



NYCIRB

New York Compensation
Insurance Rating Board
733 Third Avenue
New York, NY 10017
Tel: (212) 697-3535

January 9, 2019

R.C. 2477

Re: 90-Day Reporting Requirement – Notification of Change in Ownership
Endorsement WC 00 04 14 A
Effective Date: January 1, 2019

Notification Endorsement of Pending Law Change to Terrorism Risk Insurance
Program Reauthorization Act of 2015
Endorsement WC 00 01 15
Effective Date: January 1, 2020

Members of the Rating Board:

I write to inform you that the New York State Department of Financial Services (“DFS”) approved amendments to the Rating Board’s New York Workers’ Compensation and Employers’ Liability Manual (“Manual”) and the New York Experience Rating Plan (“Experience Rating Plan”), which are detailed herein, attached hereto, and are effective on January 1, 2019 and January 1, 2020, respectively.

I. Endorsement WC 00 04 14 A – 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement

DFS approved the adoption of NCCI’s revised endorsement WC 00 04 14 A “90-Day Reporting Requirement – Notification of Change in Ownership Endorsement.” The purpose of this revision is to clarify that the 90-day reporting requirement to the Rating Board for changes in ownership applies regardless of whether an experience rating modification is currently applicable to the policy.

Accordingly, please find enclosed the following modified and final pages, which are effective as of January 1, 2019:

- (a) Alphabetical and Numeric Indexes of the Manual (Exhibit A);
- (b) Endorsement WC 00 04 14 A “90-Day Reporting Requirement – Notification of Change in Ownership Endorsement” (Exhibit B);
- (c) Page R-1 of the Manual (Exhibit C); and
- (d) Pages R-14 and R-18 of the Experience Rating Plan (Exhibit D).

II. Endorsement WC 00 01 15 – Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015

DFS approved the adoption of NCCI’s endorsement WC 00 01 15 “Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015.”

By way of background, the federal Terrorism Risk Insurance Act (“TRIA”) took effect on November 26, 2002. TRIA provided a temporary program under which the federal government shared in the payment of insured losses caused by certain acts of terrorism. TRIA was renewed as the Terrorism Risk Insurance Extension Act (“TRIEA”) in 2005 and as the Terrorism Risk Insurance Program Reauthorization Act (“TRIPRA”) in 2007 and 2015. In the absence of United States Congressional action to extend, update, or otherwise reauthorize TRIPRA, in whole or in part, TRIPRA is scheduled to expire on December 31, 2020.

It is unknown at this time whether Congress will take further action related to TRIPRA. However, since exposure to acts of terrorism remains, it is necessary to provide an endorsement for carriers to use in the event of TRIPRA’s expiration.

The purpose of endorsement WC 00 01 15 is to notify policyholders of the impending expiration of TRIPRA and that TRIPRA may be extended in the same form or some other form. The premium charge for terrorism losses that may occur in the event of certain acts of terrorism may either continue to apply or change from the amount currently applied.

Accordingly, please find enclosed the following modified and final versions of pages from the Manual, which are effective on January 1, 2020:

- (a) Alphabetical and Numeric Indexes (Exhibit A);
- (b) Endorsement WC 00 01 15 “Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015” (Exhibit E); and
- (c) Pages R-1, R-5, R-6, R-38, and R-71 (Exhibit C).

As mentioned above, the above-described changes are effective on January 1, 2019 and January 1, 2020, respectively. If you have any questions or concerns, please do not hesitate to

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contact Mr. Mark Battistelli, Vice President of Underwriting Services, at (212) 697-3535, ext. 113 or at mbattistelli@nycirb.org.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JA", is positioned above the printed name and title.

Jeremy Attie
President and CEO

Enclosures

Exhibit A

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Exhibit B

90-DAY REPORTING REQUIREMENT – NOTIFICATION OF CHANGE IN OWNERSHIP ENDORSEMENT

~~You must report any change in ownership to us in writing within 90 days of the date of the change. Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity, and other changes provided for in the applicable experience rating plan. Experience rating is mandatory for all eligible insureds. The experience rating modification factor, if any, applicable to this policy, may change if there is a change in your ownership or in that of one or more of the entities eligible to be combined with you for experience rating purposes. Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity and other changes provided for in the applicable experience rating plan manual.~~

~~You must report any change in ownership to us in writing within 90 days of such change. Failure to report such changes within this period any change in ownership, regardless of whether the change is reported within 90 days of such change, may result in revision of the experience rating modification factor used to determine your premium.~~

This reporting requirement applies regardless of whether an experience rating modification is currently applicable to this policy.

