R.C. 2077

To the Members of the Board

RE: New York Workers Compensation
WC 00 01 04A
Federal Employers’ Liability Act Coverage Endorsement

The Rates Committee has adopted, and the New York State Insurance Department has approved, effective January 1, 2005, amendments to the Federal Employers’ Liability Act Coverage Endorsement as shown in WC 00 01 04A.

The Federal Employers’ Liability Act Coverage Endorsement is used to provide employers with coverage under the Federal Employers’ Liability Act (FELA). Coverage for FELA is specifically excluded under Part Two, Section C of the Standard Workers Compensation and Employers Liability Insurance Policy. When this exclusion was added to the standard policy, WC 00 01 04 was not amended to specifically state that the exclusion under Section C of the standard policy does not apply to work subject to FELA.

The attached WC 00 01 04A adds clarifying language to specify that the policy exclusion of FELA coverage does not apply.

A revised manual page will be distributed as soon as it is available.

Very truly yours,

Monte Almer

President

CD:tg
Encl.
FEDERAL EMPLOYERS' LIABILITY ACT COVERAGE ENDORSEMENT

This endorsement applies only to work subject to the Federal Employers' Liability Act (45 USC Sections 51-60) and any amendment to that Act that is in effect during the policy period.

G. Limits of Liability of Part Two (Employers Liability Insurance) is replaced by the following:

G. Limits of Liability

Our liability to pay for damages is limited. Our limits of liability are shown in the Schedule. They apply as explained below:

1. Bodily Injury by Accident. The limit shown for “bodily injury by accident—each accident” is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

   A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. Bodily Injury by Disease. The limit shown for “bodily injury by disease—aggregate” is the most we will pay for all damages covered by this insurance because of bodily injury by disease to one or more employees. The limit applies separately to bodily injury by disease arising out of work in each state shown in Item 3.A. of the Information Page or in the Schedule.

   Bodily injury by disease does not include disease that results directly from bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

If any state is named in Item 2 of the Schedule, Part Two (Employers Liability Insurance) applies in that state to work subject to the Federal Employers' Liability Act as though that state were listed in Item 3.A. of the Information Page. Part One (Workers Compensation Insurance) does not apply in a state shown in the Schedule.

* Part Two (Employers Liability Insurance), C. Exclusions, exclusion 9, does not apply to work subject to the Federal Employers’ Liability Act.

Schedule

1. Limits of Liability

   Bodily Injury by Accident $______________ each accident

   Bodily Injury by Disease $______________ aggregate

2. State

Notes:

1. The Federal Employers' Liability Act makes an interstate railroad liable for bodily injuries sustained by an employee. That liability of the railroad is insured by Part Two (Employers Liability Insurance) unless specifically excluded by Federal Employers’ Liability Act Exclusion Endorsement.

2. Use this endorsement when providing Federal Employers' Liability Act coverage under Program I or II of Rule XIII of the Basic Manual.

3. Item 2 of the Schedule may be used to extend FELA coverage to a state not listed in Item 3.A. of the Information Page.