

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

June 19, 2014

ALL ASSOCIATION MEMBERS

Circular Letter No. 14-1655

RE: NCCI Item B-1426 — Update Federal Mine Safety and Health Act References; Discontinue Per Passenger Seat Surcharge; Exclude Fraudulent and/or Noncompensable Losses from Incurred Losses

The Minnesota Department of Commerce has approved the above filing to become effective 12:01 a.m., January 1, 2015, for new and renewal business.

This item revises references to the Federal Coal Mine Safety and Health Act; discontinues the per passenger seat surcharge and statistical code 9108; and removes endorsement number references contained in the *Minnesota Experience Rating Plan Manual*.

Federal Mine Safety and Health Act

The *Minnesota Basic Manual*, *NCCI Retrospective Rating Plan Manual*, and the *Minnesota Statistical Plan Manual* contain several rules that reference the Federal Coal Mine Safety and Health Act. These references must be updated to conform with the current name, which is the Federal Mine Safety and Health Act. The name of the current Act became effective with the enactment of the Federal Mine Safety and Health Act of 1977, which amended the Federal Coal Mine Health and Safety Act of 1969.

Additionally, Rule 1-B in the *Minnesota Experience Rating Plan Manual* contains the specific number reference to the Workers Compensation and Employers Liability Insurance Policy and the Policy Period Endorsement.

To avoid the need for a national filing to update the *Minnesota Experience Rating Plan Manual* each time the Policy and/or endorsement number is revised, MWCIA is removing the number reference from the rule content.

Per Passenger Seat Surcharge

The per passenger seat surcharge was established in 1947, concurrent with the introduction of Classification Code 7421—Aircraft or Helicopter Operation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew. The purpose of the per passenger seat surcharge was to provide a catastrophe load for the exposure of an insured's employees (other than flight crew) who may be injured while passengers on the insured's noncommercial, nonscheduled aircraft. The surcharge was to be applied to policies with Classification Code 7421 and charged in addition to the premium otherwise determined under Classification Code 7421.

The per passenger seat charge is being discontinued for the following reasons:

- In recent years, a minimal amount of premium has been reported under Statistical Code 9108
- Aircraft loss events are rare and the outcomes are uncertain.
- Aircraft losses should be included in ratemaking since a large loss procedure and catastrophe provisions are now in place
- The per passenger seat surcharge does not address situations in which the insured has a separate legal entity solely for the aircraft exposure

Exclude Fraudulent and/or Noncompensable Losses from Incurred Losses

MWCIA did not adopt to exclude fraudulent and/ or noncompensable losses from incurred losses, as fully fraudulent and/or noncompensable claims are currently excluded and will continue to be excluded from experience rating when reported in accordance with the *Minnesota Statistical Plan Manual*.

Exhibits 1, 2, 5, 6, 10, 12, 13, 14, 16 & 17 illustrate all necessary changes to the Minnesota Manuals. As with past filings, strikethroughs indicate deleted text and underlining indicates new or added text. A copy of National Council's original filing memorandum is also included.

Please direct any questions you may have concerning this item to MWCIA's Underwriting staff at 952.897,1737 (Option 1) or via email at underwriting@mwcia.org.

A NOTICE TO MEMBERSHIP:

MWCIA would like to remind our membership who have filed a Limited Power of Attorney with the Minnesota Department of Commerce that no materials referenced in this Circular Letter are required to be independently filed with the Department.

Exhibit I

Minnesota Basic Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS	RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS	
A. EXPLANATION AND APPLICATION	A. EXPLANATION AND APPLICATION	
 12. Federal Coal-Mine Health and Safety Act This rule does not apply in the State of Minnesota. 	 12. Federal Mine Health and Safety Act This rule does not apply in the State of Minnesota. 	AMENDS NAME OF FEDERAL ACT