Note:

Use this endorsement on all policies to notify the insured that changes in ownership, as defined in the Experience Rating Plan Manual, must be reported to the insurer within 90 days of the change.

90-DAY REPORTING REQUIREMENT – NOTIFICATION OF CHANGE IN OWNERSHIP ENDORSEMENT

You must report any change in ownership to us in writing within 90 days of the date of the change. Change in ownership includes sales, purchases, other transfers, mergers, consolidations, dissolutions, formations of a new entity, and other changes provided for in the applicable experience rating plan. Experience rating is mandatory for all eligible insureds. The experience rating modification factor, if any, applicable to this policy, may change if there is a change in your ownership or in that of one or more of the entities eligible to be combined with you for experience rating purposes.

Failure to report any change in ownership, regardless of whether the change is reported within 90 days of such change, may result in revision of the experience rating modification factor used to determine your premium.

This reporting requirement applies regardless of whether an experience rating modification is currently applicable to this policy.

Note:

Use this endorsement on all policies to notify the insured that changes in ownership, as defined in the Experience Rating Plan Manual, must be reported to the insurer within 90 days of the change.

Exhibit C

PART ONE—RULES

RULE I - GENERAL

A. WORKERS COMPENSATION

Workers Compensation as used in this manual means workmen's compensation, workers compensation or occupational disease.

B. STANDARD POLICY

Standard Policy means the standard provisions Workers Compensation and Employers Liability Insurance Policy and the Information Page approved by the New York State Department of Financial Services. Every policy affording coverage under the New York Workers' Compensation Law must have the following endorsements attached:

- WC 31 03 08 - New York Limit of Liability Endorsement;
- WC 31 03 19 I - New York Construction Classification Premium Adjustment Program Explanatory Endorsement;
- WC 31 06 18 - New York Policyholder Notice of Right to Appeal;
- WC 00 01 15* - Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015;
- ★ • WC 00 04 14 A - 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement;
- WC 00 04 19 - Premium Due Date Endorsement;
- WC 00 04 21 D - Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement;
- WC 00 04 22 B - Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement

Exception: The Standard Policy (WC 00 00 00C) shall not be used to provide coverage for employees subject to the New York Volunteer Firefighters' Benefit Law or the New York Volunteer Ambulance Workers' Benefit Law. Such coverage can be afforded only by means of a Volunteer Firefighters' Benefit Law Policy (WC 31 00 00A) or a Volunteer Ambulance Workers' Benefit Law Policy (WC 31 00 02A), respectively.

C. ENDORSEMENT FORMS

Endorsement forms means authorized endorsements listed in the Alphabetical List of Endorsements in Part Four of this manual. All endorsements must be used in the form prescribed in this manual.

D. POLICY AND ENDORSEMENT FORMS

Refer to the Policy Forms and Authorized Endorsement section of this manual for a complete description of coverages and instructions on use of policy and endorsement forms.

E. APPLICATION OF MANUAL RULES

Rules apply separately to each policy, except as allowed by Rule VII - Premium Discount.

F. EFFECTIVE DATE

1. Manual

This manual applies only from the policy effective date which occurs on or after the effective date of this manual.

D. VOLUNTARY COMPENSATION INSURANCE

1. Description of Coverage

Voluntary compensation insurance shall not provide compensation, medical or other benefits in excess of the statutory requirements in the workers compensation law designated in the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11A).

2. How Provided

Voluntary compensation insurance is provided by attaching the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11A) to the Standard Policy. *Refer to Rule VIII for rules and to Section I.H.9 of the Digest of Rulings and Interpretations.*

E. FOREIGN VOLUNTARY COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

1. Description of Coverage

Foreign voluntary compensation and employers liability insurance provides workers compensation, employers liability, repatriation expense and endemic disease coverage to employees temporarily working outside the United State of America, its territories or possession or Canada.

