



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

September 18, 2006

CIRCULAR LETTER NO. 2029

To All Members and Subscribers of the Bureau:

**APPROVAL OF RURAL UTILITIES SERVICE ENDORSEMENT WC 00 03 09 B
&
ELIMINATION OF CLASSIFICATION CODE 7540z
AND RE-ASSIGNMENT OF SUCH RURAL ELECTRIFICATION PROJECTS TO
CODE 7539**

The Division of Insurance has approved, effective September 15, 2006, the revised Rural Utilities Service Endorsement WC 00 03 09 B and the elimination of classification **Code 7540z** - “**Electric Light or Power Cooperative—REA Project Only—All Employees & Drivers**”, and the re-assignment of such rural electrification projects to **Code 7539**.

As explained in the attached Filing Memorandum and also in the National Council on Compensation Insurance, Inc. (NCCI's) filing memorandum (Exhibit I), the purpose of the amended Endorsement is to change the name of the agency listed on the Rural Electrification Administration Endorsement.

In 1994, the requirements for cooperative and mutual organizations were also revised which resulted in the creation of WC 00 03 09 A. In our review, however, it would appear that the Bureau was not notified of this change, therefore, WC 00 03 09, absent of the 1994 revisions, remained in effect in Massachusetts.

As a result of the elimination of **Code 7540z**, an inactive classification code, any qualifying Rural Electrification Projects will now be assigned to **Code 7539**, an existing classification that is assigned to electric distribution, transmission and generation facilities operating in Massachusetts. A secondary classification phraseology has been established to identify those employers within **Code 7539** that are connected with a Rural Utilities Service project. The newly established phraseology reads as follows: “**Electric Light or Power Cooperative—RUS Project—All Employees & Drivers**”.

The Filing Memorandum and its attachments, Exhibits I through V, detail the affected manual pages, required changes and the revised Rural Utilities Service Endorsement WC 00 03 09 B.

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The revised manual pages reflecting the changes necessitated by approval of this Item will be distributed in due course. The Internet-based versions of the affected MA Manuals, accessible at www.wcribma.org and www.ncci.com, will be updated soon. Also, in due course, the status of the *Rural Utilities Service Endorsement WC 00 03 09 B* in Massachusetts will be printed and distributed in ***NCCI's Forms Manual of Workers Compensation and Employers Liability***.

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Vice President - Customer Services

Attachment

FILING ITEM:

APPROVAL OF RURAL UTILITIES SERVICE ENDORSEMENT WC 00 03 09B & ELIMINATION OF CLASSIFICATION CODE 7540z AND RE-ASSIGNMENT OF SUCH RURAL ELECTRIFICATION PROJECTS TO CODE 7539

Purpose

The purpose of this filing is to seek approval of the revised Rural Utilities Service Endorsement WC 00 03 09 B. The revised Rural Utilities Endorsement WC 00 03 09 B will result in the withdrawal of WC 00 03 09¹. This filing is similar to the National Council on Compensation Insurance, Inc.'s [NCCI] filed Item P-1401—Revision of the Rural Electrification Administration Endorsement, which is attached to this filing as Exhibit I.

Concurrent with the approval of the revised Rural Utilities Service Endorsement WC 00 03 09 B, this filing also seeks to eliminate classification **Code 7540z - "Electric Light or Power Cooperative—REA Project Only—All Employees & Drivers"**, and to assign such Rural Electrification Administration [REA] Projects, if any ever develop in Massachusetts, to **Code 7539 - "Electric Light or Power Co. NOC—All Employees & Drivers"**², the standard existing classification that is assigned to electric distribution, transmission and generation facilities operating in Massachusetts.

As noted in the background section of this filing, **Code 7540z** is a specialty classification established exclusively for those qualifying non-profit, "REA Project" electric utilities serving customers in rural areas. This has been an inactive classification since 1955. Other than meeting the criteria as a borrower of funds from the REA, the operations conducted by risks assigned to **Code 7540z** are identical to those conducted by risks assigned to **Code 7539**.

