MERCHANTS INSURANCE GROUP

Agency Bulletin

August 7, 2013

BULLETIN NO. 5367

TO: **Merchants Insurance Group Commercial Lines Agents**

SUBJECT: **Changes to Commercial Automobile Policy Rates, Rules and Forms**

Effective September 1, 2013 for new business and November 1, 2013 for renewals, Merchants Insurance Group will be adopting the outstanding 2010 Countrywide ISO rules, loss costs and forms for Commercial Automobile policies.

As a result, our current policyholders will receive policyholder notices informing them of the change upon their next renewal (copies attached). Our Internet manuals (www.merchantsgroup.com) will be updated to reflect these changes shortly.

If you have questions, please contact your Regional Manager, Regional Underwriting Manager, Territory Manager or Commercial Lines Underwriter. As always, thank you for doing business with Merchants Insurance Group.

Attachments: Advisory Notice to Policyholders, CA P 004 06 10
Advisory Notice to Policyholders, CA P 005 06 10

250 Main Street Buffalo, New York 14202 (716) 849-3333

2010 COMMERCIAL AUTO MULTISTATE FORMS REVISION ADVISORY NOTICE TO POLICYHOLDERS

This is a summary of the major changes to your policy. No coverage is provided by this summary nor can it be construed to replace any provisions of your policy or endorsements. You should read your policy and review your Declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this summary, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

The areas within the policy that broaden, reduce or reinforce coverage are highlighted below. This notice does not reference every change, including editorial changes, made in your policy.

COVERAGE FORMS

BROADENINGS OF COVERAGE

REVISION TO AUDIO, VISUAL OR DATA ELECTRONIC EQUIPMENT COVERAGE

CA 00 01 – Business Auto Coverage Form

CA 00 05 – Garage Coverage Form

CA 00 10 – Business Auto Physical Damage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

Coverage is being extended for ALL electronic equipment that is permanently installed in or upon locations that are normally used by the auto manufacturer, and that reproduces, receives or transmits audio, visual or data signals and which is powered solely from the vehicle's electrical system. This coverage is similarly extended to electronic equipment that is removable from a housing unit, which is permanently installed in or upon locations that are normally used by the auto manufacturer.

For electronic equipment that reproduces, receives or transmits audio, visual or data signals, which is permanently installed in or upon locations of a covered auto **other than** those normally used by the auto manufacturer for the installation of such equipment, coverage will be provided up to a limit of $1,000. However, this limit may be increased by attaching optional Endorsement **CA 99 60.**

REDUCTIONS OF COVERAGE

REVISION TO AUDIO, VISUAL OR DATA ELECTRONIC EQUIPMENT COVERAGE

CA 00 01 – Business Auto Coverage Form

CA 00 05 – Garage Coverage Form

CA 00 10 – Business Auto Physical Damage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

Equipment designed solely for the reproduction of sound, and accessories used with such equipment that is permanently installed in a covered auto, but not in or upon locations normally used by the auto manufacturer, will be subjected to a $1,000 sublimit.

REINFORCEMENTS OF COVERAGE

REVISION TO THE SUPPLEMENTARY PAYMENTS PROVISION

CA 00 01 – Business Auto Coverage Form

CA 00 05 – Garage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

The Liability Coverage Supplementary Payments provision and, for **CA 00 20,** Trailer Interchange Coverage, are revised to reinforce that it applies to **court** costs taxed against the insured and **not** to the attorneys' fees or expenses taxed against the insured.

REVISION TO THE FELLOW EMPLOYEE EXCLUSION

CA 00 01 – Business Auto Coverage Form

CA 00 05 – Garage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

The liability Fellow Employee exclusion is revised to reinforce that consequential injury claims for damages brought by family members of employees injured by fellow employees are not covered.

LIMITS OF INSURANCE AND DEDUCTIBLES PROVISION

CA 00 05 – Garage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

The Limits of Insurance and Deductibles provisions contained in Section **III** – Garagekeepers Coverage in **CA 00 05** and the Trailer Interchange Coverage section of **CA 00 20** are revised to reinforce that the full Limit of Insurance is available should the loss exceed the sum of the deductible and the Limit of Insurance.

