

## RULES – IMPLEMENTATION

AUGUST 24, 2022

COMMERCIAL LIABILITY UMBRELLA	LI-CU-2022-076
FARM	LI-FR-2022-024
GENERAL LIABILITY	LI-GL-2022-205

## KENTUCKY AERIAL RECREATIONAL DEVICES AND FACILITIES RULES REVISION TO BE IMPLEMENTED

### KEY MESSAGE

Filing CL-2022-OAD2, which introduces and revises Kentucky-specific rules to address new endorsements introduced in forms filing CL-2022-OAD1, is being implemented.

**Applicable Lines of Business:** CU, FR, GL

**Effective Date:** 4/1/2023

**Filing ID:** CL-2022-OAD2

### BACKGROUND

In forms filing CL-2022-OAD1, we introduced endorsements in response to 302 KAR 17:010 with respect to aerial recreational devices and facilities.

### ISO ACTION

We are introducing state exceptions to the Division Six – General Liability and Division Thirteen – Commercial Liability Umbrella rules and revising exceptions to the Division Four – Commercial Farm rules to instruct on the usage of the endorsements that are being introduced in companion forms filing CL-2022-OAD1.

Refer to the attached explanatory material for complete details about the filing.

### INSURANCE DEPARTMENT ACTION

The Kentucky Department of Insurance has acknowledged this filing.

### EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after April 1, 2023.

### COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Number [CL-2022-OAD2](#), not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

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## **EFFECT OF ISO REVISION ON FLEX RATING**

This revision does not result in any change which would increase or decrease supplementary rating information for any classification of risks within any territory more than 25%.

A company that decides to revise its supplementary rating information should determine the overall rate level impact of its revision and any other revisions that it has implemented over the preceding 12 months. ISO has not made any revision of supplementary rating information for Commercial Liability Umbrella, Farm or General Liability over the preceding 12 months which would result in percent indications different than those contained in the attached filing.

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## **RATING SOFTWARE IMPACT**

No new attributes are being introduced with this revision.

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## **POLICYHOLDER NOTIFICATION**

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2022-006](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

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## **REVISION DISTRIBUTION**

We will issue a Notice to Manualholders with an edition date of 4-23 (or the earliest possible subsequent date), along with any new and/or revised manual pages.

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## **RELATED FORMS REVISION**

We are announcing in a separate circular the filing and approval of a corresponding forms revision. Please refer to the Reference(s) block for identification of that circular.

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## **REFERENCE(S)**

- [LI-CU-2022-075](#) (08/24/2022) Kentucky Aerial Devices And Facilities Endorsements Are Filed And Approved
- [LI-CL-2022-006](#) (02/22/2022) Revised Lead Time Requirements Listing

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## **ATTACHMENT(S)**

Filing [CL-2022-OAD2](#)

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# Kentucky Aerial Recreational Devices And Facilities Rules Revision

## Applicable Lines of Business

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This filing applies to the following lines of business:

- ◆ Commercial General Liability
- ◆ Commercial Liability Umbrella
- ◆ Commercial Farm

## About This Filing

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This filing introduces and revises Kentucky-specific rules to address the new endorsements introduced in forms filing CL-2022-OAD1 in response to 302 KAR 17:010 with respect to aerial recreational devices and facilities.

## Revised Rules

We are revising the following rules:

- ◆ Division Four – Commercial Farm
  - Rule 37. Farm Liability Coverage
  - Rule 41. Farm Umbrella Liability Coverage
  - Rule 50. Farm Excess Liability Coverage

We have used a format of ~~striking-through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes.

## New Rules

We are introducing a Kentucky exception to the following rules:

- ◆ Division Six – General Liability
  - A4. Aerial Recreational Devices And Facilities
- ◆ Division Thirteen – Commercial Liability Umbrella
  - A1. Aerial Recreational Devices And Facilities

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## Related Filing(s)

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- ◆ CL-2022-OAD1 (Forms)

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## Background

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In forms filing CL-2022-OAD1, we are introducing endorsements in response to 302 KAR 17:010.

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## Explanation of Changes

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We are introducing state exceptions to the Division Six – General Liability and Division Thirteen – Commercial Liability Umbrella rules and revising exceptions to the Division Four – Commercial Farm rules to instruct on the usage of the endorsements that are being introduced in companion forms filing CL-2022-OAD1.

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**DIVISION THIRTEEN – COMMERCIAL LIABILITY UMBRELLA**

**A1. AERIAL RECREATIONAL DEVICES AND FACILITIES**

In accordance with 302 KAR 17:010, for policies issued to operators of aerial recreational devices or facilities, as defined in KRS 247.238, the insurer must provide 30 days advance written notice to the Kentucky Department of Agriculture prior to the cancellation of the policy.

For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **CU 26 31** to the Commercial Liability Umbrella Coverage Part. For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **CX 26 29** to the Commercial Excess Liability Coverage Part.