Background

Recently, Congress established the Rural Utilities Service [RUS] as a federal agency with the United States Department of Agriculture, and it absorbed the REA and its responsibilities for rural electrification and telephone service.

Review of NCCI's Item P-1401 resulted in the Bureau's research of classification **Code 7540z's** status and applicability in Massachusetts. The research conducted disclosed that **Code 7540z** has been inactive for an exceedingly long period of time. The "z"

¹ NCCI's Filing also resulted in the withdrawal of WC 00 03 09 A—Rural Electrification Administration Endorsement, an NCCI 1994 Filing Item, which was never filed for approval in Massachusetts.

² Code 7539 carries the following qualifying footnote: "Includes store employees, meter readers. Construction of buildings, dams or reservoirs to be separately rated."

designation = "Classification potentially available. If needed, Home Office should contact the MA Bureau". With respect to the status of **Code 7540z** in Massachusetts, it is important to note that no rates or rating values have been issued by this Bureau since December 15, 1955. Accordingly, there has been no activity for this classification code for well over fifty years.

Under the authority of the Rural Electrification Act of 1936, direct loans and loan guarantees are made to electric utilities to serve customers in rural areas. The loan and guarantees finance the construction of electric distribution, transmission and generation facilities.

Regardless of whether the direct loans and loan guarantees were administered by the long established REA or the recently established RUS, which absorbed the REA, those borrowers qualifying for assignment to **Code 7540z** have always been limited to the following:

- A private corporation organized for the sole purpose of borrowing moneys from the REA or RUS with which to construct and operate a rural electric distribution system and which is operated on a non-profit basis. Such a borrower must function as a cooperative by means of provisions in its charter and bylaws which incorporate to the greatest extent possible the fundamental principals of non-profit cooperative organizations
- Public Power or utility district under which loans to such districts are made to contain the same provisions as do loan contracts with cooperative borrowers. These districts must operate on a non-profit basis and operate a rural electric distribution system.

By contrast, non-qualifying borrowers that provide the same retail electric services to rural areas have always been assigned to **Code 7539**.

PROPOSAL

Since we can establish that there has been no activity under classification **Code 7540z** for over fifty years, it is proposed that this classification be eliminated and that all future qualifying operations, should any ever develop, be assigned to the standard existing classification that is assigned to electric distribution, transmission and generation facilities operating in Massachusetts, **Code 7539**. With this classification re-assignment, we propose to establish a secondary classification phraseology that will identify those providers' affiliation with RUS (see Exhibit II). The purpose of this "Project" specific **Code 7539** phraseology is to assure that the appropriate mandated endorsement, WC 00 03 09 B, is issued.

It is further proposed that this item become applicable with respect to new and renewal policies effective on and after 12:01 a.m., August 1, 2006.

IMPACT

The elimination of **Code 7540z** will have no rate impact and result in the equitable treatment of all insureds that engage in the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

Implementation

In order to implement this item, the proposed changes, as detailed in the attached Exhibits II and III will be included in the following manuals. Additionally, the Rural Electrification Administration Endorsement WC 00 03 09 will be withdrawn; see Exhibit IV.

- ❶ Massachusetts Workers Compensation and Employers Liability Insurance Manual, - Classification and Rate Section.
- ❷ Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance – Table of Expected Loss Rates and Discount Ratios [MA].

NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.
(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI,
SC, SD, TN, UT, VA, VT)

FILING MEMORANDUM

ITEM P-1401—REVISION OF THE RURAL ELECTRIFICATION ADMINISTRATION
ENDORSEMENT

PURPOSE

The purpose of this item is to change the name of the agency listed on the Rural Electrification Administration Endorsement (WC 00 03 09 or WC 00 03 09 A). The Rural Electrification Administration is now known as the Rural Utilities Service. The Rural Electrification Endorsement WC 00 03 09 and WC 00 03 09 A will be replaced by the Rural Utilities Service Endorsement WC 00 03 09 B.

