



October 17, 2018

VIA SERFF

REFRESHED NOVEMBER 20, 2018

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
841 Silver Lake Boulevard
Dover, DE 19904-2465

Attention: Tanisha Merced, Deputy Insurance Commissioner

**RE: DCRB Filing No. 1805- Proposed Effective December 1, 2018
Establishment of Notification of Change in Ownership Endorsement**

Dear Commissioner Navarro and Deputy Commissioner Merced:

On behalf of the members of the Delaware Compensation Rating Bureau (DCRB), we hereby submit this filing to propose revisions to the Notification of Change in Ownership (WC 00 04 14) endorsement for new or renewal policies effective on or after 12:01 a.m., December 1, 2018. The previous version of the endorsement (WC 00 04 14) was filed and approved for new and renewal policies effective on or after April 01, 2018. Since the approval of these items the National Council on Compensation Insurance (NCCI) has subsequently filed a revised version of the Notification of Change in Ownership Endorsement (WC 00 04 14 A).

The purpose of the endorsement is to inform policyholders of their responsibility to notify their insurer whenever a change in ownership or combinability status of one or more of the entities insured within their policy occurs. It also addresses the potential impact this may have on their experience rating modification. This filing also amends the DCRB Experience Rating Plan Manual to update the reference to the revised endorsement and the reporting requirements prescribed within.

Endorsement WC 00 04 14 A is utilized countrywide by states under the National Council on Compensation Insurance Inc. (NCCI) along with other independent state jurisdictions. The revised endorsement is included for your review. The adoption and mandatory use of this endorsement version is intended to align Delaware with these jurisdictions.

Details of the original filing are provided in DCRB's May 30, 2018 memorandum. The memorandum and proposals describe and explain the reasoning and basis for the endorsement. The attachment of the endorsement is intended to assist in providing notification to the employer of their obligation to report notification of ownership changes in a timely manner.

Upon approval of this filing, Section 3 – Endorsements, of the DCRB Workers Compensation Manual of Rules, Classifications and Rating Values for Workers Compensation and for Employers Liability Insurance (Basic Manual), will be updated to include this mandatory endorsement - WC 00 04 14 A.

The Honorable Trinidad Navarro
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The DCRB appreciates your prompt review and approval of this filing. We welcome any questions that you or your staff may have regarding this submission.

Sincerely,

William V. Taylor
President

Enclosures:

Filing Memorandum



TO: Delaware Classification & Rating Committee

FROM : Drew Kratz, Manager – Rating Rules & Policy Reporting

DATE: May 30, 2018

RE: Delaware Basic Manual: Addition of Endorsement WC 00 04 14 A

Background:

In 2017 the DCRB submitted for review and received Classification & Rating Committee approval to file endorsement WC 00 04 14 – Notification of Change in Ownership –on behalf of its membership in the state of Delaware. The endorsement defines an ownership change and outlines the requirements for reporting changes to the insurance carrier. This mandatory endorsement became effective on December 1, 2017 and requires notification of an ownership change within ninety (90) days of the change.

The DCRB also received approval to update the language of the Delaware Experience Rating Plan to include reference to the endorsement and the reporting requirements prescribed within. These items further encourage the timely submission of ownership change information, allow for more efficient review and lead to earlier updating of the modifications impacted by ownership changes. The additional language does not fundamentally alter the ownership change provisions, but strengthens the existing provisions and brings them more in line with those of other jurisdictions.

Since the approval of these items the National Council on Compensation Insurance (NCCI) has subsequently filed a revised version of the Notification of Change in Ownership Endorsement (WC 00 04 14 A).

Conclusion and Recommendation:

Staff proposes the filing of WC 00 04 14 A and updating the corresponding language of the Experience Rating Plan effective December 1, 2018 concurrent with DCRB's normal annual comprehensive loss cost filing. This will keep our manual in lockstep with the NCCI and other jurisdictions. The endorsement will be a mandatory endorsement required to be attached at policy issuance and will apply to new and renewal policies as of that date.

The proposed Experience Rating Plan Manual language revisions and the proposed Notification of Change of Ownership endorsement – WC 00 04 14 A – are attached.

DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

Proposed Effective December 1, 2018

SECTION 5 - EXPERIENCE RATING PLAN

SECTION I – INSTRUCTIONS *remains unchanged.*

SECTION II – DEFINITIONS *remains unchanged.*

SECTION III – GENERAL PROVISIONS *remains unchanged.*

(No change to Items 1. through 8.)

9. Ownership Changes.

- (a) *(No change.)*
- (b) **Reporting Requirement.** When an ownership change occurs, the [90 Day Reporting Requirement](#) – Notification of Change in Ownership Endorsement (WC 00 04 14 [A](#)) requires any change in ownership and/or combinability status be reported in writing by the employer to its carrier within ninety (90) days of the date of the change. This can be accomplished by submitting a completed Confidential Request for Information Form (ERM-14 form) or by providing the information in narrative form on the letterhead of the insured, signed by an officer of the entity.
- (c) Failure to report changes in ownership in line with Endorsement WC 00 04 14 [A](#) may be considered modification evasion. See Section III, 9-h.
- (d) Continuation of Experience. Unless excluded under paragraph (e), the experience for any entity undergoing a change in ownership shall be transferred to the experience of the acquiring, surviving or new entity. The date of revision will be the later of the following two dates: 1) the effective date of the policy in effect at the time the Bureau receives a completed ERM-14 form outlining the ownership change or 2) the date on which the change in ownership occurred.
 - (i) Partial Sale: If an entity disposes of a part of its assets or operations but otherwise continues to operate its business, all experience incurred prior to the sale shall be used in future ratings of the entity.

NOTE: Future experience ratings of a risk shall retain all experience for any part of its operations which may have been discontinued or self-insured.

(No change to Items e. through h.)

(No change to Item 10.)

SECTION IV. – APPLICATION OF EXPERIENCE MODIFICATION *through* **SECTION VI – RATING PROCEDURE** *remains unchanged.*

DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE

Proposed Effective December 1, 2018

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 04 14 [A](#)

90-DAY REPORTING REQUIREMENT – NOTIFICATION OF CHANGE IN OWNERSHIP ENDORSEMENT

You must report any change in ownership to us in writing within 90 days of **the date of the change**. Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity, and other changes provided for in the applicable experience rating plan.

Experience rating is mandatory for all eligible insureds. The experience rating modification factor, if any, applicable to this policy, may change if there is a change in your ownership or in that of one or more of the entities eligible to be combined with you for experience rating purposes. ~~Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity and other changes provided for in the applicable experience rating plan manual.~~

~~You must report any change in ownership to us in writing within 90 days of such change.~~ Failure to report ~~such changes within this period~~ any change in ownership, regardless of whether the change is reported within 90 days of such change, may result in revision of the experience rating modification factor used to determine your premium.

This reporting requirement applies regardless of whether an experience rating modification is currently applicable to this policy.



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WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 04 14 A

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