"WEAR AND TEAR" EXCLUSION

CA 00 01 – Business Auto Coverage Form

CA 00 05 – Garage Coverage Form

CA 00 10 – Business Auto Physical Damage Coverage Form

CA 00 20 – Motor Carrier Coverage Form

Within Physical Damage Coverage, the "Wear And Tear" exclusion is revised to reinforce that damage due and confined to wear and tear, freezing, mechanical or electrical breakdown and blowouts, punctures or other road damages to tires are excluded unless such loss results from the total theft of a covered auto.

GARAGE REPORTING REQUIREMENTS

CA 00 05 – Garage Coverage Form

The reporting premium basis option under Paragraph **C.5.b.** of Section **IV** – Physical Damage Coverage is revised to reinforce that the coinsurance penalty is determined by dividing the total reported value for the involved location by the total actual value at the loss location on the date of the insured's last report. The non-reporting premium basis option under Paragraph **C.5.c.** of Section **IV** – Physical Damage Coverage is revised to reinforce that the coinsurance penalty is determined by dividing the Limit of Insurance by the total actual value at the loss location at the time the loss occurred.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

CA 00 05 – Garage Coverage Form

The employment-related practices portion of the Employee Indemnification And Employer's Liability exclusion is revised to reinforce that the exclusion is intended to apply to any injury caused by the malicious prosecution of a person and any injury-causing event associated with employment, whether it occurs before, during or after employment of that person.

GARAGEKEEPERS COVERAGE – DEFINITION OF "CUSTOMER'S AUTO"

CA 00 05 – Garage Coverage Form

The definition of "customer's auto" is reinforced to expressly provide coverage for autos that are in the care of the garagekeeper without regard to the request or consent of the vehicle's owner.

FIRE LEGAL LIABILITY COVERAGE

CA 00 05 – Garage Coverage Form

The Garage Coverage Form **CA 00 05** exception to the "insured contract" definition in Section **VI** pertaining to indemnification of any person or organization for damage by fire to premises rented or loaned to the named insured, is revised to include the additional phrase "or temporarily occupied by you with permission of the owner".

MULTISTATE ENDORSEMENTS

BROADENINGS OF COVERAGE

EXISTING OPTIONAL ENDORSEMENTS

CA 20 02 – Audio, Visual And Data Electronic Equipment Coverage – Fire, Police And Emergency Vehicles (formerly titled Sound-receiving Equipment Coverage – Fire, Police And Emergency Vehicles)

CA 99 60 – Audio, Visual And Data Electronic Equipment Coverage Added Limits (formerly titled Audio, Visual And Data Electronic Equipment Coverage)

CA 99 61 – Loss Payable Clause – Audio, Visual And Data Electronic Equipment Coverage Added Limits (formerly titled Loss Payable Clause – Audio, Visual And Data Electronic Equipment)

CA 99 60 is revised to instruct that the electronic equipment sublimit is in addition to the each "accident" limit shown in the Schedule. The $250 deductible is also removed from the Schedule of **CA 99 60,** as the Physical Damage Coverage deductible that applies to each covered auto, if any, will now apply to losses to such equipment. Similar revisions are made to **CA 99 61** and **CA 20 02** to track the revisions introduced in the underlying policies as mentioned earlier in this summary.

FIRE LEGAL LIABILITY COVERAGE

CA 25 10 – Damages To Rented Premises Liability Coverage – Garages

CA 25 14 – Broadened Coverage – Garages

Endorsement **CA 25 10** and Section **III** of Endorsement **CA 25 14** are broadened to include coverage for property damage not caused by fire, to property rented to a named insured for seven or fewer consecutive days.

NEW OPTIONAL ENDORSEMENTS

CA 23 98 – Trailer Interchange Coverage

This endorsement, developed for private carriers insured under the Business Auto Coverage Form, provides comprehensive, specified causes of loss and collision coverage for non-owned trailers. Limited coverage options for fire and fire and theft (similar to that in **CA 23 13** – Trailer Interchange Fire And Fire And Theft Coverages) are also included.

