

20 June 2008

The following is an update on the NMRA Property and Liability Insurance program. For information on liability limits, please contact Jenny Hendricks at hq@hq.nmra.org or John Roberts at John_Roberts@ars.aon.com.

To: All Directors, Region Presidents, 100% NMRA Club Coordinator, NMRA SIG Coordinator

From: **John E. Roberts, Insurance Coordinator and Past President**

Date: **June 16, 2008**

Subject: **NMRA Liability and Property Insurance Program for 2008**

In late November we concluded our negotiations for the NMRA's insurance coverage for the 2008 year. Our primary coverages renew each November 22. They now require less effort on the part of HQ, Regions, and Divisions from an administrative viewpoint. Coverage continues to extend to 100% NMRA Clubs and NMRA Special Interest Groups (SIGs).

Tim Maier of J.A. Bash Company of Pittsburgh (also current agent for the NMRA Model Insurance Program) again assisted us with the renewal. Peerless Insurance Company (part of Liberty Mutual Group) continues to be our main insurance carrier for Liability and Property Coverages.

It is my hope that this memo will assist all groups in understanding how our program works, and will get everyone on the same page regarding how the policy impacts each level of the organization. I've also included a list of questions and answers that are most frequently asked.

Please read this memo carefully and be sure each Division Superintendent, 100% NMRA Club, and NMRA SIG Group does the same. If you have any questions, please forward them to HQ Administration Department (Jenny Hendricks) or to me for review and/or clarification. Please do not contact our broker/agent directly.

This policy is in place to, first, protect the corporation, and second, to protect the interest of Regions, Divisions, 100% clubs, NMRA SIGs, and NMRA members where conventions and special events warrant coverage.

Overview of Coverage:

The 2008 Liability and Property Insurance Program is with Peerless Insurance Company (same company as last year). Our General Liability Insurance Policy covers all NMRA business activities in the US and Canada including NMRA Canada. All Region-, Division-, 100% NMRA Club- and NMRA SIG-sponsored events are covered up to a specific limit of liability provided for in the policy. For clarity and assurance of coverage, we prefer that SIG events be co-sponsored by the National, a Region, or a Division.

The policy covers the entire NMRA except Regions and Divisions outside the US and

Canada.

Once again, this year's policy does not require reporting of meeting or event sites to trigger coverage – it's automatic. We would appreciate an annual report of all meeting dates and locations from each Region and Division so that the Underwriter (Peerless Insurance) has a good idea of the NMRA's exposures.

We ask that each entity planning to use the insurance send a list of applicable events to HQ. If date or locations of meetings change, don't panic because coverage is in force even if the venue changes. The coverage has been arranged this way to cut down on the amount of interaction on insurance with the Administration Department and others.

The insurance carrier has no problem with how we choose to identify an event (e.g., train show, flea market, swap meet, convention, seminar, etc.) as long as the event is an official NMRA-sponsored event.

If you need specific Certificates of Insurance (for landlords, building owners, etc.), the process will be explained later in the memo.

Coverages for national conventions are detailed in the convention procedures. Questions about national convention coverage can also be directed to Henry Jordan and his staff at nmracd@aol.com.

Who Is Covered?

If there is an accident or other loss situation, it does not matter whether the injured party or parties are NMRA members or not. Our policy is intended to respond to an accident claim and to handle appropriate payments for medical and other claims if they are deemed to be our (the NMRA's) liability.

If the injured party decides to take legal action against every possible party involved, our policy is going to protect only the NMRA entities, members, and others that we may have chosen to extend coverage to by Contract or Certificate. If a non-member is directly brought into a lawsuit as a result of an incident at an NMRA event, our policy will probably not cover that non-member (this is a gray area – we cannot predict the specifics of every situation).

The definition of "who is covered" in our policy has been made as broad as possible. For obvious reasons, it is not the underwriter's intent to extend coverage beyond what is contractually required.

The coverage is automatically in effect as long as the event in question is an NMRA event. Officers and individual members are covered as long as they are engaged in an activity on behalf of the NMRA.

It is also important that event host groups do a good job of "policing" meeting rooms, show sites, vendor/displayer areas, etc. for potential hazards that could cause an accident. If a claim occurs, our insurance carrier's claim adjuster will review the accident cause. If it is determined that negligence on the part of the meet location landlords or vendor/displayers has contributed to or caused the incident, our insurance carrier will pursue getting one or more of these entities to participate in, or even take over entirely, the responsibility for payment of a claim.

Because the coverages extend to Regions, Divisions, 100% NMRA Clubs, etc., it is critical that these entities of the NMRA operate their organizations in line with the National Regulations of the NMRA. If they do not, they will jeopardize coverage for their organization, as well as its officers and members, should an incident occur. If Regions, Divisions, etc. operate contrary to or in disregard of the National Regulations, their actions could also jeopardize the National's ability to provide the same quality and breadth of coverage in the future.