Exhibit II

Minnesota Basic Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS	RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS	
A. EXPLANATION AND APPLICATION	A. EXPLANATION AND APPLICATION	
20. Standard Premium	20. Standard Premium	
Standard Premium, for the purpose of this rule, is the premium before the application of the premium discount.	Standard Premium, for the purpose of this rule, is the premium before the application of the premium discount.	
It is the state premium determined on the basis of:	It is the state premium determined on the basis of:	
 Carrier rates filed and approved for use by the Minnesota Department of Commerce Aircraft seat surcharges Premium for increased limits of liability Experience rating modification Applicable schedule rating modification Minimum premiums Total Standard Premium is the total premium for all states covered by the policy excluding expense constant, Special Compensation Fund Surcharge, and additional charges for Terrorism and before the application of the premium discount. Premium charges for disease loading and non-ratable elements do not apply in the State of Minnesota. 	 Carrier rates filed and approved for use by the Minnesota Department of Commerce Premium for increased limits of liability Experience rating modification Applicable schedule rating modification Minimum premiums Total Standard Premium is the total premium for all states covered by the policy excluding expense constant, Special Compensation Fund Surcharge, and additional charges for Terrorism and before the application of the premium discount. Premium charges for disease loading and non-ratable elements do not apply in the State of Minnesota.	DELETES AIRCRAFT SEAT SURCHARGE FROM DEFINITION OF STANDARD PREMIUM
Note: The Annual Financial Calls for experience, which are used for ratemaking, contain a different definition of standard premium.	Note: The Annual Financial Calls for experience, which are used for ratemaking, contain a different definition of standard premium.	

Exhibit V

Minnesota Basic Manual

CLASSIFICATIONS

CURRENT PHRASEOLOGY		PROPOSED PHRASEOLOGY		NOTE
AVIATION				
	TRANSPORTATION OF PERSONNEL IN CONDUCT OF EMPLOYER'S BUSINESS:		TRANSPORTATION OF PERSONNEL IN CONDUCT OF EMPLOYER'S BUSINESS:	
7421	FLYING CREW. Applies to the payroll of pilots and all members of the flying crew. Also applies to the payroll of executive officers or other employees who operate fixed-wing aircraft in the conduct of the employer's business. If the records of the employer clearly indicate the weeks in which such employees perform flying: (1) only the payroll for each week during any part of which the employee has engaged in flight duties shall be assigned to this classification, unless the classification applicable to the employee's non-flying operations carries a higher rate, in which case that classification shall apply; and (2) the payroll for each week in which no flying has been done shall be assigned to those classifications that would otherwise apply. If the records of the employer do not clearly indicate the weeks in which flying is performed by such employees, the entire payroll for such employees shall be assigned to this classification unless the classification applicable to the employee's non-flying operations carries a higher rate, in which case that classification shall apply. A per passenger seat surcharge, subject to a maximum surcharge per aircraft, shall be charged in addition to the premium otherwise determined under this classification.	SAME	FLYING CREW. Applies to the payroll of pilots and all members of the flying crew. Also applies to the payroll of executive officers or other employees who operate fixed-wing aircraft in the conduct of the employer's business. If the records of the employer clearly indicate the weeks in which such employees perform flying: (1) only the payroll for each week during any part of which the employee has engaged in flight duties shall be assigned to this classification, unless the classification applicable to the employee's non-flying operations carries a higher rate, in which case that classification shall apply; and (2) the payroll for each week in which no flying has been done shall be assigned to those classifications that would otherwise apply. If the records of the employer do not clearly indicate the weeks in which flying is performed by such employees, the entire payroll for such employees shall be assigned to this classification unless the classification applicable to the employee's non-flying operations carries a higher rate, in which case that classification shall apply.	AMENDS DESCRIPTION OF CODE 7421

Exhibit V

Minnesota Basic Manual

CLASSIFICATIONS

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
These surcharges shall not be cumulative in the event of substitution of aircraft during the policy period, but these surcharges shall be cumulative in the event that more than one aircraft is owned or operated during the same policy period. The premium for these surcharges shall not be subject to any experience rating modification. These surcharges shall not be subject to pro rata or short-rate adjustment except in the event of cancellation of the policy. These surcharges and losses incurred under the policy, other than to members of flying crew, arising out of the operation of an aircraft, are to be reported under Code 9108. The per passenger seat surcharge and the maximum surcharge per aircraft are shown under "Miscellaneous Values" on each carrier's filed rate pages. Attach Aircraft Premium Endorsement (WC 00 04 01 A).	Employees who are transported as passengers and who are not members of the flying crew are to have their payroll and losses assigned to their standard occupational classification	
Commercial aircraft operation to be separately rated.		