CA 04 45 – Golf Carts And Low-speed Vehicles

This endorsement provides coverage to any scheduled golf cart or low-speed vehicle that is NOT subject to financial responsibility requirements. No endorsement is necessary for vehicles subject to financial responsibility requirements, as such vehicles fall within the definition of an auto in the ISO Commercial Auto Coverage Forms.

REDUCTIONS OF COVERAGE

EXISTING OPTIONAL ENDORSEMENTS

CA 99 16 – Hired Autos Specified As Covered Autos You Own

Additional insured liability coverage is being eliminated for the owner and lessor of a covered auto for losses resulting from the negligence of said lessor or owner.

CA 20 19 – Repossessed Autos

CA 25 02 – Dealers Driveaway Collision Coverage

CA 20 19 is revised to add language that allows an insurer to reduce its obligation to pay a loss when the inventory value exceeds either the Limit Of Insurance shown in the Schedule or that which was last reported to the insurer. Both **CA 20 19** and **CA 25 02** will also reflect language that is currently contained under the Quarterly or Monthly Reporting Premium Basis within **CA 00 05,** Garage Coverage Form. This language will state that if the first report due is delinquent on the date of a loss, the most an insurer will pay is 75 percent of the Limit Of Insurance shown in the Schedule for the applicable location.

NEW OPTIONAL ENDORSEMENTS

CA 23 97 – Amphibious Vehicles

This endorsement excludes loss to or resulting from the ownership, maintenance, or use of, any type of amphibious vehicle (whether or not self-propelled). This includes loss to any property or equipment contained in or used with any such vehicle while being launched into, used on or beached from the water.

CA 04 42 – Exclusion Of Federal Employees Using Autos In Government Business

This endorsement excludes liability coverage for the United States of America, any of its agencies or any U.S. Government employee for bodily injury or property damage resulting from the operation of an auto that results while the employee is acting within the scope of duty and when Section 2679(c) of the Federal Tort Claims Act requires the U.S. Attorney General to defend the employee in any civil action or proceeding that may be brought for bodily injury or property damage.

CA 04 44 – Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation)

When this endorsement is attached to your policy, the Transfer Of Rights Of Recovery Against Others To Us condition is amended to provide that such condition does not apply to the person or organization shown in the Schedule, but only to the extent that subrogation is waived prior to the accident or the loss under a contract with that person or organization.

REINFORCEMENTS OF COVERAGE

EXISTING OPTIONAL ENDORSEMENTS

CA 23 20 – Truckers Endorsement

CA 25 08 – Personal Injury Liability Coverage – Garages

CA 25 14 – Broadened Coverage – Garages

CA 99 37 – Garagekeepers Coverage

CA 99 59 – Garagekeepers Coverage – Customers' Sound-receiving Equipment

The Supplementary Payments provision is revised to reinforce that it applies to **court** costs taxed against the insured and **not** to the attorneys' fees or expenses taxed against the insured.

CA 20 19 – Repossessed Autos

CA 20 33 – Autos Leased, Hired, Rented Or Borrowed With Drivers – Physical Damage Coverage

CA 20 78 – Physical Damage Coverage – Autos Held For Sale By Non-dealers

CA 23 13 – Trailer Interchange Fire And Fire And Theft Coverages

CA 23 20 – Truckers Endorsement

CA 25 04 – Fire, Fire And Theft And Limited Specified Causes Of Loss Coverage For Dealers

CA 99 28 – Stated Amount Insurance

CA 99 37 – Garagekeepers Coverage

CA 99 59 – Garagekeepers Coverage – Customers' Sound-receiving Equipment

The Limits Of Insurance and Deductibles provisions are revised to reinforce that the full Limit of Insurance is available should the loss exceed the sum of the deductible and the Limit of Insurance.

