



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

**Circular Letter No. 22 (2000)
August 11, 2000**

TO: All Insurers Licensed to Write Marine Insurance in the State of New York

RE: Marine and Inland Marine Insurance

The Department has noted that inconsistency exists within the industry as to the classes of business that should be classified as marine insurance, whether inland or ocean, and which of these classes are subject to filing requirements pursuant to Article 23 of the Insurance Law. The purpose of this Circular Letter is to (1) clarify what the Department considers to be inland and ocean marine insurance and provide general guidelines and rules of application for the classification and distinction of these kinds of insurance; (2) specify which inland marine classes are subject to filing; and (3) establish uniformity in the submissions to the Department.

However, this Circular Letter should not be construed as a comprehensive list of all types of risks and coverages which may be written, classified, or identified under marine or inland marine insuring powers; nor does it mean that the types of risks and coverages described are solely marine or inland marine insurance in all instances; nor does it contain all classes which are subject to filing.

DEFINITIONS

For the purposes of this Circular Letter, the following definitions shall apply:

- **INLAND MARINE INSURANCE** pertains to the insuring of property in transit over land; the insuring of property which is mobile by nature and for which there is no fixed situs; and the insuring of property which are instruments of communication or transportation such as bridges, tunnels, piers or television antennas.
- **OCEAN MARINE INSURANCE** is insurance covering damage to ships or vessels and the goods they carry while on the ocean or inland waters.
- **NATION-WIDE MARINE DEFINITION**, as adopted by the National Association of Insurance Commissioners, describes the kinds of risks and coverages which may be classified or identified as marine, inland marine or transportation insurance. New York adopted, with exceptions, the 1976 version of the nationwide definition.

FILING REQUIREMENTS

In addition to the provisions of Section 1113 (a)(20) of the Insurance Law, the Department is also guided by the NAIC Nation-Wide Marine Definition to determine whether a particular class or type of insurance should be classified as marine or inland marine insurance. However, the Department does take some exception to the 1976 Nation-Wide Marine definition. These exceptions are in the Builder's Risk and/or Installation Risks, Domestic Bulk Liquids, Difference in Conditions and Electronic Data Processing classes. The exceptions follow:

Bridges, tunnels, et al. – These risks may be written as inland marine without qualification. Filing of rates, forms, etc. will not be required.

- Builder's risk and/or installation risk policies – These risks may be written as inland marine until the earliest of the following events:

(A) Occupancy of the structure by any tenant for the purpose for which the structure was intended;

(B) Delivery to, or acceptance by, the owner of the structure;

(C) Completion of the structure; or

(D) Issuance of a Certificate of Occupancy or Completion covering the structure, by any appropriate governmental authority.

For policies covering more than one structure, the foregoing rules of application shall apply separately to each structure.

As a manually rated class, rate and form filings will still be expected for builder's risk policies.

- Domestic bulk liquids – These risks may be written as inland marine, provided that the tank is part of a larger pipeline system. Filing of rates, forms, etc. will not be required. Freestanding tanks that are not part of a pipeline system may not be written as inland marine.
- Difference in condition (DIC) policies – These risks may be written as inland marine if and only if all of the underlying policies also qualify as inland marine. For example, DIC policies written to insure real property at a fixed site do not qualify as inland marine. A DIC policy written to fill the gaps of an underlying inland marine policy would qualify as inland marine. Filing of rates, forms, etc. will not be required.
- Electronic data processing policies – These risks may be written as inland marine if the equipment being insured is of a relatively transportable nature, and intended to be used in that manner. Equipment that is intended to be used as part of a larger network or system does not qualify as inland marine.

For example, a laptop or similar portable personal computer would qualify as inland marine. Personal computers designed to be used as terminals for a larger, mainframe network would not qualify as inland marine.

As manually rated risks, rate and form filings will continue to be made for electronic data processing policies.

If a particular class or type of insurance cannot **reasonably** be categorized within the Nation-Wide Marine Definition or Section 1113(a)(20) of the Insurance Law, it should **not** be classified as inland marine. If an insurer has any doubt as to where to place a particular class or type of insurance, the matter should be submitted to the Department for review.

If a class or type of insurance is identified as either ocean or inland marine, then it must be determined whether it is to be a filed or unfiled class of business. Section 2302(a)(4) exempts marine risks from the general filing requirements of rates, rules and forms. Section 2310(b) exempts inland marine risks from the law's filing requirements if, by general custom of the business, the specific risks in question are not written according to manual rates and rating plans, unless the Superintendent directs that they be filed. Therefore, even though the custom of the business may be that no filings be made for a particular inland marine class, the Superintendent may direct that such

filings be submitted to the Department for review.

Rates, loss costs and forms promulgated by the principal rate organization, Insurance Services Office (ISO), for the various inland marine classes constitute the general custom of the business. Accordingly, these classes are subject to all the filing requirements under Article 23.

ISO supports and distributes advisory forms, rates and rules for the following inland marine classifications:

- Personal: bicycles, cameras, fine arts, furs, golfers' equipment, jewelry, musical instruments, personal articles, personal effects, personal property floater, stamp and coin collection and silverware.
- Commercial: accounts receivable, camera and musical instrument dealers, commercial articles, equipment dealers, film, floor plan, jewelers block for retail only up to \$250,000 inventory, mail, physicians' and surgeons' equipment, signs, theatrical property and valuable papers.

The Department considers all the above classes to be filed classes subject to Article 23 of the Insurance Law.

The Department has also adopted guidelines for an additional class as follows:

- Pleasure boats 16 feet or less in length are classified as inland marine. When coverage for these boats is provided by a stand-alone policy, they are not subject to any filing requirements. However, if coverage for any pleasure boat is provided by endorsement to a homeowner's policy, then both the forms and rates for this coverage are considered subject to all the filing requirements and the experience for this coverage should be included with the homeowners' experience.

Any questions regarding the foregoing should be directed to:

Gerald Scattaglia, Supervising Insurance Examiner
Property Bureau, 2nd floor
New York State Insurance Department
25 Beaver Street, New York, NY 10004
(212) 480-5466

Very truly yours,

Mark Presser
Asst. Deputy Superintendent & Chief
Examiner
Property Bureau