Exhibit VI

Minnesota Experience Rating Plan Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
B. MANDATORY PLAN	B. MANDATORY PLAN	
1. The Minnesota Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (the Manual) applies on a mandatory basis for employers that meet the premium eligibility requirements in Rule 2-A. Refer to this Manual for all rules pertaining to the Minnesota Experience Rating Plan (the Plan).	1. The Minnesota Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (the Manual) applies on a mandatory basis for employers that meet the premium eligibility requirements in Rule 2-A. Refer to this Manual for all rules pertaining to the Minnesota Experience Rating	
A policy cannot be cancelled, rewritten or extended for purposes of enabling an employer to qualify for, or avoid application of, this Plan. 2. Any action taken in any form to evade the application	Plan (the Plan). A policy cannot be cancelled, rewritten or extended for purposes of enabling an employer to qualify for, or avoid application of, this Plan.	
of an experience rating modification determined in accordance with this Plan is prohibited.	Any action taken in any form to evade the application of an experience rating modification determined in accordance with this Plan is	DELETES REFERENCES TO POLICY FORMS
 The effective date of a change in any rule or rating value is 12:01 a.m. on the date approved for use by the Minnesota Department of Commerce. 	prohibited. 3. The effective date of a change in any rule or	
Unless otherwise specified, each change applies only from the anniversary rating date, which occurs on or after the effective date of the change. Minnesota	rating value is 12:01 a.m. on the date approved for use by the Minnesota Department of Commerce.	
Statute §60A.351 restricts any carrier's ability to impose less favorable policy terms without notice given at least 30 days prior to a policy's renewal. Refer to Rule 2-B of this Manual and Part One—	Unless otherwise specified, each change applies only from the anniversary rating date, which occurs on or after the effective date of the change. Minnesota Statute §60A.351	
Rules.Intro.5 of the <i>Minnesota Basic Manual</i> for more information about anniversary rating dates and	restricts any carrier's ability to impose less favorable policy terms without notice given at	

Exhibit VI

Minnesota Experience Rating Plan Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
rating effective dates. 4. The Standard Workers Compensation and Employers Liability Insurance Policy (WC 00 00 00 A) provides MWCIA with the authority to examine and audit all records that relate to the policy. 5. The rules of this Plan are based on policy periods not longer than one year. a. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy. b. A policy issued for a period longer than one year and 16 days is treated as follows: • The policy period is divided into consecutive 12-month units. • The Policy Period Endorsement (WC 00 04 05) specifies the first or last unit of less than 12 months as a short-term policy. • All Manual rules and procedures apply to each such unit as if a separate policy had been issued for each unit.	least 30 days prior to a policy's renewal. Refer to Rule 2-B of this Manual and Part One—Rules.Intro.5 of the <i>Minnesota Basic Manual</i> for more information about anniversary rating dates and rating effective dates. 4. The Standard Workers Compensation and Employers Liability Insurance Policy provides MWCIA with the authority to examine and audit all records that relate to the policy. 5. The rules of this Plan are based on policy periods not longer than one year. a. A policy issued for a period not longer than one year and 16 days is treated as a one-year policy. b. A policy issued for a period longer than one year and 16 days is treated as follows: • The policy period is divided into consecutive 12-month units. • The Policy Period Endorsement specifies the first or last unit of less than 12 months as a short-term policy. • All Manual rules and procedures apply to each such unit as if a separate policy had been issued for each unit.	