CA 23 20 – Truckers Endorsement

Within Physical Damage Coverage, the "Wear And Tear" exclusion is revised to reinforce that damage due and confined to wear and tear, freezing, mechanical or electrical breakdown and blowouts, punctures or other road damages to tires are excluded unless such loss results from the total theft of a covered auto.

CA 25 10 – Damages To Rented Premises Liability Coverage – Garages

CA 25 14 – Broadened Coverage – Garages

Endorsement **CA 25 10** and Section **III** of Endorsement **CA 25 14** are reinforced to include coverage for contents of premises rented to the named insured for a period of seven or fewer consecutive days. Additionally, the Schedule and Paragraph **C.** are revised to specify a $100,000 standard limit for this coverage, unless another limit is shown in the Schedule.

CA 20 78 – Physical Damage Coverage – Autos Held For Sale By Non-dealers

CA 99 37 – Garagekeepers Coverage

To reinforce the application of the "all perils" deductible, the Schedule in **CA 99 37** has been revised to reference "for each customer's auto" and in **CA 20 78** the Schedule is revised to reference "each covered auto".

CA 02 38 – Reinstatement Of Insurance

CA 02 40 – Suspension Of Insurance

The Schedule in **CA 02 40** is revised, in part, to specify additional coverages that may be suspended in the Schedule and to add an optional field to specify the date when the suspension will end. The endorsement will also state that the suspended coverages as indicated in the Schedule will remain suspended until the Reinstatement Effective Date or the end of the policy period. A similar Schedule is introduced in Endorsement **CA 02 38.**

CA 24 01 – Transportation Of Seasonal Or Migrant Agricultural Workers (formerly titled Farm Labor Contractors)

The title is revised to reinforce that this endorsement may be used with agricultural employers and agricultural associates, in addition to farm labor contractors. The lead-in language in the Liability Coverage provision is also revised to more closely reflect the provisions of the Migrant And Seasonal Agricultural Worker Protection Act. In addition, the Schedule is revised to include specific identification of those vehicles used for such transportation and the limits of insurance are revised to reflect a combined single-limit approach.

CA 23 13 – Trailer Interchange Fire And Fire And Theft Coverages

This endorsement is revised to eliminate reference to the Business Auto Coverage Form, as this coverage will be provided under new Endorsement **CA 23 98,** Trailer Interchange Coverage.

CA 20 07 – Emergency Services – Volunteer Firefighters' And Workers' Injuries Limited Exclusion

CA 20 30 – Emergency Services – Volunteer Firefighters' And Workers' Injuries Excluded

CA 20 07 is revised to directly modify the Business Auto Coverage Form instead of Endorsement **CA 20 30;** thus the title of the endorsement is also revised. This also required that the exclusion that was currently contained in **CA 20 30** be introduced in Endorsement **CA 20 07.** This exclusion is also revised to reinforce that coverage for fellow firefighters and other volunteer workers is not excluded. We also deleted both "using or maintaining a covered 'auto'" to reinforce that bodily injury coverage is only excluded while engaged in volunteer firefighting, rescue squad or ambulance corps operations, and "of the 'insured'" to reinforce that the exclusion applies to all emergency services activities in which a volunteer worker is involved regardless whether acting on behalf of the insured.

CA 25 08 – Personal Injury Liability Coverage – Garages

CA 25 14 – Broadened Coverage – Garages

The employment-related practices portion of the Employee Indemnification And Employer's Liability exclusion is revised to reinforce that the exclusion is intended to apply to any injury caused by the malicious prosecution of a person and any injury-causing event associated with employment, whether it occurs before, during or after employment of that person.

CA 25 14 – Broadened Coverage – Garages

The exclusion for damages arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights under Personal And Advertising Injury Liability Coverage is reinforced so that it does not apply to personal and advertising injury arising out of the use of another's advertising idea in the named insured's advertisement.

CA 03 01 – Deductible Liability Insurance

CA 03 02 – Deductible Liability Insurance

These endorsements are revised to reinforce that only one deductible option applies: either a combined single-limit Liability Coverage Deductible or a Property Damage Only Liability Coverage Deductible.