2. How Provided

Foreign voluntary compensation and employers liability coverage is provided by attaching the New York Foreign Voluntary Compensation and Employers Liability Coverage Endorsement (WC 31 06 17A) to the Standard Policy. *Refer to Rule VIII.D. for premium determination.*

F. VOLUNTEER FIREFIGHTERS COVERAGE

1. Description of Coverage

The Volunteer Firefighters' Benefit Law Policy provides coverage for the statutory obligations required under the New York Volunteer Firefighters' Benefit Law. In addition, this special policy must provide employers liability coverage comparable to Part Two of the Standard Policy. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D), ~~and the~~ Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) must also be attached to each policy.

★

2. Group Insurance

The Volunteer Firefighters' Benefit Law (VFBL) contains provisions that allow for group insurance. Under Section 32.1 of the VFBL, any town may obtain a single policy covering all fire protection districts and fire alarm districts within the town. Under Section 32.2, a group policy may be issued to a group of cities, villages, fire districts or town boards located within one county. Section 32.2 group insurance requires that:

- a. the governing board of each member fire district resolves to be insured under the group policy, and that each such resolution be filed with the chairman of the county board of supervisors;
- b. the group file with the chairman of the county board of supervisors an agreement executed by each member fire district agreeing to the effective date of the policy and the population of each fire district;

- c. the chairman of the county board of supervisors contract for a policy of insurance covering the group's members;
- d. the cost of such insurance be apportioned among the group's members based on population; and
- e. the county treasurer pay for the cost of such insurance.

The New York Insurance Law also contains provisions for group insurance under Section 3435 provided group members are either public entities or Type B not-for-profit organizations. The Insurance Law and Regulations require:

- a. the group to be homogenous in nature;
- b. the group to be formed for purposes other than obtaining insurance; and
- c. the group to consist of at least ten members; or a smaller group of at least five members provided that each member generates at least \$5 million in annual revenue or the annual premiums for all lines of such group exceeds \$500,000.

Refer to Section 32 of the Volunteer Firefighters' Benefit Law, Section 3435 of the New York Insurance Law and 11 NYCRR 153 of the New York Insurance Law Regulations for all provisions required for group insurance.

3. Premium

The premium for the Volunteer Firefighters' Benefit Law Policy is a flat charge which varies on the basis of the population of the area(s) served when a single policy is issued or when a single policy of group insurance is issued covering all fire protection districts and fire alarm districts within the town. When a group policy is issued covering a group of cities, villages, fire districts or town boards located within one county, the population of all members of the group may be aggregated to determine the group policy premium. *Refer to the volunteer firefighters section in Part Three – Loss Costs for an explanation of procedures and charges for this coverage.*

G. VOLUNTEER AMBULANCE WORKERS COVERAGE

1. Description of Coverage

The Volunteer Ambulance Workers' Benefit Law Policy provides coverage for the statutory obligations required under the New York Volunteer Ambulance Workers' Benefit Law. In addition, this special policy must provide employers liability coverage comparable to Part Two of the Standard Policy. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D), and the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) must also be attached to each policy.



2. Group Insurance

The Volunteer Ambulance Workers' Benefit Law (VAWBL) contains provisions that allow for group insurance. Under Section 32.1 of the VAWBL, any town may obtain a single policy covering all ambulance districts within the town. Under Section 32.2, a group policy may be issued to a group of cities, villages, ambulance districts or town boards located within one county. Section 32.2 group insurance requires that:

B. PREMIUM DETERMINATION

Premium for each classification shown in the policy is determined by multiplying the basis of premium by the carrier approved rate.

Example:	Payroll	=	\$90,000	
	Carrier Rate	=	x 1.50	$\frac{\$90,000}{100} \times 1.50 = \$1,350$
	Premium	=	\$ 1,350	

C. WHOLE DOLLARS-PREMIUMS

All premiums may be shown to the nearest dollar. A remainder of \$.50 or more shall be rounded to the next higher dollar.

D. EXPENSE CONSTANT**1. Explanation**

The Expense Constant is a premium charge which applies to every policy. It covers expenses such as those for issuing, recording and auditing, which are common to all workers compensation policies regardless of premium size.

