



Oklahoma INSURANCE Department
State of Oklahoma

BULLETIN NO. PC 2005-05

**TO: ALL PROPERTY AND CASUALTY INSURERS LICENSED IN OKLAHOMA
ALL RATING AND ADVISORY ORGANIZATIONS
ATTENTION: STATE FILING DIVISION**

FROM: OKLAHOMA INSURANCE DEPARTMENT

**RE: TRIA EXCLUSIONARY FORMS RELATED TO ACTS OF TERRORISM
FOR COMMERCIAL AUTO COVERAGE**

DATE: April 21, 2005

PURPOSE OF THIS BULLETIN

The intent of this bulletin is to clarify the position of the Oklahoma Insurance Department with respect to TRIA and Oklahoma's compulsory commercial auto liability insurance law. The Department wants to allow insurers to continue to have certain terrorism exclusions, but the Department does not want to deny any person the minimum limits of automotive liability insurance under Oklahoma law. The Department also does not want to diminish an insured's right to make a claim against the uninsured motorist coverage.

The Department believes that all insurers should use the appropriate endorsements whether ISO or independent for all new policies on or before July 1, 2005.

LEGAL ANALYSIS

A review of Oklahoma cases by the Department's Legal Division shows a strong Oklahoma public policy towards instances of coverage under both the compulsory minimum liability limits and for uninsured motorist coverage. To paraphrase several Oklahoma Supreme Court cases¹, Oklahoma has a public policy that innocent victims of negligent vehicle operators should be compensated for their injuries. A minimum amount of liability insurance is a mandatory requirement to vehicle registration in Oklahoma, showing a strong Legislative intent to protect Oklahoma citizens.

This protection of the public overrides private agreements that may place restrictions on the minimum amounts of coverage. Policy clauses that deny coverage to the general public may be found void as contrary to public policy by Oklahoma courts.

¹ Footnote 1: See Hartline v. Hartline, 2001 OK 15; Harkrider v. Posey, 2000 OK 94; for Oklahoma case law.

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Uninsured motorist coverage receives similar scrutiny under Oklahoma case law², however UM coverage is only conditionally mandated. The insured retains the right to reject UM coverage. The principle tenet is that once a person is insured under a UM policy, any subsequent exclusion inserted by the insurer which has the effect of reducing and limiting the coverage is void.

ISO ENDORSEMENTS

The Department is working with the Insurance Services Office (ISO) on the withdrawal of form CA 23 57 and the submission of forms CA 23 65, CA 23 66, CA 23 67, CA 23 68 and CA 23 69. During this process insurers who are members/subscribers of ISO may submit similar forms on an independent basis.

EXPEDITED TRANSMITTAL FORMS AND REVIEW PROCESS

Oklahoma has chosen not to use the NAIC Expedited Transmittal form or the Review process that went into effect on 11/01/04. However, insurance companies may take advantage of Oklahoma's Self-certification Program available for form filings as outlined in Commissioner's Order 04 -1714 - PRJ, located on the Department website in the Property and Casualty Division's section, www.oid.state.ok.us. Effective November 1, 2004, the rate and manual rule filings for each of the coverages listed on page 1 of this bulletin are under a "use and file" system thus making the NAIC Expedited process unnecessary in Oklahoma.

WHAT MUST THE INSURER FILE?

As is the case with all filings, Oklahoma requires the form filing to be submitted separately from the manual rate and rule filing. Filings must include the filing forms, endorsements, manual pages containing rate and or manual rules, supplementary rate information and the supporting documentation. The interactive filing forms are located on the Department website in the Property and Casualty Division's section, www.oid.state.ok.us.

Questions applicable to this bulletin should be directed to kathiestepp@insurance.state.ok.us of the Property and Casualty Division, or robertnoll@insurance.state.ok.us of the Legal Division of the Oklahoma Insurance Department, P. O. Box 53408, Oklahoma City, OK 73152-3408.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site (www.oid.state.ok.us) for news and updates to Bulletins, Board Position Letters, Board meeting dates, and other relevant material.

² Footnote 2: See State Farm v. Wendt, 1985 OK 75 and May v. National Union Fire Insurance, 1996 OK 52 for more information about Oklahoma's public policy towards uninsured motorist coverage.