EXHIBIT X

Minnesota Statistical Plan Manual

Part III—Reporting Instructions—Exposure and Premium 4. Exposure Amount

Current Phraseology	Proposed Phraseology		
B. Aircraft Operation - Passenger Seat Surcharge. Passenger seat surcharge premiums shall be reported separately on the basis of each aircraft owned or operated by the employer during the policy period and shall be assigned to Code 9108. The number of seats shall be reported as 1.0 per seat. The exposure and premium shall be entered on lines D, E or F. Exposure shall NOT be included in the exposure totals.	B. Aircraft Operation - Passenger Seat Surcharge. For Policies Effective January 1, 2015, and Subsequent: Aircraft Operations—Passenger Seat Exposure no longer applies because the separate surcharge and Statistical Code 9108 for nonflying crew employees were discontinued. For policies that include Classification Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew, report all exposure and any losses for members of the flying crew to Classification Code 7421. For all other employees covered on the policy, all exposure and any losses are reported to the classification code to which the injured worker's payroll is assigned. For policies Effective prior to January 1, 2015: Report the number of seats as 1.0 per seat.		

EXHIBIT XII

Minnesota Statistical Plan Manual

Part III—Reporting Instructions—Exposure and Premium

Curre	Current Phraseology		Proposed Phraseology		
2. Exposure Coverage Code (Act)		2. Exposure Coverage Code (Act)			
Repor	t the code that identifies the type of exposure coverage.	Repor	t the code that identifies the type of exposure coverage.		
Code	Description	Code	Description		
01	State or Federal Act excluding USL&H and Federal Coal	01	State or Federal Act excluding USL&H and Federal Mine Safety and Health Act		
02	USL&H "F" or USL&H on Non "F" classes	02	USL&H "F" or USL&H on Non "F" classes		
03	Federal Coal Mine Health and Safety Act Only. NOT APPLICABLE IN MINNESOTA	03	Federal Mine <u>Safety and</u> Health Act Only. NOT APPLICABLE IN MINNESOTA		
04	Federal <mark>Coal</mark> Mine Health <mark>and Safety</mark> Act and the State Act. NOT APPLICABLE IN MINNESOTA	04	Federal Mine Safety and Health Act and the State Act. NOT APPLICABLE IN MINNESOTA		
06	Coverage Under State Act excluding Medical Coverage. NOT APPLICABLE IN MINNESOTA	06	Coverage Under State Act excluding Medical Coverage. NOT APPLICABLE IN MINNESOTA		

EXHIBIT XII

Minnesota Statistical Plan Manual

Part IV—Reporting Instructions—Losses

Current Phraseology			Proposed Phraseology				
9. Loss Conditions		9. Loss Conditions					
Report	the 2-digit code for each	loss co	ndition.	Report	the 2-digit code for each	loss cor	ndition.
<u>Part</u>	<u>Description</u>	<u>Code</u>	<u>Definition</u>	<u>Part</u>	<u>Description</u>	<u>Code</u>	<u>Definition</u>
Act	State or Federal Act excluding USL&H and Federal Coal Mine Health and Safety Act	01	A claim for which benefits are determined in accordance with the state Workers' Compensation Law, or Federal Compensation Laws excluding United State Longshore and Harbor Workers' Compensation Act and excluding coverage under Federal Coal Mine Health and Safety Act.	Act	State or Federal Act excluding USL&H and Federal Mine <u>Safety</u> and Health Act	01	A claim for which benefits are determined in accordance with the state Workers' Compensation Law, or Federal Compensation Laws excluding United State Longshore and Harbor Workers' Compensation Act and excluding coverage under Federal Mine Safety and Health Act.
	USL&H "F" or USL&H on Non "F" classes	02	A claim for which benefits are determined in accordance with the United States Longshore and Harbor Workers' Compensation Act		USL&H "F" or USL&H on Non "F" classes	02	A claim for which benefits are determined in accordance with the United States Longshore and Harbor Workers' Compensation Act
	Federal <mark>Ceal</mark> Mine Health <mark>and Safety</mark> Only	03	A claim for which benefits are determined under the Federal Coal Mine Health and Safety Act. NOT APPLICABLE IN MINNESOTA.		Federal Mine <u>Safety</u> <u>and</u> Health Only	03	A claim for which benefits are determined under the Federal Mine Safety and Health Act. NOT APPLICABLE IN MINNESOTA.