2. Amount of Expense Constant

The Expense Constant is the carrier approved expense constant as shown on the Information Page. *Refer to Rule X for the Expense Constant charge on a canceled policy and Rule XI for the Expense Constant on a long-term policy and to Rule XIV.F. for a policy that insures only domestic workers.*

For multi-state policies, allocate the expense constant to the state with the highest applicable expense constant. If two or more states have the same highest expense constant, allocate it to the state developing the highest standard premium.

3. Premium Discount, Experience Rating, Retrospective Rating, Merit Rating, and Terrorism Charge

The Expense Constant is not subject to premium discount, experience rating modification, retrospective rating adjustment, merit rating factor, or the additional charge for the Terrorism Risk Insurance Program Reauthorization Act of 2007~~15~~.

4. Minimum Premium

The Expense Constant is included in the carrier's minimum premium for each classification and shall not be added if the carrier's minimum premium becomes the final premium for the policy.

5. Information Page

The Expense Constant shall be shown on the Information Page.



N. CATASTROPHE PROVISIONS

1. Terrorism

Premium for terrorism is calculated on the basis of total payroll. A risk's total payroll is divided by units of \$100 and multiplied by the carrier terrorism rate. The calculation is expressed as (Payroll/100 x Terrorism Rate = Premium). For non-payroll classes the premium for terrorism is calculated as a percentage, multiplied by the non-payroll class premium. The terrorism premium is not subject to any other modifications including, but not limited to, carrier premium discount, experience rating or retrospective rating.

Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.

★ Attach the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15).

2. Natural Disasters and Catastrophic Industrial Accidents

Premium for Natural Disasters and Catastrophic Industrial Accidents is calculated on the basis of total payroll. A risk's total payroll is divided by units of \$100 and multiplied by the carrier rate for Natural Disasters and Catastrophic Industrial Accidents. The calculation is expressed as (Payroll/100 x Rate = Premium). For non-payroll classes the premium is calculated as a percentage, multiplied by the non-payroll class premium. This premium is not subject to any other modifications including, but not limited to, carrier premium discount, experience rating or retrospective rating.

Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.

Attach the Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D).

PART ONE—RULES

RULE I - GENERAL

A. WORKERS COMPENSATION

Workers Compensation as used in this manual means workmen's compensation, workers compensation or occupational disease.

B. STANDARD POLICY

Standard Policy means the standard provisions Workers Compensation and Employers Liability Insurance Policy and the Information Page approved by the New York State Department of Financial Services. Every policy affording coverage under the New York Workers' Compensation Law must have the following endorsements attached:

- WC 31 03 08 - New York Limit of Liability Endorsement;
- WC 31 03 19 I - New York Construction Classification Premium Adjustment Program Explanatory Endorsement;
- WC 31 06 18 - New York Policyholder Notice of Right to Appeal;
- WC 00 01 15* - Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015;
- ★ • WC 00 04 14 A - 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement;
- WC 00 04 19 - Premium Due Date Endorsement;
- WC 00 04 21 D - Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement;
- WC 00 04 22 B - Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement

Exception: The Standard Policy (WC 00 00 00C) shall not be used to provide coverage for employees subject to the New York Volunteer Firefighters' Benefit Law or the New York Volunteer Ambulance Workers' Benefit Law. Such coverage can be afforded only by means of a Volunteer Firefighters' Benefit Law Policy (WC 31 00 00A) or a Volunteer Ambulance Workers' Benefit Law Policy (WC 31 00 02A), respectively.

C. ENDORSEMENT FORMS

Endorsement forms means authorized endorsements listed in the Alphabetical List of Endorsements in Part Four of this manual. All endorsements must be used in the form prescribed in this manual.

D. POLICY AND ENDORSEMENT FORMS

Refer to the Policy Forms and Authorized Endorsement section of this manual for a complete description of coverages and instructions on use of policy and endorsement forms.

E. APPLICATION OF MANUAL RULES

Rules apply separately to each policy, except as allowed by Rule VII - Premium Discount.

F. EFFECTIVE DATE

1. Manual

This manual applies only from the policy effective date which occurs on or after the effective date of this manual.

* Effective January 1, 2020

D. VOLUNTARY COMPENSATION INSURANCE

1. Description of Coverage

Voluntary compensation insurance shall not provide compensation, medical or other benefits in excess of the statutory requirements in the workers compensation law designated in the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11A).