**DIVISION FOUR – FARM**

**37. FARM LIABILITY COVERAGE**

Table Paragraph **37.D.3.a.** is replaced by the following:

**~~D. Company Rates Or ISO Loss Costs~~**

**~~3. Optional Limits~~**

~~a. Optional limits factors for Liability Coverage are provided in the following table:~~

Aggregate (In 1,000's)	Per Occurrence Or Person/Organization (In 1,000's)						
	\$ 25	50	100	200	300	500	1,000
\$ 50	0.72	0.81					
100	0.73	0.85	0.97				
200	0.74	0.86	1.00	1.14			
300	0.75	0.87	1.01	1.15	1.26		
500		0.89	1.03	1.17	1.28	1.43	
600		0.90	1.04	1.18	1.29	1.44	
1,000			1.05	1.19	1.30	1.45	1.64
1,500				1.20	1.31	1.46	1.65
2,000				1.21	1.32	1.47	1.66
2,500					1.33	1.48	1.67
3,000					1.34	1.49	1.68

The following factors MUST be referred to company before using:

Aggregate (In 1,000's)	Per Occurrence Or Person/Organization (In 1,000's)							
	\$ 500	1,000	1,500	2,000	3,000	4,000	5,000	10,000

\$ 1,500			1.76					
2,000			1.77	1.83				
2,500			1.78	1.84				
3,000			1.79	1.85	1.93			
4,000	1.50	1.69	1.80	1.86	1.94	2.00		
5,000	1.51	1.70	1.81	1.87	1.95	2.01	2.05	
10,000		1.71	1.82	1.88	1.96	2.02	2.06	2.16
20,000								2.17

**Table 37.D.3.a. Optional Limits Factors – Liability (Cov. H/I)**

Paragraph V. is replaced by the following:

**V. Arbitration Endorsement**

1. Coverage disputes between the company and an insured may be submitted to arbitrators by mutual agreement between the parties. When there is prior agreement that disputes may be submitted to non-binding arbitration, attach Kentucky Changes – Non-Binding Arbitration Endorsement **FL 99 07**. When there is prior agreement that arbitration of a dispute will be binding on both parties, attach optional Kentucky Changes – Binding Arbitration Endorsement **FL 99 09**.
2. Refer to Company for rating.

The following is added to Paragraph **BB.2.**:

**BB. Agritainment – Liability**

**2. Agritainment – Liability Classifications**

- c. In accordance with 302 KAR 17:010, for policies issued to operators of aerial recreational devices or facilities, as defined in KRS 247.238, the insurer must provide 30 days advance written notice to the Kentucky Department of Agriculture prior to the cancellation of the policy.  
For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **FL 02 02** to the Farm Liability Coverage Form.

**41. FARM UMBRELLA LIABILITY COVERAGE**

Paragraph **A.2.c.(1)** is replaced by the following:

- (1) Mandatory Endorsements (including those required for use in Kentucky):
  - (a) Kentucky Changes Endorsement **FB 01 09**.
  - (b) Kentucky Changes – Cancellation And Nonrenewal Endorsement **IL 02 63**.

The following is added to Paragraph **A.2.**:

- e. In accordance with 302 KAR 17:010, for policies issued to operators of aerial recreational devices or facilities, as defined in KRS 247.238, the insurer must provide 30 days advance written notice to the Kentucky Department of Agriculture prior to the cancellation of the policy.  
For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **FB 02 24** to the Farm Umbrella Liability Policy.

Paragraph **H.2.** is replaced by the following:

2. When a particular risk is modified in accordance with Paragraph 1., companies should maintain a complete file, including all details of the factors used in determining the modification. Each company is responsible for complying with regulatory requirements.

**Note**

Rates shall not be inadequate, excessive or unfairly discriminatory.

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**50. FARM EXCESS LIABILITY COVERAGE**

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Paragraph **B.1.b.** is replaced by the following:

~~**B. Farm Excess Liability Coverage General Rules**~~

~~**1. Referrals To Company**~~

- b.** Rating or classifying any risk or exposure for which:
- (1)** There is no manual rate or applicable classification.
  - (2)** There is no underlying insurance.

Rates shall not be inadequate, excessive or unfairly discriminatory. (For other refer\_to\_company situations, see Paragraph I.)

Companies should maintain complete files, including all details of the factors used in determining the rate or classification for a particular risk.

When a risk is rated on a refer\_to\_company basis, each company is responsible for complying with regulatory requirements.

Paragraph **C.2.b.(1)** is replaced by the following:

- (1)** Mandatory Endorsements (including those required for use in Kentucky):  
Kentucky Changes – Cancellation And Nonrenewal Endorsement **FE 02 38**.

The following is added to Paragraph **C.2**:

- ~~**c.** In accordance with 302 KAR 17:010, for policies issued to operators of aerial recreational devices or facilities, as defined in KRS 247.238, the insurer must provide 30 days advance written notice to the Kentucky Department of Agriculture prior to the cancellation of the policy.~~

~~For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **FE 02 47** to the Farm Excess Liability Policy.~~

Paragraph **I.2.** is replaced by the following:

**I. Special Rule For Individual Risk Situations**

- 2.** When a particular risk is modified in accordance with Paragraph **1.**, companies should maintain a complete file, including all details of the factors used in determining the modification. Each company is responsible for complying with regulatory requirements.

**Note**

Rates shall not be inadequate, excessive or unfairly discriminatory.

## **DIVISION SIX – GENERAL LIABILITY**

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**A4. AERIAL RECREATIONAL DEVICES AND FACILITIES**

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In accordance with 302 KAR 17:010, for policies issued to operators of aerial recreational devices or facilities, as defined in KRS 247.238, the insurer must provide the Kentucky Department of Agriculture 30 days' advance written notice prior to the cancellation of the policy.

For such risks, attach Kentucky Changes – Aerial Recreational Devices And Facilities – Notice Of Cancellation Endorsement **CG 23 10** to the Commercial General Liability Coverage Part.