FELA classifications are not in actuality true A-rates, it is felt that it would reduce confusion and would be beneficial if the rates/loss costs developed for the FELA classifications (calculated utilizing the current approved methodology) were printed in the loss costs/rate pages.

PROPOSAL

It is proposed that the standard limit for admiralty/FELA classes be revised to \$100,000. The change in standard limit requires that the currently approved FELA and Admiralty increased limits factors (ILFs) be restated on a \$100,000 standard limit. To restate the ILFs, the currently approved ILF at a particular limit is divided by the currently approved \$100,000 limit ILF. ILFs will not be necessary for limits of \$100,000 or lower. The minimum premiums for admiralty/FELA increased limits will not change with this filing.

It is proposed that an admiralty ratemaking methodology that uses the actual admiralty data in determining the assigned risk rates and voluntary loss costs for the admiralty codes be implemented.

It is further proposed that the "A" designation be removed from the FELA assigned risk rates and voluntary loss costs shown in the state assigned risk and voluntary loss cost pages. This designation will be replaced with the actual rate/loss cost for each FELA classification as developed using the current ratemaking methodology.

It is additionally proposed that minor changes be made to *Basic Manual* Rule XIII.D.2. Increased Limits, to clarify the intent that the total premium for admiralty and/or FELA coverage under the policy, including increased limits, shall be determined by applying the ILF factor in the Table for Increased Limits to the total premium for admiralty or FELA classifications.

IMPACT

There will be no premium impact, other than rounding, associated with the revised increased limits factors for risks at limits of \$100,000 and above. Any risk that previously had limits of less than \$100,000 will receive a premium increase, corresponding to the increased coverage provided by the new standard limit of \$100,000. Furthermore, this filing will provide for more equitable rates and rating values for the admiralty classifications by allowing these values to be based on their own experience. In addition, no premium impact is anticipated as a result of the display of the FELA assigned risk rates and voluntary loss costs.

IMPLEMENTATION

The revised ratemaking methodology for the admiralty classifications will be utilized in the next annual rate filing performed after July 1, 2000 in each state. The changes to the printing procedures for the FELA rates/loss costs and the increase to the standard limit for Part Two-Employers Liability for Admiralty or FELA insurance will be implemented upon approval of the aforementioned next annual rate filing. The attached exhibits illustrate these changes to the *Basic Manual for Workers Compensation and Employers Liability Insurance*.

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EXHIBIT I

BASIC MANUAL

RULE XIII

RULE XIII-THE ADMIRALTY LAW, THE FEDERAL EMPLOYERS' LIABILITY ACT, AND THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

B. DESCRIPTION OF COVERAGE PROGRAMS

The Standard Policy may be used to provide insurance for liability under one or more state workers compensation laws and also for liability under admiralty law or FELA. There are two programs to furnish such insurance:

1. Program I

Provides, under Part One-Workers Compensation Insurance, statutory liability under the workers compensation law of any state designated in Item 3.A. of the Information and, under Part Two-Employers Liability Insurance, employers liability for damages under admiralty law or FELA, subject to a standard limit of ~~\$25,000~~ \$100,000.

2. Program II

Provides the same coverage as Program I, but with the addition of Voluntary Compensation. Under Program II, the insurance carrier will offer a settlement of a claim strictly in accord with the statutory benefits provided in the workers compensation law designated in the voluntary compensation endorsement attached to the policy as if the claim were subject to such law, instead of subject to the laws of negligence. If the offer of settlement is rejected, employers liability then applies to such claim or suit, with the same standard limit as for Program I.

C. COVERAGE

1. Admiralty law endorsements

To provide Program I for admiralty law, attach the Standard Maritime Coverage Endorsement (WC 00 02 01 A). To provide Program II for admiralty law, also attach the Standard Voluntary Compensation Maritime Coverage Endorsement (WC 00 02 03).

2. Admiralty law coverage option

The Maritime Coverage Endorsement excludes liability to provide transportation, wages, maintenance, and cure. This endorsement may optionally include a provision to insure such liability for an additional premium based upon a rate to be determined by the carrier from its evaluation of the exposures presented by the risk.