2. How Provided

Voluntary compensation insurance is provided by attaching the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11A) to the Standard Policy. *Refer to Rule VIII for rules and to Section I.H.9 of the Digest of Rulings and Interpretations.*

E. FOREIGN VOLUNTARY COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

1. Description of Coverage

Foreign voluntary compensation and employers liability insurance provides workers compensation, employers liability, repatriation expense and endemic disease coverage to employees temporarily working outside the United State of America, its territories or possession or Canada.

2. How Provided

Foreign voluntary compensation and employers liability coverage is provided by attaching the New York Foreign Voluntary Compensation and Employers Liability Coverage Endorsement (WC 31 06 17A) to the Standard Policy. *Refer to Rule VIII.D. for premium determination.*

F. VOLUNTEER FIREFIGHTERS COVERAGE

1. Description of Coverage

★ The Volunteer Firefighters' Benefit Law Policy provides coverage for the statutory obligations required under the New York Volunteer Firefighters' Benefit Law. In addition, this special policy must provide employers liability coverage comparable to Part Two of the Standard Policy. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D), the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) must also be attached to each policy.

2. Group Insurance

The Volunteer Firefighters' Benefit Law (VFBL) contains provisions that allow for group insurance. Under Section 32.1 of the VFBL, any town may obtain a single policy covering all fire protection districts and fire alarm districts within the town. Under Section 32.2, a group policy may be issued to a group of cities, villages, fire districts or town boards located within one county. Section 32.2 group insurance requires that:

- a. the governing board of each member fire district resolves to be insured under the group policy, and that each such resolution be filed with the chairman of the county board of supervisors;
- b. the group file with the chairman of the county board of supervisors an agreement executed by each member fire district agreeing to the effective date of the policy and the population of each fire district;

- c. the chairman of the county board of supervisors contract for a policy of insurance covering the group's members;
- d. the cost of such insurance be apportioned among the group's members based on population; and
- e. the county treasurer pay for the cost of such insurance.

The New York Insurance Law also contains provisions for group insurance under Section 3435 provided group members are either public entities or Type B not-for-profit organizations. The Insurance Law and Regulations require:

- a. the group to be homogenous in nature;
- b. the group to be formed for purposes other than obtaining insurance; and
- c. the group to consist of at least ten members; or a smaller group of at least five members provided that each member generates at least \$5 million in annual revenue or the annual premiums for all lines of such group exceeds \$500,000.

Refer to Section 32 of the Volunteer Firefighters' Benefit Law, Section 3435 of the New York Insurance Law and 11 NYCRR 153 of the New York Insurance Law Regulations for all provisions required for group insurance.

3. Premium

The premium for the Volunteer Firefighters' Benefit Law Policy is a flat charge which varies on the basis of the population of the area(s) served when a single policy is issued or when a single policy of group insurance is issued covering all fire protection districts and fire alarm districts within the town. When a group policy is issued covering a group of cities, villages, fire districts or town boards located within one county, the population of all members of the group may be aggregated to determine the group policy premium. *Refer to the volunteer firefighters section in Part Three – Loss Costs for an explanation of procedures and charges for this coverage.*

G. VOLUNTEER AMBULANCE WORKERS COVERAGE

1. Description of Coverage

The Volunteer Ambulance Workers' Benefit Law Policy provides coverage for the statutory obligations required under the New York Volunteer Ambulance Workers' Benefit Law. In addition, this special policy must provide employers liability coverage comparable to Part Two of the Standard Policy. The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D), the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15) must also be attached to each policy.

★

2. Group Insurance

The Volunteer Ambulance Workers' Benefit Law (VAWBL) contains provisions that allow for group insurance. Under Section 32.1 of the VAWBL, any town may obtain a single policy covering all ambulance districts within the town. Under Section 32.2, a group policy may be issued to a group of cities, villages, ambulance districts or town boards located within one county. Section 32.2 group insurance requires that:

B. PREMIUM DETERMINATION

Premium for each classification shown in the policy is determined by multiplying the basis of premium by the carrier approved rate.

Example:	Payroll	=	\$90,000	
	Carrier Rate	=	x 1.50	$\frac{\$90,000}{100} \times 1.50 = \$1,350$
	Premium	=	\$ 1,350	

C. WHOLE DOLLARS-PREMIUMS

All premiums may be shown to the nearest dollar. A remainder of \$.50 or more shall be rounded to the next higher dollar.

