

### § 50.13

insured losses covered by the Program as a portion or percentage of an annual premium, if consistent with standard business practice. An insurer may not describe the premium in a manner that is misleading in the context of the Program, such as by characterizing the premium as a “surcharge.”

(c) *Method of disclosure.* An insurer may provide disclosures using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders.

(d) *Use of producer.* If an insurer normally communicates with a policyholder through an insurance producer or other intermediary, an insurer may provide disclosures through such producer or other intermediary. If an insurer elects to make the disclosures through an insurance producer or other intermediary, the insurer remains responsible for ensuring that the disclosures are provided by the insurance producer or other intermediary to policyholders in accordance with the Act.

(e) *Demonstration of compliance.* An insurer may demonstrate that it has satisfied the requirement to provide clear and conspicuous disclosure as described in § 50.10 through use of appropriate systems and normal business practices that demonstrate a practice of compliance.

(f) *Certification of compliance.* An insurer must certify that it has complied with the requirement to provide disclosure to the policyholder on all policies that form the basis for any claim that is submitted by an insurer for federal payment under the Program.

[68 FR 19306, Apr. 18, 2003, as amended at 68 FR 59727, Oct. 17, 2003]

### § 50.13 Offer, purchase, and renewal.

An insurer is deemed to be in compliance with the requirement of providing disclosure “at the time of offer, purchase, and renewal of the policy” under § 50.10(c) and (d) if the insurer:

(a) Makes the disclosure no later than the time the insurer first formally offers to provide insurance coverage or renew a policy for a current policyholder; and

(b) Makes clear and conspicuous reference back to that disclosure, as well as the final terms of terrorism insur-

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ance coverage, at the time the transaction is completed.

### § 50.14 Separate line item.

An insurer is deemed to be in compliance with the requirement of providing disclosure on a “separate line item in the policy” under § 50.10(d) if the insurer makes the disclosure:

(a) On the declarations page of the policy;

(b) Elsewhere within the policy itself; or

(c) In any rider or endorsement, or other document that is made a part of the policy.

[68 FR 59727, Oct. 17, 2003]

### § 50.17 Use of model forms.

(a) *Policies in force on the date of enactment.* (1) An insurer that is required to make the disclosure under § 50.10(b) and that makes no change in the existing premium, is deemed to be in compliance with the disclosure requirement if it uses NAIC Model Disclosure Form No. 2.

(2) An insurer that is required to make the disclosure under § 50.10(b) and that makes a change in the existing premium, is deemed to be in compliance with the disclosure requirement if it uses NAIC Model Disclosure Form No. 1. Such an insurer may also use the same NAIC Model Disclosure Form No. 1 to comply with the disclosure requirement of section 105(c) of the Act. *See* § 50.18.

(b) *Policies issued within 90 days of the date of enactment.* An insurer that is required to make the disclosure under § 50.10(c) is deemed to be in compliance with the disclosure requirement if it uses either NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2, as long as the form used is modified as appropriate for the particular policy.

(c) *Policies issued more than 90 days after the date of enactment.* An insurer that is required to make the disclosure under § 50.10(d) may continue to use NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2 if appropriate, or other disclosures that meet the requirements of §§ 50.10(a) and 50.14 may be developed.

(d) *Not exclusive means of compliance.* An insurer is not required to use NAIC

Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2 to satisfy the disclosure requirement. An insurer may use other means to comply with the disclosure requirement, as long as the disclosure comports with the requirements of the Act.

(e) *Definitions.* For purposes of this section, references to NAIC Model Disclosure Form No. 1 and NAIC Model Disclosure Form No. 2 refer to such forms as were in existence on April 18, 2003. These forms may be found on the Treasury Web site at <http://www.treasury.gov/trip>.

**§ 50.18 Disclosure required by reinstatement provision.**

(a) *Nullification of terrorism exclusion.* Any terrorism exclusion in a contract for property and casualty insurance that was in force on November 26, 2002, is void to the extent it excludes losses that would otherwise be insured losses.

(b) *Reinstatement of terrorism exclusion.* Notwithstanding paragraph (a) of this section, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that was in force on November 26, 2002, and that excludes coverage for an act of terrorism only if:

(1) The insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or

(2) The insurer provided notice at least 30 days before any such reinstatement of the increased premium for such terrorism coverage and the rights of the insured with respect to such coverage, including the date upon which the exclusion would be reinstated if no payment is received, and the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage.

[68 FR 19306, Apr. 18, 2003, as amended at 68 FR 59727, Oct. 17, 2003]

**§ 50.19 General disclosure requirements for State residual market insurance entities and State worker's compensation funds.**

(a) *Policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004.* For policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004, the disclosure

required by section 103(b) of the Act as a condition for Federal payment is waived for those State residual market insurance entities and State workers' compensation funds that since November 26, 2002, have not provided disclosures to policyholders, until January 15, 2004, after which disclosures are to be made to policyholders for policies then in force and subsequently issued.

(b) *Residual Market Mechanism Disclosure.* A State residual market insurance entity or State workers' compensation fund may provide the disclosures required by this subpart B to policyholders using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders. The disclosures may be made by the State residual market insurance entity or State workers' compensation fund itself, the individual insurers that participate in the State residual market insurance entity or a State workers' compensation fund, or its servicing carriers. The ultimate responsibility for ensuring that the disclosure requirements have been met rests with the insurer filing a claim under the Program.

(c) *Other requirements.* Except as provided in this section, all other disclosure requirements set out in this subpart B apply to State residual insurance market entities and State workers' compensation funds.

(d) *Prior safe harbor superseded.* This section supersedes the disclosure safe harbor provisions found at paragraph C.4 of the Interim Guidance issued by Treasury in a notice published on December 18, 2002, and published at 67 FR 78864 (December 26, 2002).

[68 FR 59719, Oct. 17, 2003]

**Subpart C—Mandatory Availability**

SOURCE: 68 FR 19307, Apr. 18, 2003, unless otherwise noted.

**§ 50.20 General mandatory availability requirements.**

(a) *Transition Period and Program Years 1 and 2—period ending December 31, 2004.* Under section 103(c) of the Act (unless the time is extended by the