



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
ONE COMMERCE PLAZA
ALBANY, NEW YORK 12257

NOTE: WITHDRAWN EFFECTIVE 04/09/2012

**Circular Letter No. 1 (2011)
February 17, 2011**

TO: All authorized property/casualty insurers; co-operative property/casualty insurers; financial guaranty insurers; mortgage guaranty insurers; title insurers; reciprocal insurers; captive insurers; rate service organizations; State Insurance Fund; New York Property Insurance Underwriting Association; New York Medical Malpractice Insurance Plan; New York Automobile Insurance Plan; Motor Vehicle Accident Indemnification Corporation; and the Excess Line Association of New York.

RE: Disaster Planning, Preparedness and Response

STATUTORY REFERENCE: Sections 301, 305, 308, 2130, and 7001; and Articles 52, 53, 54, 55 and 59 of the New York Insurance Law

This circular letter replaces and repeals Circular Letter No. 1 (2010). Disaster planning, preparedness, and response for the life insurance and health insurance industries are covered by separate circular letters.

A. Organization of this Circular Letter

The following table is provided to assist addressees to better understand what is required of them by this circular letter. For the sake of clarity, each section of this circular letter begins with a statement indicating the entities to which that section applies.

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Questions concerning any aspect of this circular letter should be directed to Principal Insurance Examiner Vincent Mazzarella, Emergency Management Coordinator, by phone at (212) 480-5440, by e-mail to vmazzare@ins.state.ny.us, or by mail to State of New York Insurance Department, Emergency Management Coordinator, 25 Beaver Street, New York, NY 10004.

B. The New York State Insurance Disaster Coalition and Insurance Emergency Operations Center (IEOC)

Section B applies to all addressees of this circular letter.

When an emergency or disaster situation occurs, the Insurance Department provides the Governor and the State Emergency Management Office (SEMO) with critical information regarding the amount and extent of property losses, as well as other damage assessments. Based on this information, the Governor determines whether and when to request a federal disaster declaration, and how to prioritize the deployment of state assets.

The insurance community, including the property, life and health sectors, has been identified as a key resource in providing early assessments of damages arising from natural or man-made disasters. Insurers play an important role in quantifying the magnitude of losses - insured and uninsured - and in determining both the degree and duration of insurer response to losses. Accordingly, all entities to which this circular letter is directed are expected to assist the Insurance Department in obtaining necessary information before, during, and after disasters strike.

An integral part of the Insurance Disaster Coalition response to any disaster is the Insurance Emergency Operations Center (IEOC), which will be staffed by selected insurance industry disaster liaisons and representatives of the Insurance Department in order to coordinate disaster response.

The Insurance Emergency Operations Center will be activated upon direction of the Superintendent of Insurance, in accordance with the nature and extent of the event. Where possible, this determination will be made in conjunction with the Insurance Department's disaster coalition partners.

C. Before a Disaster Strikes

1) Pre-disaster data/information survey

This section is addressed to all property/casualty insurers with New York direct written premium reported on its Annual Statement for any of the following lines:

- 01 - Fire
- 02.1 - Allied Lines
- 02.2 - Multiple Peril Crop
- 02.3 - Federal Flood
- 03 - Farmowners Multiple Peril
- 04 - Homeowners Multiple Peril
- 05.1 - Commercial Multiple Peril (Non-Liability Portion)
- 12 - Earthquake

Accurate, timely and consistent information is of critical importance to the Governor and the State Emergency Management Office during disasters. To ensure that insurance industry information is readily available during disasters, the Insurance Department requires, effective the date of this letter, that each property/casualty insurer provide to the Insurance Department a listing - by New York county - of property exposure information, as of December 31, 2010, for personal lines (non-auto) and commercial lines (non-auto) for each authorized member within an insurance company group. Such information should be provided for the following categories: total building and contents insurance in force for the lines indicated, and total number of policies. The report is due on April 1, 2011.

The Insurance Department strongly encourages companies to provide the information via the Insurance Department Portal Application. The Pre-Disaster Survey electronic template, and instructions for its completion and submission, can be found on the Department's website at:

http://www.ins.state.ny.us/circltr/2011/cl2011_dpr.htm

Please note that if the company chooses to provide the information in electronic form, the current Pre-Disaster Survey must be submitted as an attachment via the Insurance Department Portal Application.

If the company instead chooses to submit a hard copy of the Pre-Disaster Survey, it can contact the Department to request a hard copy of the report template at the address provided in Section A

2) Disaster Response Plan and Questionnaire

Sections 2(a) and 2(b) apply to all addressees of this circular letter except financial guaranty insurers, mortgage guaranty insurers, title insurers and the Excess Line Association of New York.