D. EXPENSE CONSTANT**1. Explanation**

The Expense Constant is a premium charge which applies to every policy. It covers expenses such as those for issuing, recording and auditing, which are common to all workers compensation policies regardless of premium size.

2. Amount of Expense Constant

The Expense Constant is the carrier approved expense constant as shown on the Information Page. *Refer to Rule X for the Expense Constant charge on a canceled policy and Rule XI for the Expense Constant on a long-term policy and to Rule XIV.F. for a policy that insures only domestic workers.*

For multi-state policies, allocate the expense constant to the state with the highest applicable expense constant. If two or more states have the same highest expense constant, allocate it to the state developing the highest standard premium.

3. Premium Discount, Experience Rating, Retrospective Rating, Merit Rating, and Terrorism Charge

The Expense Constant is not subject to premium discount, experience rating modification, retrospective rating adjustment, merit rating factor, or the additional charge for the Terrorism Risk Insurance Program Reauthorization Act of 2015.

★

4. Minimum Premium

The Expense Constant is included in the carrier's minimum premium for each classification and shall not be added if the carrier's minimum premium becomes the final premium for the policy.

5. Information Page

The Expense Constant shall be shown on the Information Page.

N. CATASTROPHE PROVISIONS

1. Terrorism

Premium for terrorism is calculated on the basis of total payroll. A risk's total payroll is divided by units of \$100 and multiplied by the carrier terrorism rate. The calculation is expressed as $(\text{Payroll}/100 \times \text{Terrorism Rate} = \text{Premium})$. For non-payroll classes the premium for terrorism is calculated as a percentage, multiplied by the non-payroll class premium. The terrorism premium is not subject to any other modifications including, but not limited to, carrier premium discount, experience rating or retrospective rating.

Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.

★ Attach the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22B) and the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2015 (WC 00 01 15).

2. Natural Disasters and Catastrophic Industrial Accidents

Premium for Natural Disasters and Catastrophic Industrial Accidents is calculated on the basis of total payroll. A risk's total payroll is divided by units of \$100 and multiplied by the carrier rate for Natural Disasters and Catastrophic Industrial Accidents. The calculation is expressed as $(\text{Payroll}/100 \times \text{Rate} = \text{Premium})$. For non-payroll classes the premium is calculated as a percentage, multiplied by the non-payroll class premium. This premium is not subject to any other modifications including, but not limited to, carrier premium discount, experience rating or retrospective rating.

Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.

Attach the Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21D).

Exhibit D

RULE 3 - OWNERSHIP CHANGES AND COMBINATION OF ENTITIES

A. REPORTING REQUIREMENT

- ★ The 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement (WC 00 04 14A) provides that changes in ownership and/or combinability status must be reported by the employer to its carrier(s) within 90 days of the date of the change. This is accomplished by submitting a completed Confidential Request for Information Form (see the ERM-14 Form in Appendix)

Failure to report changes in ownership according to Endorsement WC 00 04 14A may be considered modification evasion. *Refer to Rule 3-F.*

B. RESEARCH AND DECISION

- ★ The employer, carrier(s), or agent(s) of the employer must submit the ownership and/or combinability status information on the ERM-14 Form directly to the Underwriting Services Operations Department of the Rating Board or through an online application available on our website at www.nycirb.org. This Department will review the information submitted regarding each change and determine the impact, if any, on the experience rating modification(s) of the entities involved.

The complexity of certain transactions may require the Rating Board to request additional information. The Rating Board may also research public and/or other available records to verify provided information. This information is used to assist in clarifying complex situations or possible modification evasion. *Refer to Rule 3-F.*

C. OWNERSHIP CHANGES

Changes in ownership interest may affect the use of an entity's experience in future experience ratings. Based on the rules of this Plan, when a change occurs, the Rating Board will determine whether to exclude or retain an entity's experience in the rating calculation. *Refer to Rule 3-A for reporting requirements.*

In addition, if the Rating Board determines that the ownership transaction improperly affected the experience rating modification, it will take necessary action according to Rule 3-F.

