February 22, 2005

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R.C. 2080

To the Members of the Board

Re: New York Workers Compensation
Domestic Terrorism and Catastrophe Provision
Procedural Change Effective October 1, 2005

The Rates Committee of the Board has adopted, and the New York State Insurance Department has approved, a change to the manner in which the premium for domestic terrorism and other catastrophes is charged.

In New York, there has been a $ .01 load for the domestic terrorism and catastrophe exposure in each payroll based manual rate since February 23, 2003. The inclusion of this loading was approved by the Insurance Department and has been a part of the manual rates in New York since that time. However, a recent analysis of this charge in conjunction with a review of a national filing, finds that, by being contained in the manual rate, the charge is subject to experience rating and other pricing factors which was not intended when the charge was originally implemented.

Consequently, the $ .01 loading will be removed from the manual rates and will be replaced by a stand-alone charge which is similar in application to the TRIA charge for foreign terrorism. This mandatory separate charge, which will be shown on the Miscellaneous Values page of the New York Workers Compensation and Employers Liability Manual, will not be subject to experience rating or any other pricing factors, and will not constitute a premium level change since this is solely a change in the administration of the charge. The charge will be stated as a rate per $100 of total policy payroll.

In order for the charge to be shown on the workers compensation insurance policy, and for statistical reporting purposes, Code 9741 has been established for the capture of the premium generated by this charge. A copy of the relevant New York Statistical Plan pages is attached.

In conjunction with the establishment of a stand-alone charge, endorsement WC 00 04 21, Domestic Terrorism, Earthquakes and Catastrophic Industrial Accident Premium Endorsement, has also been approved. The inclusion of this endorsement on all workers compensation policies issued in New York sets forth the coverage provided by the aforementioned catastrophe provision and is consistent with that used in other jurisdictions. A copy of the proposed endorsement is enclosed for your reference.
The establishment of the separate charge and the use of the endorsement, as well as the removal of the current loading in the rates, is scheduled to become effective for new and renewal policies on October 1, 2005, the anticipated effective date for the next general rate revision.

Revised manual pages will be distributed as soon as they are available.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
10. Premium Not Subject To Experience Modification—Lines D, E and F

Report the classification codes and corresponding exposures and rates (if applicable) and premium amounts for those classifications not subject to experience modification.

a. Aircraft Operation—Passenger Seat Surcharge

Report the premium charged for this exposure under Code 9108.

b. Atomic Energy Radiation Exposure

Refer to Part I, Item 9.

★ c. Catastrophe Provision for Domestic Terrorism, Natural Disasters and Industrial Accidents

Report the premium amount charged for domestic terrorism, natural disasters and industrial accidents under Code 9741 on the line under the charge for certified terrorism losses.

★ d. Construction Classification Premium Adjustment Program Credit

Report the premium credit amount as a result of this program under Code 9046.

★ e. Drug-Free Workplace Premium Credits

For policies written in conjunction with a carrier filed Drug-Free Workplace Program, report the premium credit amount under code 9846 when filed not subject to experience rating.

★ f. Indemnity and/or Medical Deductible Programs

Refer to Item 11 of this Part.

★ g. Managed Care/Preferred Provider Organization Premium Credit

For policies written in conjunction with a carrier filed and approved Managed Care or Preferred Provider Organization program, report the premium credit amount under code 9874.

★ h. Merit Rating Credits/Debits

For policies with a merit rating factor of .92, report the premium credit amount under Code 9885. For policies with a merit rating factor of 1.04 or 1.08, report the premium debit amount under Codes 9896 and 9886, respectively. For policies with a merit rating factor of 1.00, report a zero dollar amount under code 9884.

★ i. Minimum Premium Policies

Refer to Item 13 of this Part.

★ j. Non-Ratable Element Codes

For classification codes containing non-ratable elements, report the exposure amounts, manual rates and premium amounts under the associated statistical codes listed in Part VIII.

★ k. Rate Deviations

Refer to Item 12c of this Part.

★ l. Safety Investment Premium Credit

Report the premium credit as a result of this program under Code 9748.
m. **Short Rate Penalty Premium**

For policies canceled on a short rate basis, report the additional premium resulting from the application of the Short Rate Cancellation Rule (Rule X.D) in the New York Workers Compensation and Employers Liability Manual under Code 0931.

n. **Terrorism Risk Insurance Act of 2002 - Certified Losses**

Report the premium amount charged for certified losses under the Act under Code 9740 on the line under the Expense Constant.

o. **Workplace Safety and Loss Consultation Premium Credit**

Report the premium credit amount as a result of this program under Code 9746.

p. **Workplace Safety and Loss Consultation Premium Surcharge**

Report the premium surcharge amount as a result of this program under Code 9747.

11. **Deductibles**

Report above Line A the premium credit amount for deductible programs under Code 9664 for credits subject to experience rating, i.e., calculated prior to the application of the experience modification. Report on Lines D, E, or F the premium credit amount for deductible programs under Code 9663 for credits not subject to experience rating, i.e., calculated after the application of the experience modification.

12. **Deviations**

If a carrier has received regulatory approval to deviate from Rating Board manual rates, unit statistical reports shall be submitted in accordance with the provisions of this Plan, such that if the approved deviation is applied:

a. **Directly to Rating Board Rates**

Report the authorized (deviated) rates and the resultant premiums in the appropriate columns for each classification.

b. **As a Flat Percentage to the Total Premium Before the Application of Experience Modification**

Report the Rating Board manual rates and the resultant premiums in the appropriate columns for each classification.

Report the premium credit adjustment amount resulting from the application of a deviation factor less than 1.00 under Statistical Code 9037. Report the premium debit adjustment amount resulting from the application of a deviation factor greater than 1.00 under Statistical Code 9039. Report these statistical codes and corresponding premium amounts above Line A.

c. **As a Flat Percentage to the Total Premium After the Application of Experience Modification**

Report the Rating Board manual rates and the resultant premiums in the appropriate columns for each classification.

Report the premium credit adjustment amount resulting from the application of a deviation factor less than 1.00 under Statistical Code 9034. Report the premium debit adjustment amount resulting from the application of a deviation factor greater than 1.00 under Statistical Code 9036. Report these statistical codes and corresponding premium amounts on Lines D, E, or F.

**Note:** A carrier authorized to apply a deviation must use only one of the above described report procedures.
DOMESTIC TERRORISM, EARTHQUAKES AND CATASTROPHIC INDUSTRIAL ACCIDENTS PREMIUM ENDORSEMENT

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of domestic terrorism, earthquakes and/or a catastrophic industrial accident.

The premium charge provides funding for the risk of earthquakes, catastrophic industrial accidents, and certain acts of domestic and foreign terrorism. It does not provide funding for acts of terrorism certified as such by the Terrorism Risk Insurance Act (TRIA) of 2002, but rather provides funding for all other acts of terrorism specifically excluded by TRIA.

For purposes of this endorsement, the following definitions apply:

**Domestic Terrorism**: All acts of terrorism outside the scope of TRIA with 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 where aggregate workers compensation losses from the single event are in excess of $50 million.

**Catastrophic Industrial Accident**: Any single event resulting in aggregate workers compensation losses in excess of $50 million.

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