Each addressee of this letter should incorporate the New York State Insurance Disaster Coalition procedures into its own Disaster Response Plan. Since the New York State Insurance Disaster Coalition procedures and the Insurance Emergency Operations Center continue to be integral parts of the industry's response to any disaster in New York State, the submission of the pre-disaster data and each insurer's Disaster Response Plan are necessary to maintain the effectiveness and accuracy of information used by the Disaster Coalition in the event of a future disaster.

a) Disaster Response Plan

The Disaster Response Plan should describe how each addressee intends to provide its policyholders with the resources needed to recover from a disaster. To this end, a Disaster Response Plan should at a minimum detail what preparations the entity has made, where applicable, with respect to the following:

- Board of Directors support for a Disaster Response Plan;
- Appropriate emergency response training of company personnel;
- Plans for suitable expansion of claims handling capacity in a variety of disaster scenarios, including provisions to cover:
 - adequate personnel;
 - catastrophe response team availability;
 - access to disaster areas and personnel identification; and
 - applications for temporary adjuster permits;
- Testing of the Disaster Response Plan; and
- Incorporation of the role of insurance company disaster liaisons, and their interaction with the New York State Department of Insurance.

Please note that more detailed guidance about creating a Disaster Response Plan is provided in the attached appendix.

By June 1, 2011, each company must submit a Disaster Response Plan to the Insurance Department. Entities must provide their completed Disaster Response Plan to the Insurance Department via the Insurance Department Portal Application or in hard copy. No other format will be accepted. If the company chooses to submit the Disaster Response Plan in hard copy, please mail the plan to the Insurance Department at the address provided in Section A.

If the current Disaster Response Plan is the same as the most recent Disaster Response Plan filed with the Department, please submit a statement indicating that the previously filed plan is still in effect. The statement should also indicate the names and NAIC numbers of the companies covered by the plan, as well as, the date it was submitted. The statement should be submitted as an attachment via the Insurance Department Portal or in hard copy.

For orderly processing of files attached in the Insurance Department Portal, files which are either new Disaster Response Plans or statements indicating that the previously filed plan is still in effect, should be named "**Disaster Response Plan.**"

b) Disaster Response Plan Questionnaire

The Disaster Response Plan Questionnaire is not to be used in lieu of an addressee's own Disaster Response Plan. Rather, the requested information is to be included as part of each entity's own plan.

By June 1, 2011, the Disaster Response Plan Questionnaire must be submitted to the Insurance Department via the Insurance Department Portal Application or in hard copy. No other format will be accepted.

By completing the Disaster Response Plan Questionnaire, each entity will be providing the Insurance Department with the name of the designated disaster liaison(s), along with that person's telephone and cell phone number(s) (for both business and after business hours), email address, and/or pager number, if applicable. Any change in contact information should be reported immediately to the Insurance Department by submitting an updated Disaster Response Plan Questionnaire.

The Disaster Response Plan Questionnaire electronic template, and instructions for its completion and submission, can be found on the Insurance Department website at:

http://www.ins.state.ny.us/circltr/2011/cl2011_dpr.htm

Please note that if the company chooses to provide the current Disaster Response Plan Questionnaire in electronic form, it must be submitted as an attachment via the Insurance Department Portal.

If the company instead chooses to submit the questionnaire in hard copy, it can contact the Department to request a hard copy of the questionnaire at the address provided in Section A.

3) Business Continuity Plan Questionnaire

Section 3 applies to all addressees of this circular letter.

To assure the Insurance Department that each addressee has taken steps to put in place a Business Continuity Plan that would reasonably ensure that the recovery of critical business processes could take place in the event of a disaster, each addressee is required to complete the Business Continuity Plan Questionnaire and attest to the accuracy of the answers provided.

By June 1, 2011, the Business Continuity Plan Questionnaire must be submitted to the Insurance Department via the Insurance Department Portal Application or in hard copy. No other format will be accepted.

The Business Continuity Plan Questionnaire electronic template, and instructions for its completion and submission, can be found on the Insurance Department website at:

http://www.ins.state.ny.us/circltr/2011/cl2011_dpr.htm

Please note that if the company chooses to provide the current Business Continuity Plan Questionnaire in electronic form, it must be submitted as an attachment via the Insurance Department Portal.

If the company instead chooses to submit the questionnaire in hard copy, it can contact the Department to request a hard copy of the questionnaire at the address provided in Section A.

D. Operations During a Disaster

1) Insurance Company Disaster Liaisons

This section applies to all addressees of this circular letter.

Upon the Insurance Department's activation of its Insurance Emergency Operations Center (IEOC), the Superintendent may activate designated insurance company disaster liaisons representing several of the largest underwriters in the emergency or disaster areas. Participating companies will be determined based on the previously described Pre-Disaster Reports. Disaster liaisons will be contacted based upon information submitted in the Disaster Response Plan Questionnaire.