1. Types of Ownership Changes

- a. For purposes of this Plan, a change in ownership includes any of the following:
 - (1) Sale, transfer, or conveyance of all or a portion of an entity's ownership interest.
 - (2) Sale, transfer, or conveyance of an entity's physical assets to another entity that takes over its operations
 - (3) Merger or consolidation of two or more entities
 - (4) Formation of a new entity that acts as, or in effect is, a successor to another entity that:
 - (a) Has dissolved
 - (b) Is non-operative
 - (c) May continue to operate in a limited capacity
 - (5) An irrevocable trust or receiver, established either voluntarily or by court mandate

2. Exclusion of Experience

Rare circumstances may require that experience for any entity undergoing a change in ownership be excluded from future experience ratings. The experience will be excluded only if the Rating Board confirms **all** of the following:

- The change must be a material change such that:
The entire ownership interest after the change had no ownership interest before the change, or
The collective ownership of all those having interest in an entity results in either less than:
1/3 ownership before the change, or
1/2 ownership after the change; **and**
- The material change in ownership is accompanied by a change in operations sufficient to result in reclassification of the governing classification; **and**
- The material change in ownership is accompanied by a change in the process and hazard of the operations. Change in process and hazard is determined by the Rating Board.

Except for action that may be taken under Rule 3-F, experience is not otherwise excluded for employee leasing companies and temporary employment agencies. For more information on employee leasing companies, *refer to Rule 5-B*

3. Recalculation and Application of Experience Rating Modifications

- If a change in ownership and/or combinability status occurs, recalculation of experience rating modifications may be required, as described in the table below. Changes in ownership and/or combinability status may also result in a change in rating effective date, as determined by the Rating Board.

If the first written reporting of the change by either the acquiring entity or acquired entity to their carrier or to the Rating Board occurs...	Then the recalculation and application of the revised experience rating modifications(s) will be as of the...
Within 90 days of the date of the change	Date of the change
More than 90 days after the date of the change	Next rating effective date following the earliest notice of the change received by a carrier or the rating organization

- Recalculation and application of experience rating modifications in conjunction with this rule is subject to Rules 3-F and 4-E

F. EVASION OF THE EXPERIENCE RATING MODIFICATION

1. Actions

Some employers, or their representatives, may take actions for the purpose of avoiding an experience rating modification. Others may take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action that results in the miscalculation or misapplication of an experience rating modification determined in accordance with this Plan is prohibited. These actions include, but are not limited to:

- ★
 - Failure to report changes in ownership according to Endorsement WC 00 04 14A
 - A change in ownership
 - A change in combinability status
 - Creation of new entity
 - Transfer of operations from one entity to another entity that is not combinable according to Rule 3-D
 - Misrepresentation on audits or failure to cooperate with an audit

RULE 3 - OWNERSHIP CHANGES AND COMBINATION OF ENTITIES**A. REPORTING REQUIREMENT**

- ★ The 90-Day Reporting Requirement – Notification of Change in Ownership Endorsement (WC 00 04 14A) provides that changes in ownership and/or combinability status must be reported by the employer to its carrier(s) within 90 days of the date of the change. This is accomplished by submitting a completed Confidential Request for Information Form (see the ERM-14 Form in Appendix)

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- ★ The employer, carrier(s), or agent(s) of the employer must submit the ownership and/or combinability status information on the ERM-14 Form directly to the Operations Department of the Rating Board or through an online application available on our website at www.nycirb.org. This Department will review the information submitted regarding each change and determine the impact, if any, on the experience rating modification(s) of the entities involved.

The complexity of certain transactions may require the Rating Board to request additional information. The Rating Board may also research public and/or other available records to verify provided information. This information is used to assist in clarifying complex situations or possible modification evasion. *Refer to Rule 3-F.*

C. OWNERSHIP CHANGES

Changes in ownership interest may affect the use of an entity's experience in future experience ratings. Based on the rules of this Plan, when a change occurs, the Rating Board will determine whether to exclude or retain an entity's experience in the rating calculation. *Refer to Rule 3-A for reporting requirements.*

In addition, if the Rating Board determines that the ownership transaction improperly affected the experience rating modification, it will take necessary action according to Rule 3-F.

