



B U L L E T I N

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R.C. 2177

To the Members of the Board

**RE: New York Workers Compensation
TRIPRA Endorsement(s) Updates
Effective September 1, 2008**

Changes to endorsements regarding the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) have been approved by the New York State Insurance Department. These endorsement form changes are effective for policy effective dates on and after September 1, 2008.

Terrorism Risk Insurance Program Reauthorization Act – Endorsements

The changes approved are patterned on recently developed NCCI specific endorsements which are intended for use on a nationwide basis. The basis for these changes results from the determination that both domestic and foreign terrorism should be reflected on the same endorsement, and to include definitions for losses from “terrorism” and “catastrophes (other than certified acts of terrorism)”. Additionally, the information contained in the disclosure endorsement incorporates the terrorism premium endorsement, thus allowing for the use of a single TRIPRA endorsement.

In summary, the NYCIRB has withdrawn the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A), and has updated the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B), and the Foreign Terrorism Premium Endorsement (WC 00 04 22) to reflect the changes mentioned above.

Specifically, the following changes have been approved:

1. **Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13A).** The endorsement is withdrawn. The disclosure information is now included on the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22A) (formerly the Foreign Terrorism Premium Endorsement).

2. **Foreign Terrorism Premium Endorsement (WC 00 04 22).** This endorsement is amended as follows:
 - a. Endorsement title changed to “Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement.”
 - b. References to foreign terrorism have been removed.
 - c. Endorsement number updated to WC 00 04 22A.
 - d. Information has been incorporated from the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13A).

3. **Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21B).** This endorsement is amended as follows:
 - a. Endorsement title changed to “Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement”
 - b. References to domestic terrorism have been removed.
 - c. Revised the definition of “catastrophe.”
 - d. Endorsement number updated to WC 00 04 21C.
 - e. Added the definition of “noncertified act of terrorism.”

These changes are effective September 1, 2008 and coincide with NCCI’s countrywide effective date. Please note that the current rates should continue to be used in conjunction with these endorsements until October 1, 2008. With this bulletin, we are providing the updated endorsements mentioned above (WC 00 04 22A, and WC 00 04 21C).

Updated Workers Compensation & Employers Liability Manual pages will be provided shortly as part of a separate bulletin.

These changes are also available via our website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
Encl.

TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE ENDORSEMENT

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.

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 exceeds \$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**

Note: For non-payroll classes in New York, the charge is a % of the non-payroll class manual premium.

**CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM)
PREMIUM ENDORSEMENT**

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 Disclosure Endorsement (WC 00 04 22A), 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

Note: For non-payroll classes in New York, the charge is a % of the non-payroll class manual premium.