Subsequently, disaster liaisons should be prepared to participate in the State's Disaster Response Plan as follows:

- A teleconference of the selected disaster liaisons will be held, where possible, following the occurrence of a disaster – and prior to the activation of the Insurance Department's IEOC – to discuss the magnitude of the disaster and the scope of activation plans.
- Upon activation of the IEOC, disaster liaisons or their designees will be expected to staff the IEOC at either of its two locations: One Commerce Plaza, Albany, NY; or 25 Beaver Street, New York, NY.
- The Insurance Department will provide a fully-equipped IEOC for use by disaster liaisons at either of the aforementioned locations. Included are analog data and voice telephone lines, along with videoconferencing links to the SEMO emergency operations center.
- The Insurance Department will continue to coordinate communications among company and association contacts through ongoing teleconference calls to: plan staffing of the IEOC for the actual or threatening (as in the case of hurricanes) emergency; individually discuss with each insurer's liaison the company's catastrophe operations; individually review each insurer's Disaster Response Plan; and discuss catastrophe operations and emerging issues.
- Disaster liaisons may be expected to remain on duty at the IEOC as determined by the Superintendent of Insurance acting in consultation with coalition partners.

2) Liaison Duties and Responsibilities

This section applies to all addressees of this circular letter.

Insurance company disaster liaisons should:

- Have a qualified back up. Both persons preferably should be members of the entity's catastrophe team, or manager-level employees, who are familiar with company protocols and have access to critical information.
- Provide coverage data and loss statistics as requested by the Insurance Department.
- Transmit information about the disaster from the insurance industry to emergency response officials and other industry representatives.
- Be authorized and knowledgeable about company internal information systems and sources, and authorized to access such systems so that applicable, timely information can be provided to SEMO/New York City Office of Emergency Management, and other emergency responders via the Insurance Department.
- Be prepared to remain on duty during the hours when the IEOC is operating, normally from 7:00 a.m. to 6:00 p.m., or for such time periods as necessary to assist with the effective management of the disaster. Depending on the level of the disaster, this may be a seven-day-week commitment.

3) Insurance Adjuster Temporary Permits

This section applies to all addressees of this circular letter.

In the event of an emergency or disaster, the Superintendent may issue temporary permits to persons to act as independent adjusters for authorized insurers, so long as such insurers have applied to the Superintendent for temporary permits.

Section 2108(n) of the Insurance Law provides that:

[T]he superintendent, in order to facilitate the settlement of claims under insurance contracts involving widespread property losses arising out of a conflagration or catastrophe common to all such losses, may issue a temporary permit for a term not exceeding one hundred twenty days to any person whether he be a resident of this state or a non-resident, to act as an independent adjuster on behalf of an authorized insurer, provided any insurer shall execute and file in the office of the superintendent a written application for the permit in the form prescribed by the superintendent, which application shall contain information as he may require and shall certify that the person named therein to be designated in the temporary permit is qualified by experience and training to adjust claims arising under insurance contracts issued by the insurer. The superintendent may in his discretion renew

such permit for an additional term or terms as may be necessary to adjust such claims.

The permit application referenced in Section 2108(n) enables insurers to apply for temporary permits as soon as a catastrophe hits; there is no need to wait for a formal declaration of an emergency or disaster. The temporary licensing procedure is intended to facilitate the prompt delivery of services to those citizens suffering losses.

Insurers may complete their temporary adjuster permit applications on-line at:

<https://awebproxypd.ins.state.ny.us/TempAdjuster/TemporaryAdjusterApplication.jsp>

Insurers completing their temporary adjuster permit applications on-line will receive their permits via facsimile.

Alternatively, hardcopy permit applications may be downloaded from the Insurance Department's website listed at:

<http://www.ins.state.ny.us/acrobat/temprrmt.pdf>

A completed (hardcopy) application should be sent by facsimile to the Insurance Department's Licensing Services Bureau at (518) 474-5048, where it will be reviewed and acted upon immediately. A temporary permit will be faxed to the insurer submitting the application.

4) Hurricane / Windstorm Deductibles

This section is addressed to all property/casualty insurers.

Insurers should notify the Insurance Department whenever they activate, or may activate, their Hurricane / Windstorm Deductible as a result of a certain storm or event. When available, they may use the Insurance Disaster Coalition e-mail address (nys_insurance_disaster_coalition@ins.state.ny.us) or else notify the Insurance Department via facsimile at (518) 486-1503, attn: Mitchel Gennaoui or Paul Orkwis.

E. After a Disaster

This section applies to all addressees of this circular letter.