1. Types of Ownership Changes

- a. For purposes of this Plan, a change in ownership includes any of the following:
 - (1) Sale, transfer, or conveyance of all or a portion of an entity's ownership interest.
 - (2) Sale, transfer, or conveyance of an entity's physical assets to another entity that takes over its operations
 - (3) Merger or consolidation of two or more entities
 - (4) Formation of a new entity that acts as, or in effect is, a successor to another entity that:
 - (a) Has dissolved
 - (b) Is non-operative
 - (c) May continue to operate in a limited capacity
 - (5) An irrevocable trust or receiver, established either voluntarily or by court mandate

2. Exclusion of Experience

Rare circumstances may require that experience for any entity undergoing a change in ownership be excluded from future experience ratings. The experience will be excluded only if the Rating Board confirms **all** of the following:

- The change must be a material change such that:
The entire ownership interest after the change had no ownership interest before the change, or
The collective ownership of all those having interest in an entity results in either less than:
1/3 ownership before the change, or
1/2 ownership after the change; **and**
- The material change in ownership is accompanied by a change in operations sufficient to result in reclassification of the governing classification; **and**
- The material change in ownership is accompanied by a change in the process and hazard of the operations. Change in process and hazard is determined by the Rating Board.

Except for action that may be taken under Rule 3-F, experience is not otherwise excluded for employee leasing companies and temporary employment agencies. For more information on employee leasing companies, *refer to Rule 5-B*

3. Recalculation and Application of Experience Rating Modifications

- If a change in ownership and/or combinability status occurs, recalculation of experience rating modifications may be required, as described in the table below. Changes in ownership and/or combinability status may also result in a change in rating effective date, as determined by the Rating Board.

If the first written reporting of the change by either the acquiring entity or acquired entity to their carrier or to the Rating Board occurs...	Then the recalculation and application of the revised experience rating modifications(s) will be as of the...
Within 90 days of the date of the change	Date of the change
More than 90 days after the date of the change	Next rating effective date following the earliest notice of the change received by a carrier or the rating organization

- Recalculation and application of experience rating modifications in conjunction with this rule is subject to Rules 3-F and 4-E

F. EVASION OF THE EXPERIENCE RATING MODIFICATION

1. Actions

Some employers, or their representatives, may take actions for the purpose of avoiding an experience rating modification. Others may take actions for otherwise legitimate business reasons that nonetheless result in the improper application of an experience rating modification. Regardless of intent, any action that results in the miscalculation or misapplication of an experience rating modification determined in accordance with this Plan is prohibited. These actions include, but are not limited to:

- ★
 - Failure to report changes in ownership according to Endorsement WC 00 04 14A
 - A change in ownership
 - A change in combinability status
 - Creation of new entity
 - Transfer of operations from one entity to another entity that is not combinable according to Rule 3-D
 - Misrepresentation on audits or failure to cooperate with an audit

Exhibit E

Original Printing

Effective January 1, 2020

**NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK INSURANCE
PROGRAM REAUTHORIZATION ACT OF 2015**

This endorsement is being attached to your workers' compensation and employers' liability insurance policy. This endorsement does not replace the separate Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) that is attached to your current policy and which remains in effect as applicable.

The Terrorism Risk Insurance Act of 2002 (TRIA), as previously amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA 2015), provides for a program under which the federal government will share in the payment of insured losses caused by certain acts of terrorism. In the absence of affirmative US Congressional action to extend, update, or otherwise reauthorize TRIPRA 2015, in whole or in part, TRIPRA 2015 is scheduled to expire on December 31, 2020.

Since the timetable for any further Congressional action regarding TRIPRA 2015 is presently unknown, and exposure to acts of terrorism remains, we are providing policyholders with relevant information concerning their workers' compensation policies in the event of the TRIPRA 2015's expiration.

Your policy provides coverage for workers' compensation losses caused by acts of terrorism, including Workers' compensation benefit obligations dictated by state law, except in Pennsylvania, where injuries or deaths resulting from certain war-related activities are excluded from workers' compensation coverage.

Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy.

The premium charge for the coverage that your policy provides for terrorism losses is shown in Item 4. of the policy Information Page or the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 B) Schedule that is attached to your policy. This amount may continue or change for new, renewal, and in-force policies in effect on or after December 31, 2020, in the event of TRIPRA 2015's expiration, subject to regulatory review in accordance with applicable state law.

You need not do anything further at this time.

Original Printing

Effective January 1, 2020

**NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK INSURANCE
PROGRAM REAUTHORIZATION ACT OF 2015**

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Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy.

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