What Is Covered?

All officially sponsored (by 100% NMRA organizations) NMRA events in the US and Canada. Unfortunately, we are not able to get coverage extended beyond the US and Canada at this time. Officially sponsored events do not have to be reported to trigger coverage. Earlier this year, each Region President was sent a master Certificate of Insurance so he or she can show meeting site landlords, etc. that they as an NMRA entity have Liability Coverage. Each Region President should pass this information on to his or her respective Divisions.

There is no administration fee for this basic Certificate of Insurance. J. A. Bash Co. has issued a sample Certificate of Insurance that was recently sent to each Region. 100% NMRA Clubs and NMRA SIGs can also request sample certificates from HQ. Individual meeting sites do not have to be endorsed onto the policy for coverage to apply.

The only time a Region, Division, 100% NMRA Club, or NMRA SIG will be charged a fee is when a particular landlord or meeting site provider wants a Certificate of Insurance showing them as an Additional Insured for the timeframe of the event. These requests should be sent to the HQ Administration Department **30 days prior to the scheduled event** (please complete Certificate Request Form, available as a .pdf from this site). For example, if you call on a Thursday for a weekend event, you are not going to get the certificate in time and may have to cancel the event because the location may not let you go forward with the event without the Certificate of Insurance adding them as an Additional Insured on the NMRA Policy.

The HQ Administration Department will continue to process all requests for specific site certificates. There will continue to be a **\$25 administration fee** for each certificate request. This will be charged to each Region/Division/100% Club/SIG for any certificate showing a requesting party as an Additional Insured for an event. Again, you do not need a specific certificate for each event unless the landlord or location of the event requires one.

Multiple certificate requests can be included on one request form for a single \$25 administration charge. We will not specifically name anyone as a "Named Additional Insured" directly to our policy, but will show them as an Additional Insured for the event by way of the Certificate of Insurance. Again, coverage is automatic for all NMRA officially sponsored events in the US and Canada, but each requested Certificate of Insurance costs \$25.

Again, please use the attached form for requesting Certificates from Headquarters.

Co-Sponsored Events

If events are co-sponsored, the name of the NMRA Region, Division, 100% NMRA Club or NMRA SIG, must appear as the sponsor on all publicity, flyers, signage, etc. It must be known to the other sponsor(s), particularly if they are non-NMRA entities, that 100% of the liability, should a claim occur, may not be totally covered by our policy. This is a gray area, subject to interpretation at the time of a claim, and division of liability cannot be predicted in a final and clear-cut fashion.

In order for an event to be an official event, the division or region, whichever is the sponsoring entity, must approve the event by whatever process is required or has evolved by custom. For instance, a division may require a vote of the entire membership in order for the event such as an annual train show to be officially sponsored. In the alternative, a Division may normally approve of an event by a vote of the officers. It is important to follow whatever laws, requirements of organizing documents, or custom exists for approving all events.

It should be noted that in the event of a claim if it is discovered that the NMRA Sponsoring Group (Region, Division, 100% Club, SIG) has members who are not NMRA members, coverage could be jeopardized, particularly for those non-members. They may find themselves bearing personal liability, which would have to be covered by their own insurance.

Our coverage may extend to non-NMRA members who are invited to participate in the event(s), but if they are directly sued as a result of an incident that occurs during the event, we cannot predict the course that lawsuits will take. Due to the unpredictability of such claims, I would advise non-NMRA entities and/or non-members participating in events to also carry their own Liability Insurance Coverage.

The policy that has been discussed above is a "General" Liability Policy and is not an "Auto" Liability Policy. The NMRA Policy has limited Auto Liability Coverage for Hired and Non-Owned Autos (rentals) that staff and/or national officers may be required to rent during travel. This coverage does not extend to buses, rail fan trips, etc.

How Much Is Covered?

If a meeting site or landlord requests a Certificate of Insurance for an event, we will limit the amount shown on the certificate to our basic \$1,000,000 Liability Coverage.

It should be noted that if a claim or claims exceed the maximum in any one-year or occurrence, the assets at the NMRA could be at risk. I, along with our agent, feel we are carrying the correct amount of Liability Insurance Coverage for the exposure of our operations.

Our Liability Policy does not cover buildings, equipment, supplies, etc. These are covered for HQ Administration Department, Kalmbach Memorial Liability and Howell Day Museum under the Property section of the Peerless policy. Very little Property Insurance Coverage extends beyond the Headquarters Building. Model room coverage will be explained later in this memo.