CA 20 05 – Drive-away Contractors

The Schedule in this endorsement is revised to indicate that the rating of physical damage coverage is now based upon the estimated annual gross receipts in lieu of cost of hire.

CA 20 06 – Driving Schools – Non-owned Autos

This endorsement is revised to include "Non-owned Autos" in the title and to reformat the table in the Schedule to include a new column for "number of owned autos used for driver training".

CA 20 21 – Snowmobiles

The Schedule is revised to remove Comprehensive and Collision as these coverages are insured on a stated amount basis via Stated Amount Insurance Endorsement **CA 99 28.** Also, "Other (non-Physical Damage) Coverage" is added to the Schedule. To accommodate coverage at various limits, the hardcoded limit of $500 for Medical Payments in the Schedule is deleted. The inapplicability of the exclusions in the Schedule is revised to use a check box approach in lieu of listing the additional premium. Paragraph **B.1.** is deleted, as this exclusion is currently reflected throughout the underlying coverage forms. In addition, the exclusions are generally reinforced to apply only to the vehicles shown in the Schedule of the endorsement.

CA 99 23 – Rental Reimbursement Coverage

This endorsement is revised to remove the Column for "Auto No." in the Schedule in light of the inclusion of a column for "Designation or Description of Covered 'Autos' to which this insurance applies".

CA 99 30 – Tapes, Records And Discs Coverage

A space for the entry of the description or designation of covered autos is added. Additionally, Paragraph **A.** is introduced to provide that the coverage provided applies only to the covered autos described or designated in the Schedule.

CA 99 47 – Employee As Lessor

Paragraph **A.** is revised to reinforce that any auto listed in the Schedule will be considered a covered "auto" that the insured owns.

CA 99 37 – Garagekeepers Coverage

CA 99 59 – Garagekeepers Coverage – Customers' Sound-receiving Equipment

The definition of "customer's auto" is reinforced to expressly provide coverage for autos that are in the care of the garagekeeper without regard to the request or consent of the vehicle's owner.

REPLACEMENT OF THE TRUCKERS COVERAGE FORM WITH THE MOTOR CARRIER COVERAGE FORM ADVISORY NOTICE TO POLICYHOLDERS

This Notice highlights some key changes to your insurance. No coverage is provided by this Notice nor can it be construed to replace any provisions of your policy or endorsements. You should read your new policy and review your Declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this Notice, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

Dear Policyholder:

The Truckers Coverage Form is being replaced with the Motor Carrier Coverage Form. While the Motor Carrier Coverage Form contains many provisions substantially similar to those within the Truckers Coverage Form, this Notice briefly highlights some of the key differences between these coverage forms.

The Truckers Coverage Form did not contain provisions (now in the Motor Carrier Coverage Form) that specifically design aspects of coverage to respond to hold harmless agreements found in some leasing contracts that may exist between lessors and lessees. As such, the Truckers Coverage Form typically would add the lessor as an insured on the lessee's policy even when the lessee is not required to hold the lessor harmless. In contrast, the Motor Carrier Coverage Form is designed to address hold harmless agreements that may be contained in leasing contracts. Thus, if required, the lessor may be added as an insured under a lessee's policy or the lessee may be added as an insured under the lessor's policy. **In some instances, this is a reduction in coverage because the lessor will not be added as an insured on the lessee's policy, irrespective of the leasing requirements.** Therefore, you should familiarize yourself with your leasing contracts as they may play an important role in determining how your Motor Carrier Coverage Form will respond.

If coverage is provided under the Truckers Coverage Form, it will typically apply on a primary basis when you are a lessee and excess when you are a lessor. If you are a lessor under the Motor Carrier Coverage Form, then your policy will typically apply on an excess basis, UNLESS you are required to hold a lessee harmless in a written agreement, in which case your policy will typically be primary. However, if you are a lessee, then your Motor Carrier Coverage Form will typically apply on a primary basis, UNLESS a lessor is required to hold you harmless in a written agreement, in which case your policy will typically be excess.

Carefully review your policy and any hold harmless agreements you may have entered and contact your agent if you have any questions.