



# Circular

MAY 29, 2008

ANNOUNCEMENT

VA-2008-04

## Virginia—Item 03-VA-2008—Catastrophe Provision Forms

### ACTION NEEDED

Please review the changes outlined in the attachments to this circular for impact on your company's systems and procedures. Also review the *Status of Item Filings* circular for state approval of this item.

**Caution:** At the time of distribution of this circular, this item has been filed with the regulator but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use the information until the regulators have approved the filing.

### BACKGROUND

NCCI has submitted Item 03-VA-2008—Catastrophe Provisions Forms to the Virginia Workers Compensation Commission. Item 03-VA-2008 proposes to withdraw the Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 45 04 01 A) and to replace this form with the national Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A). Additionally, this item proposes to introduce the national Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 C).

### IMPACT

There is no change in premium as a result of this item.

### NCCI ACTION

NCCI will release updated pages of NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* upon approval.

### PERSON TO CONTACT

If you have any questions, please contact:  
Customer Service Center  
NCCI, Inc.  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487  
800-NCCI-123

**FILING MEMORANDUM**

**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**(To become effective for policies effective on and after 12:01 a.m. on September 1, 2008, applicable to new and renewal voluntary and assigned risk policies.)**

**PURPOSE**

This item proposes to withdraw the Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 45 04 01 A) and to replace this form with the national Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A). Additionally, this item proposes to introduce the national Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 C).

**BACKGROUND**

In 2002, Congress enacted the Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act") and then, in 2005, they enacted the Terrorism Risk Insurance Extension Act of 2005 ("TRIEA"), which provides a federal reinsurance mechanism for acts of terrorism. In response to TRIA and TRIEA, NCCI filed Items B-1383, B-1398, P-1392, and P-1404, which implemented variations of a TRIA Disclosure Endorsement and a Foreign Terrorism Premium Endorsement. Subsequently, Virginia adopted the Virginia Terrorism Risk Insurance Extension Act Endorsement.

On December 26, 2007, Congress enacted the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA"), which amends the definition of "act of terrorism" to include domestic terrorism. In response to TRIPRA, NCCI filed Item 06-VA-2007, which updated the Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement to comply with the new requirements. Upon subsequent review, it has been determined that the Virginia endorsement is substantially similar to the national endorsement currently being filed. Therefore, this item proposes to eliminate the Virginia state-specific endorsements and adopt a single national endorsement.

In 2004, NCCI filed Item B-1383—Miscellaneous Values for Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents, but Virginia did not approve this item at that time. Meanwhile, like terrorism, earthquakes and catastrophic industrial accidents continue to pose an extraordinary risk for workers compensation. While the exposure is real, the absence of a large event in recent history means that the current loss costs and rates do not account for it. For this reason, NCCI is now proposing that Virginia adopt the Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement.

**PROPOSAL**

It is proposed that:

- The Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 45 04 01 A) be withdrawn
- The national Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A) be adopted
- The national Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 C) also be adopted

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## FILING MEMORANDUM

### ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS

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Additionally, this item is being filed in conjunction with Item 02-VA-2008—Catastrophe Provisions Miscellaneous Values, Rules, and Statistical Codes, which proposes that, effective September 1, 2008, changes be made to the manual rules, statistical codes, and miscellaneous values for terrorism to reflect that acts of terrorism now include domestic terrorism, and that miscellaneous values for Catastrophe (other than Certified Acts of Terrorism) be adopted. This item and Item 02-VA-2008 should be adopted concurrently.

#### IMPACT

There is no change in premium as a result of this item.

#### IMPLEMENTATION

The attached exhibits outline the changes required to the Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement, the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement, and the Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement, which will all be located in NCCI's ***Forms Manual of Workers Compensation and Employers Liability Insurance***.