NCCI Item B-1426 – Revisions to the *Minnesota Statistical Plan Manual*

EXHIBIT XII

Federal Coal Mine 04 A claim for which benefits are Health and Safety Act determined under the and the State Act Federal Coal Mine Health and Safety Act and State Workers' Compensation Law. NOT APPLICABLE IN MINNESOTA.	Federal Mine Safety 04 A claim for which benefits are determined under the the State Act Federal Mine Safety and Health Act and State Workers' Compensation Law. NOT APPLICABLE IN MINNESOTA.
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EXHIBIT XIII

Minnesota Statistical Plan Manual

Part VII—Data Values and Statistical Codes
3. Premium Codes
B. Premium Not Subject to Experience Modification (Reported on lines D, E or F)

Cı	Current Phraseology		Proposed Phraseology
2.	Aircraft Operation - Passenger Seat Surcharge	Code 9108	NONE

EXHIBIT XIV

Minnesota Statistical Plan Manual

Part VII—Data Values and Statistical Codes 3. Premium Codes B. Premium Not Subject to Experience Modification (Reported on lines D, E or F)

Cı	Current Phraseology			Proposed Phraseology		
5.	5. Disease Experience—Coal Mining NOT APPLICABLE IN MINNESOTA.			Disease Experience—Coal Mining NOT APPLI MINNESOTA.	CABLE IN	
	In Connection with Code 1005-Surface	Code 0156		In Connection with Code 1005-Surface	Code 0156	
	In Connection with Code 1009-Surface Auger	Code 0157		In Connection with Code 1009-Surface Auger	Code 0157	
	In Connection with Code 1016-NOC	Code 0158		In Connection with Code 1016-NOC	Code 0158	
	In Connection with any class other than Coal Mining where there is liability under Federal Coal Mine			In Connection with any class other than Coal Min where there is liability under Federal Mine Safety	U	
	Health and Safety Act	Code 0164		and Health Act	Code 0164	

Exhibit XVI

Retrospective Rating Plan Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
RULE 1- GENERAL EXPLANATION	RULE 1- GENERAL EXPLANATION	
B. DEFINITIONS	B. DEFINITIONS	
1. GENERAL DEFINITIONS	1. GENERAL DEFINITIONS	
(APPLIES ONLY TO VOLUNTARY POLICIES IN MN)	(APPLIES ONLY TO VOLUNTARY POLICIES IN MN)	
	C. Incurred Losses Change Rule 1-B-1-c as follows: Incurred losses for workers compensation and employers liability insurance are defined in the Minnesota Statistical Plan Manual. Incurred losses include paid and outstanding losses. If the ALAE option is elected, then incurred losses will include ALAE.	
None	Refer to Rule 1-B-1-a of this manual for the definition of Allocated Loss Adjustment Expense (ALAE) when including ALAE as part of incurred losses.	ADDS DEFINITION FOR INCURRED LOSSES
	 Note: The rating formula for incurred losses will not include a loss: Resulting from the nonratable element codes For the disease-related portion of losses under the Federal Mine Safety and Health Act Resulting from Terrorism as outlined in the Minnesota Basic Manual Reported as noncompensable according to the Minnesota Statistical Plan Manual and Minnesota Experience Rating Plan Manual 	

Exhibit XVII

Retrospective Rating Plan Manual

Rules

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
	•	
RULE 1- GENERAL EXPLANATION	RULE 1- GENERAL EXPLANATION	
B. DEFINITIONS	B. DEFINITIONS	
1. GENERAL DEFINITIONS	1. GENERAL DEFINITIONS	
(APPLIES ONLY TO VOLUNTARY POLICIES IN MN)	(APPLIES ONLY TO VOLUNTARY POLICIES IN MN)	
	f. Standard Premium (SP) For purposes of the retrospective rating	
	plan, standard premium is determined on	
	the basis of authorized rates, any	
	experience rating modification, and	
	minimum premiums. Determination of	
	standard premium excludes:	
	1) Premium discount	
Nove	2) Expense constant	ADDS DEFINITION FOR STANDARD
None	Premium resulting from the nonratable element codes	PREMIUM
	4) Premium developed by the	
	occupational disease rates for	
	employers subject to the Federal	
	Mine Safety and Health Act	
	5) Premium developed by Terrorism	
	coverage as outlined in the	
	<u>Minnesota Basic Manual</u>	