BACKGROUND

The Rural Electrification Administration Endorsement (WC 00 03 09) was created to provide instruction for rural cooperatives required to submit information to the Rural Electrification Administration. In 1994, WC 00 03 09 A was created because there was a revision of the Rural Electrification Administration requirements for cooperative or mutual organizations.

Congress established the Rural Utilities Service as a federal agency within the United States Department of Agriculture, and it absorbed the Rural Electrification Administration and its responsibilities for rural electrification and telephone service.

PROPOSAL

It is proposed that the revised Rural Utilities Service Endorsement (WC 00 03 09 B) as contained in the attached exhibit be adopted in all states that currently have approved either WC 00 03 09 or WC 00 03 09 A. The following is a summary of each of the exhibits included in this item filing package:

- Exhibits 1 and 2 show the removal of both WC 00 03 09 and WC 00 03 09 A
- Exhibit 3 details the changes to WC 00 03 09 B in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*
- Because Florida requires that the notes be filed, Exhibit 4 includes the notes to WC 00 03 09 B in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* for Florida only

IMPACT

This item does not impact current premium levels.

IMPLEMENTATION

It is proposed that the attached exhibits be implemented:

- In all states except Virginia, effective at 12:01 a.m. on January 1, 2006, applicable to new and renewal voluntary and assigned risk business only
- In Virginia, it is proposed that this item be effective for new and renewal voluntary and assigned risk policies effective on and after 12:01 a.m. on January 1, 2006

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ITEM P-1401—REVISION OF THE RURAL ELECTRIFICATION ADMINISTRATION
ENDORSEMENT

EXHIBIT 1
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
(APPLIES IN: AL, AK, AR, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MS, MO, NE, NH,
NM, OK, OR, RI, SC, SD, TN, VT)

~~RURAL ELECTRIFICATION ADMINISTRATION ENDORSEMENT WC 00 03 00~~

- ~~1. We will submit our policy and endorsement forms to the Rural Electrification Agency prior to using them.~~
- ~~2. We will mail to the Rural Electrification Agency at least ten days advance notice of the termination of the policy.~~
- ~~3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.~~

ITEM P-1401—REVISION OF THE RURAL ELECTRIFICATION ADMINISTRATION
ENDORSEMENT

EXHIBIT 2
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
(APPLIES IN: AZ, CO, HI, MD, MT, NC, UT, VA)

~~RURAL ELECTRIFICATION ADMINISTRATION ENDORSEMENT WC 00-03-09-A~~

- ~~1. We will submit our policy and endorsement forms to the Rural Electrification Agency prior to using them.~~
- ~~2. We will mail to the Rural Electrification Agency at least ten days advance notice of the termination of the policy.~~
- ~~3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.~~
- ~~4. If you are a cooperative or a mutual organization, we agree with the Rural Electrification Administration that the insurance afforded by this policy is subject to the following provisions:~~
 - ~~a. We agree that we will not use, either in the adjustment of claims or in the defense of suits against you, your immunity from tort liability, unless you interpose such defense.~~
 - ~~b. You agree that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits stated in the policy.~~
 - ~~c. We agree that if you are relieved of liability because of your immunity, either by interposition of such defense at your request or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent it would otherwise have been available to you, shall apply to your officers and employees in their capacity as such; provided that all defenses other than immunity in suits against you or against the company under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.~~

ITEM P-1401—REVISION OF THE RURAL ELECTRIFICATION ADMINISTRATION
ENDORSEMENT

EXHIBIT 3
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
(APPLIES IN: AK, AL, AR, AZ, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, ME, MD,
MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT)

