

**Vermont Department of Banking, Insurance, Securities
and Health Care Administration**

**Insurance Division Bulletin 137
January 1, 2002**

**Standards for Commercial Lines Terrorism Exclusions Covering Vermont Risks;
Expedited Approval for Certain Types of Commercial Lines Terrorism Exclusions**

A. Introduction

The events of September 11, 2001 have prompted most reinsurers to exclude coverage for damages caused by acts of terrorism. This exclusion has in turn caused property casualty insurers or their agents to submit policy and coverage form filings to this Department that also exclude coverage for terrorism. Although commercial lines insurers need not exclude terrorism coverage in particular policies, in order to promote the continued availability of commercial lines insurance products while maintaining the stability of the Vermont insurance market and the solvency of insurers under the Department's supervision, the Department will approve certain terrorism exclusions in commercial lines renewals. To that end, the Department has worked with other state insurance departments and Insurance Services Office, Inc. ("ISO") to develop minimum standards for forms filings for insurers that seek to exclude coverage for terrorism on their Vermont risks. ISO has agreed to license the use of these exclusions to nonmember insurers without charge. Any insurer that does not have a license agreement in effect with ISO for policy forms needs to execute a short, limited license agreement that authorizes the use of the new language. ISO may be contacted for purposes of obtaining a license at the address shown at the end of this Bulletin.

Given the fast approach of the January 1 renewal cycle, it is in the public interest to expedite commercial lines filings that meet the standards set out in Parts B and C of this bulletin in order to achieve the goals of continued availability, stable markets and insurer solvency. Therefore, the filing requirements for filings that meet the standards set out in Parts B and C of this bulletin are modified as provided in Part D of this bulletin. *See* 8 V.S.A. § 3541.

The Congress is currently considering legislation that would provide terrorism risk protection. The legislation in its current form would limit the exposure of commercial lines writers for losses due to terrorism. In the event Congress enacts appropriate terrorism risk protection legislation for insured commercial losses caused by terrorism, insurers will be required to comply with that legislation for commercial lines policy or coverage forms, consistent with this bulletin.

B. Standards for form filings

1. Companies may use the version of the terrorism exclusion developed by ISO and contained in the following policy or coverage forms:
 - COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 41 01 02

- COMMERCIAL GENERAL LIABILITY ENDORSEMENT (commercial general liability coverage part): CG 21 69 01 02
 - COMMERCIAL GENERAL LIABILITY ENDORSEMENT (owners and contractors protective liability coverage part; products/completed operations liability coverage part): CG 31 42 01 02
 - COMMERCIAL GENERAL LIABILITY ENDORSEMENT (pollution liability coverage part, underground storage tank policy): CG 31 43 01 02
 - COMMERCIAL LIABILITY UMBRELLA ENDORSEMENT: CU 21 29 01 02
 - BUSINESSOWNERS ENDORSEMENT (businessowners standard property coverage form, businessowners special property coverage form): BP 05 11 01 02
 - BUSINESSOWNERS ENDORSEMENT (businessowners liability coverage form): BP 05 13 01 02
 - FARM LIABILITY ENDORSEMENT: FL 10 30 01 02
2. In order to receive expedited treatment under Part D of this bulletin, the terrorism exclusion form submitted may not deviate from the appropriate policy or coverage forms described above. This is a single purpose filing and no other types of forms may be included in an expedited terrorism exclusion filing.
 3. An insurer seeking expedited treatment must acknowledge that the approval sought under authority of this bulletin will lapse 15 days after the effective date of appropriate federal terrorism risk protection legislation, for those policy or coverage forms in lines that participate in the federal program. ISO has agreed to withdraw these forms in the event Congress enacts such legislation.

C. Prohibited exclusions

No terrorism exclusion will be permitted in workers' compensation policies issued under Vermont law except as to claims covered under the "Employers' Liability Insurance" provisions of Part Two of NCCI form WC 00 00 00 A.

No terrorism exclusion will be permitted in personal lines policies under this bulletin.

No terrorism exclusion will be permitted in any life or health insurance policies or contracts under this bulletin.

D. Explanation and Instructions for Expedited Review:

Insurers that do not have reinsurance for commercial lines terrorism exposures are eligible to submit exclusion forms described in Part B under this part D. The filing shall consist of the following items: a certification in writing that its terrorism exclusion form submission is consistent with the requirements of Parts B and C above; a statement as to the effective date for the filing; the appropriate filing fee; and an expedited transmittal form. Because this bulletin contemplates expedited procedures, no microfiche will be required until 30 days after the date of approval.

To be complete, an expedited form filing must include the following:

1. A completed Uniform Filing Transmittal Form for each insurer;
2. One copy of each terrorism exclusion form to be reviewed for each insurer;
3. The appropriate filing fee;
4. A postage-paid, self addressed envelope large enough to accommodate the return;
5. A certification that the terrorism exclusion filing meets the requirements of Parts B and C of this bulletin;
6. A certification that all reinsurance contracts the insurer has with respect to the lines covered by the proposed exclusion exclude terrorism at least as broadly as it is excluded in the attached ISO forms; and
7. An acknowledgement that the approval of any form described in this bulletin shall lapse on the effective date of appropriate federal terrorism risk protection legislation, for those policy or coverage forms in lines that participate in the federal program.

If the filing is for multiple companies, please provide a copy of the transmittal header for each company and an extra copy of the header for return to the submitting company (*i.e.*, 7 companies would require 8 copies).

E. Other Rights and Responsibilities:

1. ISO has agreed to license the use of the terrorism exclusions described in Part B to all commercial lines direct writers.
2. Insurers are responsible to notify their insureds of any policy changes and endorsements in accordance with applicable law. *See* Insurance Regulation 78-1. A form of notice is attached.
3. Nothing in this bulletin relieves an insurer from its obligations with regard to properly pricing the policy taking the exclusion into account. In the event federal terrorism risk protection legislation is adopted, insurers shall account for any resulting change in premium and/or exposure in future rate filings.
4. Insurers are cautioned against flipping current policyholders to an affiliated insurer in the surplus lines market. Vermont surplus lines law requires surplus lines brokers to meet certain specific requirements before placing a risk with a non-admitted (surplus lines) insurer.

F. Other filings

Filings that include terrorism exclusions but that do not conform with Parts B and C of this bulletin must be submitted to the Department for prior approval.

Insurers that submit forms filings that do not conform to the ISO forms must explain how and why the form deviates from the ISO form, including a side-by-side comparison with the applicable ISO form. Timely processing of forms that are not consistent with Part B will be more likely if the insurer documents that the proposed terrorism exclusion form is not unfair, misleading or does not deceptively describe the risk purported to be covered.

G. Effective Date

This bulletin shall take immediate effect. Approval for policies containing terrorism exclusions, whether approved as an expedited filing under this bulletin or otherwise approved by the Department, shall expire 15 business days after the effective date of an appropriate federal terrorism risk protection bill, for those policy or coverage forms in lines that participate in the federal program. This bulletin and any authority derived under it shall expire the earlier of January 1, 2004 or 16 business days following the effective date of an appropriate federal terrorism risk protection bill.

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ISO Contact:

ISO Customer Service Department
1-800-888-4ISO (4476) (using "option 2")
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As of
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Elizabeth R. Costle
Commissioner