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**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**EXHIBIT 1  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****~~VIRGINIA TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT  
(WG 45 04 04 A)~~**

~~This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007.~~

**~~Definitions~~**

~~The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.~~

~~“Act” means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2007.~~

~~“Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:~~

- ~~a. The act is an act of terrorism.~~
- ~~b. The act is violent or dangerous to human life, property or infrastructure.~~
- ~~c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.~~
- ~~d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.~~

~~“Insured Loss” means any loss resulting from an act of terrorism (including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.~~

~~“Insurer Deductible” means, for the period beginning on January 1, 2008, and ending on December 31, 2014, an amount equal to 20% of our direct earned premiums, over the calendar year immediately preceding the applicable Program Year.~~

~~“Program Year” refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.~~

**~~Limitation of Liability~~**

~~The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a Program Year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro-rata share of such Insured Losses as determined by the Secretary of the Treasury.~~

**~~Policyholder Disclosure Notice~~**

- ~~1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses exceeds \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.~~

**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**EXHIBIT 1 (CONT'D)  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

- ~~2. Notwithstanding Item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceeds \$100,000,000,000.~~
- ~~3. The premium charged for the coverage for Insured Losses under this policy is included in the amount shown in Item 4 of the Information Page or the Schedule below.~~

~~**Schedule**~~

~~**State**~~

~~Rate per \$100 of Remuneration~~

**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**EXHIBIT 2  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE ENDORSEMENT  
(WC 00 04 22 A)**

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007. It serves to notify you of certain limitations under the Act, and that your insurance carrier is charging premium for losses that may occur in the event of an Act of Terrorism.

Your policy provides coverage for workers compensation losses caused by Acts of Terrorism, including workers compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations.

**Definitions**

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

“Act” means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments thereto resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2007.

“Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

“Insured Loss” means any loss resulting from an act of terrorism (and, except for Pennsylvania, including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.

“Insurer Deductible” means, for the period beginning on January 1, 2008, and ending on December 31, 2014, an amount equal to 20% of our direct earned premiums, over the calendar year immediately preceding the applicable Program Year.

“Program Year” refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.

**Limitation of Liability**

The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a Program Year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**EXHIBIT 2 (CONT'D)**

**FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

**Policyholder Disclosure Notice**

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses exceed \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.
2. Notwithstanding item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceed \$100,000,000,000.
3. The premium charge for the coverage your policy provides for Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

**Schedule**

State

Rate

Premium

**ITEM 03-VA-2008—CATASTROPHE PROVISION FORMS**

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**EXHIBIT 3  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

**CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM)  
PREMIUM ENDORSEMENT (WC 00 04 21 C)**

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of a Catastrophe (other than Certified Acts of Terrorism) as that term is defined below. Your policy provides coverage for workers compensation losses caused by a Catastrophe (other than Certified Acts of Terrorism). This premium charge does not provide funding for Certified Acts of Terrorism contemplated under the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 22 A), attached to this policy.

For purposes of this endorsement, the following definitions apply:

- Catastrophe (other than Certified Acts of Terrorism): Any single event, resulting from an Earthquake, Noncertified Act of Terrorism, or Catastrophic Industrial Accident, which results in aggregate workers compensation losses in excess of \$50 million.
- Earthquake: The shaking and vibration at the surface of the earth resulting from underground movement along a fault plane or from volcanic activity
- Noncertified Act of Terrorism: An event that is not certified as an Act of Terrorism by the Secretary of Treasury pursuant to the Terrorism Risk Insurance Act of 2002 (as amended) but that meets all of the following criteria:
  - a. It is an act that is violent or dangerous to human life, property, or infrastructure;
  - b. The act results in damage within the United States, or outside of the United States in the case of the premises of United States missions or air carriers or vessels as those terms are defined in the Terrorism Risk Insurance Act of 2002 (as amended); and
  - c. It is an act that has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- Catastrophic Industrial Accident: A chemical release, large explosion, or small blast that is localized in nature and affects workers in a small perimeter the size of a building.

The premium charge for the coverage your policy provides for workers compensation losses caused by a Catastrophe (other than Certified Acts of Terrorism) is shown in Item 4 of the Information Page or in the Schedule below.

**Schedule**

State	Rate	Premium
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