~~RURAL ELECTRIFICATION ADMINISTRATION UTILITIES SERVICE~~ ENDORSEMENT WC 00 03 09 ~~B~~

1. We will submit our policy and endorsement forms to the Rural ~~Electrification Agency~~ ~~Utilities Service~~ ~~RUS~~ prior to using them.
2. We will mail to the Rural ~~Electrification Agency~~ ~~Utilities Service~~ at least ten days advance notice of the termination of the policy.
3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.
4. If you are a cooperative or a mutual organization, we agree with the Rural ~~Electrification~~ ~~Administration~~ ~~Utilities Service~~ that the insurance afforded by this policy is subject to the following provisions:
 - a. We agree that we will not use, either in the adjustment of claims or in the defense of suits against you, your immunity from tort liability, unless you interpose such defense;
 - b. You agree that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits stated in the policy;
 - c. We agree that if you are relieved of liability because of your immunity, either by interposition of such defense at your request or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent it would otherwise have been available to you, shall apply to your officers and employees in their capacity as such; provided that all defenses other than immunity in suits against you or against the company under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.

**ITEM P-1401—REVISION OF THE RURAL ELECTRIFICATION ADMINISTRATION
ENDORSEMENT**

EXHIBIT 4

**FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
(APPLIES IN: FL)**

**RURAL ELECTRIFICATION ADMINISTRATION UTILITIES SERVICE ENDORSEMENT WC 00 03
09 B**

1. We will submit our policy and endorsement forms to the Rural Electrification Agency **Utilities Service** **RUS** prior to using them.
2. We will mail to the Rural Electrification Agency **Utilities Service** at least ten days advance notice of the termination of the policy.
3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.

Note: Use this endorsement if the insured is a rural electrification cooperative and this endorsement is required by the R.E.A. **RUS**

Exhibit II

Massachusetts Workers Compensation and Employers Liability Insurance Manual

Present Phraseology

Proposed Phraseology

Part Two – Classifications

Part Two - Classifications

Electric Light or Power cooperative - REA
Project Only - All Employees & Drivers
.....7540z

Electric Light or Power cooperative - RUS
Project - All Employees & Drivers
.....7539

Includes store employees, meter readers.
Construction of buildings, dams or
reservoirs to be separately rated.
Superintendents, easement solicitors and
project coordinators from the time of
project initiation to the energizing of any
portion of the system to be assigned to
Code 8742 real estate agency.

Includes store employees, meter readers.
Construction of buildings, dams or
reservoirs to be separately rated.

EXPERIENCE RATING PLAN MANUAL

TABLE OF EXPECTED LOSS RATES AND DISCOUNT RATIOS

<u>Code No.</u>	<u>Expected Loss Rate</u>	<u>Discount Ratio</u>
7540	Z	Z

RURAL ELECTRIFICATION ADMINISTRATION ENDORSEMENT

1. We will submit our policy and endorsement forms to the Rural Electrification Agency prior to using them.
2. We will mail to the Rural Electrification Agency at least ten days advance notice of the termination of the policy.
3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.

Note:

Use this endorsement if the insured is a rural electrification cooperative and this endorsement is required by the R.E.A.

Effective January 1, 2006

RURAL UTILITIES SERVICE ENDORSEMENT

1. We will submit our policy and endorsement forms to the Rural Utilities Service (RUS) prior to using them.
2. We will mail to the Rural Utilities Service at least ten days advance notice of the termination of the policy.
3. If you are immune from tort liability, we will not use that immunity as a defense unless you so request us. You agree that waiving the defense of immunity will not make us liable for any payment in excess of the limits of liability stated in the policy.
4. If you are a cooperative or a mutual organization, we agree with the Rural Utilities Service that the insurance afforded by this policy is subject to the following provisions:
 - a. We agree that we will not use, either in the adjustment of claims or in the defense of suits against you, your immunity from tort liability, unless you interpose such defense;
 - b. You agree that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits stated in the policy;
 - c. We agree that if you are relieved of liability because of your immunity, either by interposition of such defense at your request or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent it would otherwise have been available to you, shall apply to your officers and employees in their capacity as such; provided that all defenses other than immunity in suits against you or against the company under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.