100% NMRA Club Liability Insurance Coverage:

Peerless Insurance will continue to offer the NMRA Liability Policy to cover 100% NMRA Clubs in this year's policy. In order to obtain the coverage, each interested

100% NMRA Club needs to contact the HQ Administration Department (Jenny Hendricks) and provide the necessary exposure details (i.e., club name, address, and building site information). A **\$50 administration fee** will be required to add any 100% NMRA Club to the Policy.

The Club should also provide information on all entities needing Certificates of Insurance at the time that they notify the Administration Department of their request for coverage. No additional fees will be charged for certificates unless Certificate Holders change within the policy period, in which case a \$10 fee will be charged for issuing each new certificate.

This coverage continues to represent a tremendous advantage for our 100% Clubs. It now probably costs a Club in the neighborhood of \$1,000 annually to acquire such coverage on its own, but it can be covered under the NMRA policy for a \$50 annual administration charge (not premium). The policy also covers "Fire Legal Liability" with a sublimit of \$100,000. This coverage is frequently asked for by landlords. There is not a separate premium charge for each individual Club, but rather there is a group rate figured in as part of the overall NMRA liability premium on an annual basis.

NMRA Special Interest Groups:

The Peerless Insurance Co. Liability Policy also extends coverage for events sponsored by NMRA Special Interest Groups. Since many SIGs have members who do not belong to the NMRA, we require that these events be cosponsored by the National, a Region, or a Division. If site-specific certificates are needed a \$25 administration fee will be charged by HQ. All requests for coverage must be sent to HQ Administration Department (Jenny Hendricks). Also please refer to Bob Amsler's comments under Signing Legal Contracts and Sponsoring NMRA-Sponsored Events on Page 5.

Property Insurance for Clubs:

Property Insurance for equipment, models and layouts is available for 100% NMRA Clubs, as well as for non-100% NMRA Clubs that purchase a sustaining membership in the NMRA. The insurance product is available through J. A. Bash Co. of Pittsburgh and is separate from the overall NMRA Corporation Property Insurance Program. This is the same program that we make available to all members. Building Insurance is not available through this program; however, J. A. Bash will be able to assist any NMRA Club that needs to pursue Building Insurance. Please process all of these type requests through the Administration Department (Jenny Hendricks).

Model Contest Room Coverage:

The NMRA Insurance Policy with Peerless Insurance (Standard Marine Policy Form) covers model contest room models that are in our (NMRA's) care, custody, and control. Regions and Divisions do not have to apply for this to receive coverage of models, photos, or artwork in model contest rooms at conventions – coverage is automatic. We do expect Regions and Divisions to cover the \$250 deductible in the event there is a claim. The maximum coverage is \$100,000. **It is important to be sure that each entrant completes the "value of entry" box on the contest entry forms so that we will have a good idea of the value of the article if a loss occurs.**

Dishonesty Coverage:

The Commercial Crime Coverage section of the Peerless Insurance Policy extends "Dishonesty" Coverage to National Officers, Directors, Department Heads, Headquarter Staff, and Region Treasurers. Any Regions involved in a loss will be expected to cover the \$1,000 deductible. This coverage is available to our U.S. and Canadian Regions only.

Questions About Insurance Coverage:

Please direct any questions to Jenny Hendricks – Administrative Office manager – Administration Department at **(423) 892-2846** or via e-mail at **HQ@hq.nmra.org**.

Again, please do not place calls directly to our insurance agent or insurance carrier.

I will also be available to answer questions via e-mail or phone. My contact information can be found in the department masthead in *Scale Rails*. Thanks for your continued cooperation with this program.

Signing Legal Contracts and NMRA-Sponsored Events:

We are increasingly answering questions about what has to occur for an event to be considered sponsored or co-sponsored in the eyes of the insurance company. A sponsored event is an event of a division or region approved by whatever approval process exists. A co-sponsored event is one in which the NMRA through a region or division agrees to sponsor an event with a non-NMRA entity. The NMRA wishes to affirm such activities because of the mutual benefit. In order to be co-sponsored, NMRA regions and divisions must approve the event by whatever procedure is established for the approval of events. If there is no procedure, one should be established in writing. The region or division must be a true co-sponsor of the event, sharing in the risk and proceeds of the event and not merely named in order to bring the event within the scope of the insurance. If the partnership is in name only, there is a significant likelihood that the insurance company would refuse to defend and indemnify anyone involved in the event. Items to consider in creating the co-sponsored event include: (1) the number of hours contributed by the NMRA region or division membership and the hours by the non-NMRA entity's membership; (2) the division of risk and proceeds if the event fails or succeeds; (3) the name of the NMRA and other entity must be prominently displayed on all advertising and signage; and (4) whether both organizations sign the contracts or other documents. This is not an exhaustive list; these items are merely an illustration.