3. FELA endorsements

To provide Program I for employments subject to FELA, attach the Standard Federal Employers' Liability Act Coverage Endorsement (WC 00 01 04). To provide Program II, also attach the Standard Voluntary Compensation and Employers Liability

4. USL&HW Act

When insurance is provided for liability under admiralty law or FELA, insurance for liability under the USL&HW Act also may be necessary. To provide such insurance, attach the Standard Longshore and Harbor Workers' Compensation Act Coverage Endorsement (WC 00 01 06 A).

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EXHIBIT I

BASIC MANUAL

5. MSAWPA endorsement

Coverage for the Migrant and Seasonal Agricultural Worker Protection Act is afforded by adding the Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement (WC 00 01 11). The premium for this endorsement is based upon a rate to be determined by the carrier from its evaluation of the exposures presented by the risk.

D. LIMITS OF LIABILITY

1. Standard limit

The standard limit of liability under Part Two-Employers Liability Insurance for Admiralty or FELA insurance under Program I or II is ~~\$25,000~~ \$100,000.

a. Accident limit

The limit of liability applies to all bodily injury arising out of any one accident.

b. Disease limit

The limit of liability also applies as a separate aggregate limit for all bodily injury by disease. The aggregate limit applies separately to bodily injury by disease arising out of work in each state shown in Item 3.A. of the Information Page.

c. Show limits on endorsement

These limits of liability must be stated in the Maritime Coverage Endorsement and/or the Federal Employers' Liability Act Coverage Endorsement.

Table for Increased Limits			
Limits Per		Minimum Premium	
Accident	Factor	Program I	Program II
\$ 25,000 50,000-100,000	1.00 1.09 1.15 1.00 1.23 1.07	\$100 109 115-123 129 134 138	\$200 218 230-246 258 268 276
200,000 300,000 400,000	1.29 1.12 1.34 1.17 1.38 1.20		
500,000			

2. Increased limits

Increased limits of liability under Part Two-Employers Liability Insurance are available. The ~~additional~~ total premium including ~~for~~ increased limits shall be determined by applying the factor in the Table for Increased Limits to the total premium for admiralty or FELA classifications before application of:

- a. Expense Constant
- b. Experience rating modification
- c. Premium discount or retrospective rating adjustment

The premium for increased limits is subject to an experience rating modification.

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EXHIBIT II

BASIC MANUAL

WORKERS COMPENSATION INSURANCE PLAN SUPPLEMENT

ADDITIONAL COVERAGES UNDER THE WCIP

A. In accordance with part (iii) of the definition for *Workers Compensation Insurance* as found in Section I of the North Carolina Workers Compensation Insurance Plan (Plan), the following additional coverages are available under this Plan upon the request of the employer:

1. Employers liability increased limits up to a maximum limit of:
 - Bodily Injury by Accident: \$1,000,000-each accident
 - Bodily Injury by Disease: \$1,000,000-policy limit
 - Bodily Injury by Disease: \$1,000,000-each employee
2. Coverage under the following Acts provided United States Longshore and Harbor Workers' Compensation Act coverage is present on the policy:
 - Outer Continental Shelf Lands Act
 - Defense Base Act
 - Nonappropriated Fund Instrumentalities Act
3. Coverage for Maritime (Admiralty), Program I or Program II, at the standard limit per accident of ~~\$25,000~~, \$100,000 written as an adjunct to state workers compensation act coverage.
4. The endorsement Waiver of Our Right to Recover from Others (WC 00 03 13) is available if required of the employer by contract.
5. Coverage for an "alternate employer" when the state of operations of the "alternate employer" is listed in 3.A. of the policy. The Alternate Employer Endorsement (WC 00 03 01 A) shall be utilized to provide this coverage.
6. Ex-medical coverage as provided through the Medical Benefits Exclusion Endorsement (WC 00 03 06).
7. Benefits Deductible coverage as provided through the Benefits Deductible Endorsement (WC 00 06 03).