Post Disaster Coverage Data and Loss Statistics

Depending on the type of emergency encountered, in the ensuing days after a disaster, the Insurance Department will contact disaster liaisons, as needed, who will be required to provide to the Insurance Department specific statistics about insured losses. These statistics will be periodically updated on an as-needed basis, but not less than monthly.

Reports will be consolidated by Insurance Department staff for submission to SEMO and the Governor's office only.

For all property/casualty insurers identified in section C(1) of this circular letter:

Property/casualty insurers should submit reports covering the following:

- Commercial insurance data;
- Personal insurance data;
- Number of available adjusters; and
- Other aspects of catastrophe claim operations and customer service issues.

F. Miscellaneous Items

This section applies to all addressees of this circular letter.

1) Confidentiality

All of the above reports and statistics are to be compiled and summarized by Insurance Department personnel for internal Insurance Department use. Reports submitted to SEMO and the Governor will be on an aggregate basis, with no individual company information identified in those reports.

At the time of submission, an insurer should request an exception from disclosure under Section 89(5) of the Public Officers Law (commonly known as the Freedom of Information Law, or FOIL) for any information or reports that it submits to the Insurance Department that it believes are trade secrets or commercial information that, if disclosed, would cause substantial injury to its competitive position.

In the event that a request is received by the Insurance Department for the release of information pursuant to FOIL and the insurer requested an exception from disclosure upon submission, the insurer will be notified and given the opportunity to respond to the Insurance Department in accordance with FOIL and Regulation 71 (11 NYCRR 241.6).

2) Communications Network

Insurance industry representatives of the New York State Insurance Disaster Coalition are requested to provide the Insurance Department with Internet links to not-for-profit websites that are beneficial to the public before, during, and after a disaster.

Your cooperation in furnishing timely and accurate responses is essential to the success of the New York State Insurance Disaster Coalition, and is appreciated by the Insurance Department and the people of New York State.

Very truly yours,

James J. Wrynn
Superintendent of Insurance

Appendix A

Additional Guidance on Creating a Disaster Response Plan

PROPERTY/CASUALTY INSURERS

The Disaster Response Plan (**Plan**) is a separate document from a company's business continuity and disaster recovery plans and should be an operational document indicating the order in which actions will be taken to assure that resources are made available to policyholders in a timely manner. If your (**Plan**) provides affirmative answers to the following questions, it generally will meet the Department's standards for an acceptable **Plan**.

Management Oversight:

1. Does the Company have a Disaster Response Plan?
2. Is it a written **Plan**?
3. Has the **Plan** been reviewed and approved by:
 - a) Senior Management?
 - b) Board of Directors or a committee thereof?
4. Has the Company provided a copy of the board resolution attesting to the approval of the **Plan** by the board of directors?
5. Has Management identified additional resources that will be needed during a disaster?
6. Has Management analyzed its ability to provide the financial resources necessary to meet the cost of the additional resources that will be needed?
7. Is a person/titled position named as being responsible for activating the **Plan** after a disaster is declared?
8. Is a person/titled position named as being responsible for monitoring the **Plan**?
9. Is a person/titled position named as being responsible for terminating the **Plan** following a disaster?

General Information:

1. Does the **Plan** define what constitutes a disaster?
2. Are there clear guidelines to indicate when the Disaster Response Plan should be invoked?
3. Has the Company established a disaster response team?

4. Are the responsibilities of the disaster response team members segregated to establish clear reporting authority?
5. Does the **Plan** indicate that there is a role for designated "disaster liaison" and/or back-up liaison?
6. Does the **Plan** indicate that the designated "disaster liaison" and/or back-up liaison have been advised of their duties?
7. Does the **Plan** provide for training of staff in order to prepare them on their responsibilities in the case of a disaster?
8. Has the Company established varying levels of response based on the severity of the disaster?

Claimant Services:

1. Is the role of the insurance agent/broker in a disaster defined?
2. Has the Company established a separate toll-free number to be used by claimants?
3. Has the Company established procedures to increase the number of adjusters?
4. Has the Company analyzed the risk of its inability to respond to claimants in a timely manner?
5. Has the Company established expedited claim processing procedures?
6. If the Company plans to use simplified claim reporting forms, do these claim forms include the required fraud warning statement?

Fraud Detection:

1. Does the **Plan** include procedures for detecting fraud?
2. Does the **Plan** include procedures for reporting fraudulent activity to the appropriate regulatory authorities?

Testing of Plan:

1. Has the **Plan** been tested?
2. Does the **Plan** indicate when the last test was conducted?
3. Does the **Plan** indicate how often will the Plan be tested?
4. Did the testing include the ability to get resources to the disaster site?
5. Has the **Plan** been tested utilizing scenarios involving varying disaster levels?