Finally, the NMRA sponsoring entity must sign the contract on behalf of its own organization. **In no event is anyone at the region or division level to sign a contract and have the organization listed as the NMRA.** The person should sign the contract as an officer of the division or region, whichever is appropriate.

Claim Information:

All possible claim incidents need to be reported as soon as possible following the event and/or date of incident to Jenny Hendricks at Headquarters. We will then review the report and pass it on to Peerless Insurance for investigation. It is very

important that as much detail about the claim and claimant is described in the information that you pass on to Jenny (see [Claim Form](#) .pdf, available below). Take photos of incident area (not claimant) if possible.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

1) Are individual NMRA members covered by the NMRA Liability Insurance Policy?

Yes, individual members are covered by the policy when they are engaged in specific NMRA business (e.g. conducting a clinic or presentation for outside group(s), or hosting a convention layout tour).

2) My division has people called "members" who are not NMRA National Members – are they covered?

Basically, the answer is no. **Divisions cannot have members who are not NMRA members, and a person must be a member of the NMRA for coverage to apply.** Non-NMRA guests at meetings, convention, shows, etc., are not personally covered by our policy, but the events they attend as guests are covered by the policy. Non-members would only be at risk if they would be specifically named in a claim action. The NMRA would endeavor to have coverage apply as broadly as possible in these situations, but there are no guarantees – the insurance company will be looking to limit its liability.

In addition, all Regions and Divisions have been instructed that they cannot grant membership status to persons who are not National NMRA members. Certainly, we continue to encourage guests to attend many of our functions (National, Region, Division, 100% NMRA Clubs, SIG's), but they must understand that attendance does not mean automatic membership, and does not guarantee they are covered by the insurance.

3) Can coverage be extended to a home layout tour where the host is a non-NMRA member?

No, unless the non-member purchases an NMRA membership, or one is purchased for him or her. We recommend having a non-member purchase a one-time \$9.95 Rail Pass membership prior to the event, if he or she is eligible. In addition, non-member(s) can be encouraged to join for the full annual fee and have the event underwrite \$9.95 of the full amount.

4) Are show vendors and module layout operators covered by the NMRA policy at a Region or Division event?

Yes, the NMRA as sponsor of the event would be the primary insurance policy applied to a claim arising out of the event operations. However, individual groups, vendors, and layout operators could also be named in an action. While the NMRA policy would be primary, they also should be aware of the risk and have their own coverage. This is a gray area, and we cannot guarantee the outcome of any legal proceeding. There is certainly a higher risk for non-NMRA members or individual groups if they are specifically found negligent in a claim action.

5) Does the NMRA Policy cover car and van rentals?

Yes, only for the employees and national executives. Employees and national executives should refuse Rental Car Company Insurance at the time they sign rental agreement contract(s). If your Region or Division needs to rent buses, vans, or cars for event transportation, it is not covered by our national policy. Specific coverage should be purchased or arranged through the rental company.

6) Can a non-100% NMRA Club purchase Model Insurance?

Yes, a non-100% Club can become a sustaining member of the NMRA and apply through J. A. Bash for coverage.

7) Can a non-100% NMRA Club purchase Liability Coverage through National?

No, a Club must be 100% NMRA to qualify for NMRA Liability Coverage. They can, however, contact J. A. Bash to purchase a separate Liability Policy.

8) Can more than one certificate be requested for a \$25 administration fee?

Yes, basically each time you send a request to HQ a \$25 fee will be assessed. A single request can include multiple certificate requests for a number of events (Division meetings, etc.).

9) Where do I report a possible claim resulting from an event or activity?

Call HQ (Jenny Hendricks) as soon as possible and she will notify our agent (J. A. Bash & Co. – Pittsburgh). Do not call J. A. Bash directly.

10) One of our event site providers has asked for a copy of our insurance policy. Can we get a copy?

No. We do not provide copies of our policy to any outside organization, but we will discuss any and all issues upon request. Please let us know if you have a problem with any site risk manager or official who may need additional information about the NMRA coverages.

11) Can individual members be covered for liability if they periodically open their layouts for non-National/Region/Division sponsored events?

Basically, the answer is no. Our Liability Coverage is designed to protect the National Organization, and its Regions and Divisions. Coverage for home layout visits only covers members at the time layouts are opened for NMRA-sponsored convention tours or specific Division meetings. Layout owners need to make sure their personal liability coverage is adequate if they are opening their homes to non-NMRA tours.

12) Can non-members attend Division and Regional meets?

Yes, but they cannot participate in NMRA contests or receive benefits of membership without being a member.